

## **VISION OF THE UTAH STATE BAR**

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

## **MISSION OF THE UTAH STATE BAR**

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

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## **2014 – 2015 COMMISSION PRIORITIES**

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

# UTAH STATE BAR STATEMENT ON DIVERSITY AND INCLUSION

*The Bar values engaging all persons fully, including persons of different ages, disabilities, economic status, ethnicities, genders, geographic regions, national origins, sexual orientations, practice settings and areas, and races and religions. Inclusion is critical to the success of the Bar, the legal profession and the judicial system.*

*The Bar shall strive to:*

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

## UTAH STATE BAR AWARDS

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

# Utah State Bar Commission

Friday, December 5, 2014  
Utah Law & Justice Center  
Salt Lake City, Utah

## Agenda

1. **9:00 a.m. President's Report: Jim Gilson**
  - 20 mins.* 1.1 Admissions Rule Changes: Steve Waterman (Tab 1)
  - 05 mins.* 1.2 Legislative Session Preparation
  - 10 mins.* 1.3 Report on Futures Commission (Tab 2)
  - 10 mins.* 1.4 Magna Carta Celebration Report
2. **9:45 a.m. Action Items**
  - 30 mins.* 2.1 2016 Summer Convention Site: Angelina Tsu & Aida Neimarlija (Tab 3)
  - 15 mins.* 2.2 Pro Bono Rules: Rob Rice (Tab 4)
3. **10:30 a.m. Information Items**
  - 10 mins.* 3.1 Judicial Council Report: John Lund (Tab 5)
4. **10:40 a.m. Performance Review Committee Meeting Breakouts**
  - 60 mins.* OPC Review: Larry Stevens; Summer Convention Review: Dickson Burton  
NLTP Review: Kenyon Dove; Budget Review: Brad Merrill, Stuart Hinckley
5. **11:40 a.m. Performance Review Committee Reports**
  - 05 mins.* 5.1 OPC Review: Larry Stevens
  - 05 mins.* 5.2 Summer Convention Review: Dickson Burton
  - 05 mins.* 5.3 NLTP Review: Kenyon Dove
  - 05 mins.* 5.4 Budget Review: Brad Merrill, Stuart Hinckley
- 12:00 N. Lunch**
- 1:00 p.m. Adjourn**

## Consent Agenda (Tab 6)

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

1. Approve minutes of October 10<sup>th</sup>, 2014 Commission Meeting

## Attachments (Tab 7)

1. October Financial Statement
2. General Counsel Report
3. News Articles
4. Tanner LLC Audit Report Attachments

## 2015 Calendar

<b>January 2</b>	Election Notices Due		
<b>January 16</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>January 23</b>	Commission Meeting	9:00 a.m.	J. Reuben Clark Law School
<b>January 29</b>	Breakfast with Lawyer/Legislators	7:30 a.m.	Spruce Room, Capitol Office Bldg.
<b>February 1</b>	Election - Petitions, Statements, Photos Due		
<b>February 3</b>	Conference Call Re: Legislature	4:00 p.m.	
<b>February 5-9</b>	ABA Mid-Year Meeting		Houston, Texas
<b>February 10</b>	Conference Call Re: Legislature	4:00 p.m.	
<b>February 17</b>	Bar Day at the Legislature	9:00 a.m.	State Office Building Audit.
<b>February 17</b>	Conference Call Re: Legislature	4:00 p.m.	
<b>February 24</b>	Conference Call Re: Legislature	4:00 p.m.	
<b>February 24-25</b>	Bar Examination	8:00 a.m.	Law & Justice Center
<b>March 3</b>	Conference Call Re: Legislature	4:00 p.m.	
<b>March 6</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>March 12</b>	SUBA Luncheon	12:00 Noon	St. George, Utah
<b>March 12</b>	Commission Meeting	1:00 p.m.	St. George, Utah
<b>March 12-14</b>	Spring Convention		St. George, Utah
<b>March 20</b>	Election Email Message Due		
<b>March 25-28</b>	Western States Bar Conference		Mauna Lani Bay, Hawaii
<b>April 1</b>	Election-Online Balloting Begins		
<b>April 3</b>	Magna Carta Kick-off Event		Law & Justice Center
<b>April 4</b>	Magna Carta Exhibit at Main Library		Salt Lake City
<b>April 6-7</b>	Magna Carta Exhibit at State Courthouse		St. George
<b>April 8-9</b>	Magna Carta Exhibit at Utah Valley University		Provo
<b>April 10-11</b>	Magna Carta Exhibit at Utah State University		Logan
<b>April 13-14</b>	Magna Carta Exhibit at State Courthouse		Ogden
<b>April 14</b>	Magna Carta Gala at the Stadium Banquet Hall		University of Utah
<b>April 15</b>	Election-Online Balloting Ends		
<b>April 15-16</b>	ABA Day in Washington		Washington, D.C.
<b>April 15-17</b>	Magna Carta Exhibit at Matheson State Courthouse		Salt Lake City
<b>April 18-19</b>	Magna Carta Exhibit at Main Library		Salt Lake City
<b>April 16</b>	Election-Ballots Counted		
<b>April 24</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>May 1</b>	Commission Meeting	9:00 a.m.	Law & Justice Center
<b>May 12-13</b>	Northwestern States Bar Conference		Las Vegas, Nevada
<b>May 26</b>	Admission Ceremony	12:00 Noon	TBD
<b>June 5-6</b>	Jackrabbit Bar Conference		Park City, Utah
<b>June 5</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>June 12</b>	Commission Meeting	9:00 a.m.	Law & Justice Center
<b>July 17</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>July 29</b>	Commission Meeting	1:00 p.m.	Sun Valley, Idaho
<b>July 29-Aug. 1</b>	Summer Convention		Sun Valley, Idaho

Tab 1

## **Rule 14-701. Definitions.**

As used in this article:

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

(b) "Active Practice" means work performed by an attorney holding an "active" status law license and having professional experience and responsibilities involving the Full-time Practice of Law as defined in sections (t) and (ee). The Active Practice of law includes any combination of the following activities provided that such employment is available only to licensed attorneys and the activities are performed in the jurisdiction in which the Applicant is admitted;

**Deleted:** or in a jurisdiction that affirmatively permits such activity by a licensed lawyer not admitted to practice in the jurisdiction where performed

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

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

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

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

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

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

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

(b)(8) the Active Practice of law shall not include work that, as undertaken, constitutes the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located, nor shall it include work completed in advance of any bar admission,

**Deleted:** Also, the hours in attendance at continuing legal education courses shall not count toward the Active Practice of Law;

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

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

Applicant, an Attorney Applicant, a Motion Applicant, a Disbarred Attorney Applicant, a Foreign Legal Consultant Applicant, or a House Counsel Applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(t) "Full-time Practice" means the Active and lawful Practice of Law for no fewer than 1000 hours per year, equitably dispersed over a 12-month period. Time spent on administrative or managerial duties, continuing legal education, or client development and marketing does not qualify as part of the required 1000 hours of legal work;

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

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

(w) "House Counsel" means a person granted a license under Rule 14-719;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**Rule 14-703. Qualifications for admission of Student Applicants.**

(a) Requirements of Student Applicants. The burden of proof is on the Applicant to establish by clear and convincing evidence that she or he:

(a)(1) has paid the prescribed fees and timely filed the required Complete Application as a Student Applicant in accordance with Rule 14-707;

(a)(2) is at least 21 years old;

(a)(3) has graduated with a First Professional Degree in law from an Approved Law School;

(a)(4) is of good moral character and satisfies the requirements of Rule 14-708;

(a)(5) has successfully passed the MPRE and the Bar Examination;

(a)(6) has a proven record of ethical, civil and professional behavior; and

(a)(7) complies with the provisions of Rule 14-716 concerning licensing and enrollment fees.

**Deleted:** (b) Requirements of Foreign Law School Applicants. The burden of proof is on the Applicant to establish by clear and convincing evidence that she or he:¶

(b)(1) graduated from a Foreign Law School in a country where principles of English common law form the predominant basis for that country's system of jurisprudence;¶

(b)(2) has paid the prescribed fees and timely filed the required Complete Application as a Foreign Law School Applicant in accordance with Rule 14-707;¶

(b)(3) is at least 21 years old;¶

(b)(4) has been admitted to practice law in an English common law jurisdiction;¶

(b)(5) has been Actively and lawfully engaged in the Full-time Practice of Law in an English common law jurisdiction for no fewer than two (2) years;¶

(b)(6) has completed with a minimum grade of "C" or its passing equivalent no less than 24 semester hours, or a corresponding amount in quarter hours, at an Approved Law School, within 24 consecutive months. The 24 semester hours must include no less than one course each in a core or survey course of constitutional law, civil procedure, criminal procedure or criminal law, legal ethics and evidence;¶

(b)(7) is of good moral character and satisfies the requirements of Rule 14-708;¶

(b)(8) has successfully passed the MPRE and the Bar Examination; and¶

(b)(9) complies with the provisions of Rule 14-716 concerning licensing and enrollment fees.¶

(c) Foreign Law School graduates not meeting the requirements of paragraph (b). All other students and graduates from Foreign Law Schools not meeting the requirements of paragraph (b) may be eligible for admission only if they have graduated with a First Professional Degree in law from an Approved Law School.¶

**Rule 14-704. Qualifications for admission of Attorney Applicants.**

(a) Requirements of Attorney Applicants. The burden of proof is on the Applicant to establish by clear and convincing evidence that she or he:

(a)(1) has paid the prescribed fees and filed the required Complete Application as an Attorney Applicant in accordance with Rule 14-707;

(a)(2) is at least 21 years old;

(a)(3) has graduated with a First Professional Degree in law from an Approved Law School;

(a)(4) has been admitted to the practice of law before the highest court of a U.S. state, territory, or the District of Columbia;

(a)(5) is of good moral character and satisfies the requirements of Rule 14-708;

(a)(6) has successfully passed the MPRE and the Bar Examination;

(a)(7) is a member in good standing in all jurisdictions where currently admitted;

(a)(8) has a proven record of ethical, civil and professional behavior and has never been disbarred or resigned with discipline pending, or their equivalent, in any jurisdiction and is not currently subject to lawyer discipline or the subject of a pending disciplinary matter; and

(a)(9) complies with the provisions of Rule 14-716 concerning licensing and enrollment fees.

(b) Attorney Applicants from Unapproved Law Schools. An Applicant who does not meet the educational qualifications in Rule 14-704(a)(3) is qualified provided the Applicant establishes by clear and convincing evidence that she or he:

(b)(1) complies with the requirements in (a)(1) and (a)(2) and (a)(4) through (a)(9);

(b)(2) has graduated with a First Professional Degree in law from an Unapproved Law School located within a U.S. state, territory or the District of Columbia;

(b)(3) has been admitted to the practice of law before the highest court of a U.S. state, territory or the District of Columbia for no fewer than ten years, and has been Actively and lawfully engaged in the Full-time Practice of Law in one or more jurisdictions where licensed for any ten of the eleven years immediately preceding the filing of the application.

(c) Attorney Applicants from Foreign Law Schools. The burden of proof is on the Applicant to establish by clear and convincing evidence that she or he:

(c)(1) graduated from a Foreign Law School in a country where principles of English common law form the predominant basis for that country's system of jurisprudence;

(c)(2) complies with the requirements in (a)(1), (a)(2) and (a)(5) through (a)(9);

(c)(3) has been admitted to practice law in an English common law jurisdiction;

(c)(4) has been Actively and lawfully engaged in the Full-time Practice of Law in an English common law jurisdiction for no fewer than two (2) years;

(c)(5) has completed with a minimum grade of "C" or its passing equivalent no less than 24 semester hours, or a corresponding amount in quarter hours, at an Approved Law School, within 24 consecutive months. The 24 semester hours must include no less than one course each in a core or survey course of constitutional law, civil procedure, criminal procedure or criminal law, legal ethics and evidence;

(c)(6) is of good moral character and satisfies the requirements of Rule 14-708;

(c)(7) has successfully passed the MPRE and the Bar Examination; and

(c)(8) complies with the provisions of Rule 14-716 concerning licensing and enrollment fees.

(d) Foreign Attorneys not meeting the requirements of paragraph (c). Attorneys not meeting the requirements of paragraph (c) may be eligible for admission only if they meet the requirements of paragraph (a).

### Rule 14-705. Admission by Motion.

(a) Reciprocal admission. An Applicant is eligible to be admitted by motion if the Applicant meets all the requirements of this rule. Admission by Motion is not a right; the burden of proof is on the Applicant to establish by clear and convincing evidence that she or he:

(a)(1) has paid the prescribed nonrefundable fee and filed the required Complete Application as a Motion Applicant;

(a)(2) is at least 21 years old;

(a)(3) has been admitted by bar examination to practice law before the highest court of a U.S. state, territory or the District of Columbia;

(a)(4) holds a First Professional Degree in law from an Approved Law School;

(a)(5) has successfully passed the MPRE;

(a)(6) has demonstrated that the U.S. state, territory or the District of Columbia that licenses the Applicant reciprocally allows the admission of licensed Utah lawyers under terms and conditions similar to those set forth in this rule;

(a)(7) for five of the previous seven years immediately preceding the date of the filing of the application for admission has been Actively licensed and lawfully engaged in the Full-time Practice of Law as defined in Rule 14-701(b), (t) and (ee) primarily at an office physically located in the reciprocal jurisdiction(s) where licensed. For purposes of admission under this rule, any time practicing at an office located in Utah will not be counted as time practicing in a reciprocal jurisdiction;

**Deleted:** in one or more reciprocal jurisdictions where licensed for at least five of the previous seven years immediately preceding the date of the filing of the application for admission under this rule

(a)(8) is a member in good standing in all jurisdictions where currently admitted;

(a)(9) has a proven record of ethical, civil, and professional behavior and has never been disbarred or resigned with discipline pending, or their equivalent, in any jurisdiction and is not currently subject to lawyer discipline or the subject of a pending disciplinary matter;

(a)(10) is of good moral character and satisfies the requirements of Rule 14-708;

(b) Continuing legal education requirement. All Applicants admitted to practice law pursuant to this rule shall complete and certify no later than six months following the Applicant's admission that she or he has attended at least 15 hours of continuing legal education on Utah practice and procedure and ethics requirements.

(b)(1) The Board may by regulation specify the number of the required 15 hours that must be in particular areas of practice, procedure, and ethics. Included in this mandatory 15 hours is attendance at the Bar's OPC ethics school.

(c) Form and content of application. The Board may require additional proof of any facts stated in the application. In the event of the failure or the refusal of the Applicant to furnish any information or proof, or to answer any inquiry of the Board pertinent to the pending application, the Board may deny the application without hearing.

(d) Timing of application and admission. An application may be filed at any time but the Applicant must be able to demonstrate that she or he satisfies the requirements of this rule as of the date the application is filed. Processing of the application and the character and fitness investigation require a minimum of four months to complete.

(d)(1) An Applicant not eligible for admission pursuant to this rule may qualify for admission as an Attorney Applicant pursuant to Rule 14-704.

(d)(2) Upon approval the Applicant must comply with the provisions of Rule 14-716 concerning licensing and enrollment fees.



## Rule 14-706. Test accommodations.

(a) Disabilities and impairments. An Applicant who has mental, physical, or cognitive disabilities as defined by the Americans with Disabilities Act ("ADA") may request test accommodations. The request, including all supporting medical documentation, shall be made in writing at the time of application in the format prescribed by the Bar. The decision on such requests shall be made by the Test Accommodations Committee. Test accommodation requests received after the application filing deadline shall not be considered until the review period prior to the immediately following examination. An Applicant requesting test accommodations who withdraws within 60 days prior to the examination date may be charged a fee equivalent to any nonrefundable expenses the Bar has incurred responding to the accommodation request. The Applicant must demonstrate that:

(a)(1) she or he is disabled as defined by the ADA; and

(a)(2) the disability impacts her or his ability to take the Bar Examination; and

(a)(3) the accommodation requested is necessary to meet the limitation caused by the disability.

(b) English as a second language. English as a second language is not a cognitive disability or impairment.

(c) Appeal. The decision of the Test Accommodations Committee may be reviewed in accordance with Rule 14-715.

(c)(1) The Applicant must comply with the deadlines set forth in Rule 14-715(a) and must prove each of the elements set forth in Rule 14-706(a)(1) through (a)(3).

(c)(2) The review panel will consider only the documentation the Applicant submitted at the time she or he requested accommodation, the written opinion of the Committee's psychologist, the written recommendation of the Test Accommodations Committee and the Bar's written decision.

(c)(3) Any attempt to change the original accommodations request or submit new medical documentation will be considered a new request for accommodation and will not be considered by the Review Panel. The new request must be resubmitted to the Test Accommodations Committee for review and is subject to the deadlines set forth in Rule 14-706(a).

**Deleted:** Petition for reconsideration and appeal procedure; accommodation requests. An Applicant must file a petition for reconsideration of the decision within ten calendar days of the date of the notice of the Test Accommodations Committee. The petition for reconsideration shall contain a short and plain statement of the reasons the Applicant is entitled to relief.¶

(c)(1) Burden of proof. The Applicant bears the burden of proving at the hearing by clear and convincing evidence each of the elements set forth above in (a)(1) through (a)(3); ¶

(c)(2) Reconsideration hearing process. The review panel consisting of no fewer than three members of the Admissions Committee may consider only the documentation the Applicant submitted at the time she or he requested accommodation and the decision of the Test Accommodations Committee. The Applicant and the Test Accommodations Committee may present expert witnesses to support their respective positions. The name(s) of the expert(s) must be disclosed to the respective parties at least five calendar days before the hearing. Any attempt to change the original accommodation request or submit new medical documentation will be considered a new request for accommodation. The new request must be resubmitted to the Test Accommodations Committee for review and is subject to the time deadlines set forth in Rule 14-706(a).¶

(c)(3) Reconsideration decision. The review panel shall affirm the decision of the Test Accommodations Committee if there is substantial and credible evidence to support it. The Admissions Committee review panel shall issue a written decision 15 calendar days after the completion of its reconsideration. The review panel shall provide its written findings and recommendation to three members of the Board. The Board panel shall make a decision on behalf of the Bar and notify the petitioner in writing of its final decision.¶

(c)(4) Appeal process. Within 30 calendar days after the date of the Board's final decision, the Applicant may appeal to the Supreme Court by filing a notice of appeal with the clerk of the Supreme Court and serving a copy upon the General Counsel for the Bar. At the time of filing the notice of appeal, the Applicant shall pay the prescribed filing fee to the clerk of the Supreme Court. The clerk will not accept a notice of appeal unless the filing fee is paid.¶

(c)(5) Record of proceedings. A record of the proceedings shall be prepared by the Bar and shall be filed with the clerk of the Supreme Court within 21 calendar days following the filing of the notice of appeal.¶



**Rule 14-707. Application; deadlines; withdrawals; postponements and fees.**

(a) Form. Each Applicant must submit a Complete Application for admission in accordance with the instructions prescribed by the Bar. Such application shall include an authorization and release enabling the Bar to obtain information concerning the Applicant.

**Deleted:** examination and

(b) Filing deadlines generally. Except as otherwise provided herein, the Bar shall receive Complete Applications by October 1 preceding the February Bar Examination and by March 1 preceding the July Bar Examination. A Complete Application will be accepted up to 15 calendar days after the filing deadline if accompanied by the prescribed 15-day late fee. A Complete Application will be accepted up to November 1 for the February Bar Examination if accompanied by the prescribed 30-day late fee and up to April 1 for the July Bar Examination if accompanied by the prescribed 30-day late fee. In accordance with the filing instructions and information for the application, late or incomplete applications will not be accepted with the following exceptions:

(b)(1) An Applicant who will complete all law school academic requirements prior to the Bar Examination, but whose law degree will not be conferred until after the application filing deadline may file the certificate of law school graduation after the application has been submitted. Certificates of law school graduation must be received by the Bar no later than thirty (30) calendar days prior to the Bar Examination. In the event the certificate of law school graduation is not timely received by the Bar, an Applicant will not be permitted to take the Bar Examination.

(b)(2) An Applicant who has not received the criminal background report may submit the application without a criminal background report provided the Applicant provides proof that a criminal background request has been filed prior to submission of the application. Sufficient proof of submission of the criminal background request shall be by declaration in the form prescribed by the Bar. The criminal background report should be submitted to the Bar within fourteen (14) calendar days of the Applicant's receipt of the report but no later than thirty (30) calendar days prior to the next scheduled licensing ceremony. The Character and Fitness Committee may withdraw or modify its approval based upon information contained in the criminal background report. In the event the criminal background report is not timely received by the Bar, an Applicant will not be admitted at the licensing ceremony.

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(c) Filing deadlines for Disbarred Attorneys. Disbarred Attorneys may not file an application for admission until the later of five years after the effective date of the license revocation or the date specified in the disciplinary order. Disbarred Attorneys must comply with Rule 14-717(b), if applicable. Complete Applications for Disbarred Attorneys shall be received by the Bar by September 1 preceding the February Bar Examination and by February 1 preceding the July Bar Examination. Late applications for Disbarred Attorneys are not permitted.

(d) Withdrawal of applications and refunds. To withdraw an application, written notice must be provided. If written notice of withdrawal is received by the Admissions Office 30 calendar days or more before the examination date, one-half of the filing fee shall be refunded, unless the Applicant withdraws after appearing before the Character and Fitness Committee or after the Bar has incurred nonrefundable expenses related to a test accommodation request. Late fees, computer fees, and the application fees of Applicants not taking the Bar Examination are nonrefundable.

(e) Postponement of application. An Applicant may only postpone or transfer her or his application due to emergency circumstances or pursuant to Rule 14-708(b)(4)(A). Emergency transfers are subject to the following restrictions.

(e)(1) The Applicant must provide a written request, including payment of the prescribed transfer fee, prior to the commencement of the Bar Examination.

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(e)(2) Proof of the emergency must be provided. The reasons for the transfer are limited to two circumstances:

(e)(2)(A) a personal medical emergency, or

(e)(2)(B) a death in the immediate family.

(e)(3) The transferring Applicant must specify which future Bar Examination she or he plans to take. The exam must be taken within the next two scheduled Bar Examinations.

(e)(4) The Applicant must provide an Updated Application by filing a Reapplication for Admission form, updating any information that has changed since the prior application was filed and a new criminal background check. The Reapplication for Admission form should be submitted by the initial application deadline of October 1 preceding the February Bar Examination and March 1 preceding the July Bar Examination. A Reapplication for Admission will be accepted up to 15 calendar days after the filing deadline if accompanied by the prescribed 15-day late fee. A Reapplication for Admission form will be accepted up to November 1 for the February Bar Examination if accompanied by the 30-day late fee and up to April 1 for the July Bar Examination if accompanied by the prescribed 30-day late fee.

(e)(5) An Applicant is entitled to one transfer only.

(f) Retaking Bar Examination. An Applicant failing the Bar Examination who wishes to retake the examination must file a written request, including payment of the prescribed fee by the retake deadline. Late applications will not be accepted.

(f)(1) The Applicant must provide an Updated Application by filing a Reapplication for Admission form, updating any information that has changed since the application was filed and a new criminal background check.

(f)(2) An Applicant who fails to achieve a passing score after six Bar Examinations may only take additional examinations with the permission of the Admissions Committee. A petition providing good cause as to why the Admissions Committee should grant such a request must be filed with the Deputy General Counsel by the retake deadline. Late applications will not be accepted.

#### **Rule 14-708. Character and fitness.**

(a) Standard of character and fitness. An attorney's conduct should conform to the requirements of the law, both in professional service to clients and in the attorney's business and personal affairs. An attorney should be one whose record of conduct justifies the trust of clients, adversaries, courts, and others with respect to the professional duties owed to them. An Applicant whose record manifests a significant deficiency in honesty, trustworthiness, diligence, or reliability shall be denied admission. The Applicant has the burden of proof to establish by clear and convincing evidence her or his fitness to practice law. Applicants must be approved by the Character and Fitness Committee prior to sitting for the Bar Examination. At any time before being admitted to the Bar, the Character and Fitness Committee may withdraw or modify its approval.

(b) Investigative process; investigative interview. Investigations into the character and fitness of Applicants may be informal, but shall be thorough, with the object of ascertaining the truth.

(b)(1) The Character and Fitness Committee may conduct an investigation and may act with or without requiring a personal appearance by an Applicant.

(b)(2) At the discretion of the Character and Fitness Committee, an Applicant may be required to attend an investigative interview conducted by one or more members of the Committee. The investigative interview shall be informal but the Applicant shall have the right to counsel and shall be notified in writing of the general factual areas of inquiry. Documentary evidence may be provided as part of the investigation, but no witnesses will be permitted to appear during the interview. The interview shall be a closed proceeding.

(b)(3) After an investigative interview has been conducted, the Applicant shall be notified regarding whether or not she or he has been approved to sit for the Bar Examination. Applicants who are not approved will be notified regarding those areas that are of concern to the Committee. An Applicant seeking review of the decision must request a formal hearing within ten calendar days of notice of the Committee's decision. The request must be made in writing and provided to the Deputy General Counsel. The hearing will be conducted in accordance with Rule 14-708(c).

(b)(4) The Committee may determine that an Applicant must take corrective action before approval of her or his application can be granted. The Applicant shall be notified in writing of the action required. No later than 30 days prior to the date of the Bar Examination, the Applicant must provide written documentation to the Deputy General Counsel proving that the required corrective action has been completed.

(b)(4)(A) If the documentation is not provided as required within 30 days prior to the Bar Examination, the Applicant must, instead, submit to the Deputy General Counsel, a written request to transfer, including the payment of the prescribed transfer fee. The request must specify when the corrective action will be completed and which future examination the Applicant plans to take.

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(b)(4)(B) The exam must be taken within the next two scheduled Bar Examinations. An Applicant is entitled to one transfer only.

(b)(4)(C) The application of an Applicant who neither takes corrective action nor requests a transfer shall be considered withdrawn.

(c) Formal hearing; Applicant's request. In matters where the Character and Fitness Committee decides to convene or an Applicant so requests, the Character and Fitness Committee shall hold a formal hearing. The formal hearing shall be a closed proceeding and may be scheduled whether or not preceded by an investigative interview.

(c)(1) A formal hearing shall be attended by no fewer than three Character and Fitness Committee members. Five calendar days before the hearing, the Applicant and the Committee must provide a list of witnesses and a copy of any exhibits to be offered into evidence. If an Applicant chooses to submit a written statement, it must also be filed five calendar days before the hearing.

(c)(2) Written notice of the formal hearing shall be given at least ten calendar days before the hearing. Notice shall be sent to the Applicant at the address in the application. The notice shall include a statement of the preliminary factual matters of concern. The matters inquired into at the hearing are not limited to those identified in the notice, but may include any concerns relevant to making a determination regarding the Applicant's character and fitness.

(c)(3) The formal hearing will have a complete stenographic record made by a certified court reporter or an electronic record made by means acceptable in the courts of Utah. All testimony shall be taken under oath. Although no formal rules of evidence or civil procedure will apply, an Applicant has the right to counsel, the right to cross-examine witnesses, the right to examine the evidence and the right to present witnesses and documentary evidence. An Applicant is entitled to make reasonable use of the Bar's subpoena powers to compel attendance of witnesses and to adduce relevant evidence relating to matters adverse to the applicant.

(c)(4) Written findings of fact and conclusions of law shall be issued no later than 45 calendar days after the formal hearing and any subsequent inquiries have been concluded. In computing the period of time, the last day of the period shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period extends until the end of the next day that is not a Saturday, Sunday, or a legal holiday. "Legal holiday" includes days designated as holidays by the state or federal governments.

(d) Factors related to character and fitness. In addition to the standards set forth in Rules 14-708(a), and 14-708(f) and Rule 14-717, if applicable, the Character and Fitness Committee may use the following factors to decide whether an Applicant possesses the requisite character and fitness to practice law:

(d)(1) the Applicant's lack of candor;

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- (d)(2) unlawful conduct;
- (d)(3) academic misconduct;
- (d)(4) making of false or misleading statements, including omissions;
- (d)(5) misconduct in employment;
- (d)(6) acts involving dishonesty, fraud, deceit or misrepresentation;
- (d)(7) abuse of legal process;
- (d)(8) neglect of financial responsibilities;
- (d)(9) neglect of professional obligations;
- (d)(10) violation of a court order;
- (d)(11) evidence of mental or emotional instability;

(d)(12) evidence of drug or alcohol dependency;

(d)(13) lack of diligence or reliability;

(d)(14) lack of civility;

(d)(15) denial of admission to the bar in another jurisdiction on character and fitness grounds;

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(d)(16) past or pending disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction; and

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(d)(17) other conduct bearing upon character or fitness to practice law.

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(e) Assigning weight and significance to prior conduct. In making a determination as to the requisite character and fitness, the following factors should be considered in assigning weight and significance to prior conduct:

- (e)(1) age at the time of conduct;
- (e)(2) recency of the conduct;
- (e)(3) reliability of the information concerning the conduct;
- (e)(4) seriousness of the conduct;



- (e)(5) factors underlying the conduct;
- (e)(6) cumulative effect of conduct or information;
- (e)(7) evidence of rehabilitation;
- (e)(8) positive social contributions since the conduct;
- (e)(9) candor in the admissions process;
- (e)(10) materiality of any omission or misrepresentations;

(e)(11) acceptance of responsibility for past conduct.

(f) Civil, criminal, or disciplinary charges.

(f)(1) Where bar complaints, civil cases, or criminal charges are pending, an Applicant's character and fitness review may be held in abeyance until the matter has been resolved by the authority in question.

(f)(2) An Applicant convicted of a misdemeanor offense or who has entered a plea in abeyance to any criminal offense may be asked to appear before members of the Character and Fitness Committee for an investigation interview or a formal hearing. In determining whether the Applicant is of good character, the Committee will consider the nature and seriousness of the criminal conduct resulting in the conviction(s), mitigating and aggravating factors including completion of terms and conditions of any sentence imposed, payment of restitution if applicable, and demonstration of clearly proven rehabilitation.

(f)(3) A rebuttable presumption exists against admission of an Applicant convicted of a felony offense. For purposes of this rule, a conviction includes entry of a nolo contendere (no contest) plea. An Applicant who has been convicted of a felony offense is not eligible to apply for admission until after the date of completion of any sentence, term of probation or term of parole or supervised release, whichever occurred last. Upon an Applicant's eligibility, a formal hearing may be held as set forth in Rule 14-708(c). Factors to be considered by the Committee include, but are not limited to, the nature and seriousness of the criminal conduct resulting in the conviction(s), mitigating and aggravating factors including completion of terms and conditions of a sentence imposed and demonstration of clearly proven rehabilitation.

(g) Appeal. An Applicant has the right to have the Admissions Committee review a decision made after a formal hearing as set forth in this article. A decision after a formal hearing is a prerequisite to an Admissions Committee review. The review will be conducted in accordance with Rule 14-715.

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(g) Disbarred Attorneys. ¶  
(g)(1) A Disbarred Attorney Applicant must undergo a formal hearing as set forth in Rule 14-708(c). A Disbarred Attorney Applicant has the burden of proving rehabilitation by clear and convincing evidence. No Applicant may take the Bar Examination prior to being approved by the Character and Fitness Committee as provided in Rule 14-708(a). In addition to the requirements set forth in Rule 14-717 and in conjunction with the application, an Applicant under this rule must: ¶

(g)(1)(A) provide a comprehensive written explanation of the circumstances surrounding her or his disbarment or resignation; ¶

(g)(1)(B) provide copies of all relevant documents including, but not limited to, orders containing findings of fact and conclusions of law relating to disbarment or resignation; and ¶

(g)(1)(C) provide a comprehensive written account of conduct evidencing rehabilitation. ¶

(g)(2) To prove rehabilitation, the Applicant must demonstrate the following: ¶

(g)(2)(A) positive action showing rehabilitation by such things as a person's occupation, religion, or community or civic service. Merely showing that the Applicant is now living as and doing those things she or he should have done throughout life, although necessary to prove rehabilitation, does not prove that the individual has undertaken a useful and constructive place in society; ¶

(g)(2)(B) provide evidence of strict compliance with all disciplinary and judicial orders; ¶

(g)(2)(C) unimpeachable character and moral standing in the community; ¶

(g)(2)(D) proof of present professional competence and knowledge; ¶ ... [2]

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(h) Reapplication. Reapplication after denial in a character and fitness determination may not be made prior to one year from the date of the final decision (including the appellate decision, if applicable), unless a different time period is specified in the final decision. If just cause exists, then the Character and Fitness Committee may require an Applicant to wait up to three years from the date of the final decision to reapply. If a reapplication period longer than one year is set for a Disbarred Attorney, then the time period is subject to approval by the district court hearing the petition for reinstatement. See Rule 14-525.

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## Rule 14-709. Application denial.

(a) **Notice from Bar.** An Applicant whose application is denied because the Bar determines the Applicant does not meet the qualifications for admission under this article will receive written notice from the Bar that her or his application has been denied, along with a statement explaining the deficiency and reason(s) for denial.

(b) **Appeal.** An Applicant may request a review of a denial under subsection (a). The review will be conducted in accordance with Rule 14-715.

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**Deleted:** Request for review. A request for review of the decision must be filed with the Bar in writing within 15 calendar days. The request for review shall contain a short and plain statement of the reasons that the Applicant is entitled to relief. A review panel consisting of no fewer than three members of the Admissions Committee shall review all relevant evidence. The review panel shall make a decision on the request for review and shall notify the Applicant in writing of its decision in the form of a final decision.¶

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

(c)(1) **Record of proceeding.** A record of the proceedings shall be prepared by the Bar and shall be filed with the clerk of the Supreme Court within 21 calendar days following the filing of the notice of appeal.¶

(c)(2) An appeal petition shall be filed with the Supreme Court 30 calendar days after the record of proceedings has been filed. The appeal petition shall state the name of the petitioner and shall designate the Bar as respondent. The appeal petition must contain the following: ¶

(c)(2)(A) a statement of the issues presented and the relief sought; ¶

(c)(2)(B) a statement of the facts necessary to an understanding of the issues presented by the appeal; ¶

(c)(2)(C) the legal argument supporting the appeal; and ¶

(c)(2)(D) a certificate reflecting service of the appeal petition upon the General Counsel.¶

(c)(3) Within 30 calendar days after service of the appeal petition on the Bar, the Bar, as respondent, shall file with the clerk of the Supreme Court a response. At the time of filing, a copy of the response shall be served upon the petitioner.¶

(c)(4) **Format of appeal and response petitions.** Except by permission of the Supreme Court, the appeal petition and the Bar's response petition shall not exceed 25 double-spaced pages, each. These documents shall be typewritten on 8 1/2 inches by 11 inches paper. The text, including footnotes, shall be in type no smaller than ten characters per inch for monospaced typeface and 13-point or larger for proportionally spaced typeface. An original and six copies of the appeal petition and the response petition shall be filed with the clerk of the Supreme Court. [4]

**Rule 14-710. Administration of the Bar Examination.**

(a) Bar Examination. The Bar Examination consists of the UBE. All components of the Bar Examination must be taken in the same examination administration and given according to the standards established by the NCBE.

(b) Exam components. The Bar Examination components are the MEE, MPT, and MBE.

(c) The Bar Examination is administered only for the purpose of admission to the Bar.

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**Deleted:** (c) MBE score transferability. The Bar will accept MBE scores transferred from another jurisdiction only if the MBE is taken concurrent with the Written Component in Utah. To transfer a MBE score, an Applicant must send a written transfer request, along with the prescribed fee, to the NCBE.

**Rule 14-711. Grading and passing the Bar Examination.**

(a) Grading the Written Component of the Bar Examination. MEE and MPT answers shall be uniformly graded on a scale from zero to five points. In order to assure maximum fairness and uniformity in grading, the Board or its designees shall prescribe procedures and standards for grading to be used by all graders.

(b) Scoring the Written Component of the Bar Examination. The MEE and MPT scores added together constitute the raw Written Component score. The raw Written Component score is scaled to the MBE portion of the examination using the standard deviation method.

(c) Weighting of exam components. The MBE score is weighted 50%, the MEE score is weighted 30% and the MPT score is weighted 20% in calculating the Applicant's total score.

(d) Passing grade. The Applicant's total score is the sum of the scaled MBE score and the scaled Written Component score. The total score is based on a 400-point scale. A total score of 270 or above is required to pass the Bar Examination.

(e) Bar Examination results are final. Bar Examination answers will not be reread, reevaluated or regraded by the Bar or its designees.

**Rule 14-712. Qualifications for admission based on UBE.**

(a) Timing of application and admission. An application may be filed at any time. Processing of the application and the character and fitness investigation require a minimum of four months to complete.

(b) UBE score transferability. An Applicant who has taken and completed the UBE in a single administration in a jurisdiction other than Utah may transfer the UBE score by filing an application provided:

(b)(1) the Applicant meets all the requirements of Rule 14-703 or Rule 14-704;

(b)(2) the Applicant has not been denied by any jurisdiction on character and fitness grounds;

(b)(3) the UBE score is 270 or above; and

(b)(4) the Bar receives the Applicant's UBE score no later than nine months after the filing of the application. To transfer a UBE score, an Applicant must send a written transfer request, along with the prescribed fee, to the NCBE.

(c) Time limitations on transferability. The transferability of the UBE score will be subject to the following time limitations:

(c)(1) the UBE score is transferable for all Applicants only if the application is filed within 24 months of the administration of the UBE in which the passing score was earned;

(c)(2) the UBE may be transferable for up to five years from the administration of the UBE in which the passing score was earned if the Attorney Applicant can prove by clear and convincing evidence that she or he has been admitted to a U.S. state, territory, or the District of Columbia and has been Actively engaged in the Full-time Practice of Law as defined in Rule 14-701(b), (t) and (ee) for at least one-half of the time period since the score was earned.

(d) Utah legal education requirement. Applicants who gain admission by transferring a UBE score and who have less than two years of legal practice must complete the New Lawyer Training Program as outlined in Rule 14-808.

(d)(1) Those Applicants who gain admission by transferring a UBE score that have two or more years of legal practice shall complete and certify no later than six months following the Applicant's admission that she or he has attended at least 15 hours of continuing legal education on Utah practice and procedure and ethics and civility requirements.

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| (d)(2) The Board may by regulation specify the number of the required 15 hours that must be in particular areas of practice, procedure, ethics and civility. Included in this mandatory 15 hours is attendance at the Bar's OPC ethics school.

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**Rule 14-715. Appeals.**

(a) Request for Review. A request for review of a final decision, along with the prescribed filing fee, must be filed with the Bar in writing within 10 calendar days of the date on the written notice of the decision. The request for review shall contain a short and plain statement of the reasons that the Applicant is entitled to relief. Any of the following decisions qualify as final and are therefore subject to appeal:

(a)(1) a decision issued by the Test Accommodations Committee in accordance with Rule 14-706(a);

(a)(2) a decision issued by the Character and Fitness Committee in accordance with Rule 14-708(c)(4);

(a)(3) a decision issued by the Bar in accordance with Rule 14-709(a).

(b) Rule waivers. The review panel does not have authority to waive admission rules.

(c) Burden of Proof. The Applicant bears the burden of proof by clear and convincing evidence. Harmless error does not constitute a basis to set aside the decision. On appeal, the decision may be affirmed, modified, or reversed. The decision, whether based on testimony or documentary evidence, shall not be set aside unless clearly erroneous, and deference shall be given to those making the decision to judge the credibility of witnesses.

(d) Review process. An Applicant's appearance at the review will only be permitted if deemed necessary. The review will be a closed proceeding and will be limited to consideration of the record, the Applicant's memorandum, and the Bar's responsive memorandum, if any. Requests for review setting forth common issues may be consolidated in whole or in part. After the completion of the review, a written decision shall be issued.

(d)(1) Payment of Transcript. An Applicant appealing a decision of the Character and Fitness Committee issued after a formal hearing is responsible for paying for and submitting a duly certified copy of the transcript of the formal hearing proceedings or other electronic record copy made by means acceptable in the courts of Utah.

(d)(2) Memoranda. After filing a written request for review, an Applicant must file a written memorandum citing to the record to show that the evidence does not support the decision. The issues in the memorandum must be limited to matters contained in the record. The review panel will not consider issues raised for the first time in the request for review. The memorandum must be filed within 30 calendar days of the filing of the request for review. The Bar may file a response, but no reply memorandum will be permitted.

(e) Supreme Court appeal. Within 30 calendar days of the date on the panel's written decision, the Applicant may appeal to the Supreme Court by filing a notice of appeal with the clerk of the Supreme Court and serving a copy upon the General Counsel for the Bar. At the time of filing the notice of appeal, the Applicant shall pay the prescribed filing fee to the clerk of the Supreme Court. The clerk will not accept a notice of appeal unless the filing fee is paid.

(e)(1) Record of proceedings. A record of the proceedings shall be prepared by the Bar and shall be filed with the clerk of the Supreme Court within 21 calendar days following the filing of the notice of appeal.

(e)(2) Appeal petition. An appeal petition shall be filed with the Supreme Court 30 calendar days after a record of the proceedings has been filed with the Supreme Court. The appeal petition shall state the name of the petitioner and shall designate the Bar as respondent. The appeal petition must contain the following:

(e)(2)(A) a statement of the issues presented and the relief sought;

(e)(2)(B) a statement of the facts necessary to an understanding of the issues presented by the appeal;

(e)(2)(C) the legal argument supporting the petitioner's request; and

(e)(2)(D) a certificate reflecting service of the appeal petition upon the General Counsel.

(e)(3) Format of appeal and response petitions. Except by permission of the Court, the appeal petition and the Bar's response shall not exceed 25 double-spaced pages, each. These documents shall be typewritten on 8½ inches by 11 inches paper. The text shall be in type no smaller than ten characters per inch.

(e)(4) Response petition. Within 30 calendar days after service of the appeal petition on the Bar, the Bar, as respondent, shall file its response with the clerk of the Supreme Court. At the time of filing a copy of the response shall be served upon the petitioner. No reply memorandum will be permitted.

(e)(5) The clerk of the Supreme Court will notify the parties if any additional briefing or oral argument is permitted. Upon entry of the Supreme Court's decision, the clerk shall give notice of the decision.

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

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

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

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

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

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

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

(c)(4)(A) a statement of the issues ... [5]



**Rule 14-716. License fees; enrollment fees; oath and admission.**

(a) Court enrollment fees and Bar license fee. After notification that the Board has approved the Applicant for admission, the Applicant must pay to the Bar the applicable Bar license fee for either Active or Inactive status. The Bar also collects and transmits the federal and state court enrollment fees. The Applicant must pay to the Bar the mandatory Supreme Court enrollment fee, regardless of whether the Applicant elects Active or Inactive attorney status.

(b) Motion for admission and enrollment. Upon satisfaction of the requirements of Rule 14-716(a), the Board will submit motions to the Supreme Court and the United States District Court for the District of Utah for admission certifying that the Applicants have satisfied all qualifications and requirements for admission to the Bar. The Board will submit three motions for admission per year: October, February and May. At its discretion, the Board may also file a motion in July. After the motions are submitted and upon approval by the Supreme Court and the United States District Court for the District of Utah and upon taking the required oath, an Applicant is eligible to be enrolled into Utah's state and federal courts.

(c) Oath of attorney and certificate of admission. Every Applicant must take an oath. The oath must be administered by the clerk of the Supreme Court, the clerk of a court of the United States, a Utah state judge of district or juvenile court level or higher, a judge of a court of the United States or a judge of a court of general jurisdiction or higher of a state of the United States. In the event of military assignment, a military court judge may administer the oath. After administration of the oath, each Applicant must sign the roll of attorneys maintained by the clerk of the Supreme Court at which time the Applicant receives a certificate of admission. If the oath is administered other than at a licensing ceremony, the Applicant must contact the clerk of the Supreme Court for information on administration of the oath, and if applicable, the clerk of the United States District Court for the District of Utah.

(d) Time limit for admission. An Applicant must resolve all application deficiencies and gain character and fitness approval within one year of filing the application or the application is closed. After receiving notice of character and fitness approval, an Applicant must pay the prescribed license and enrollment fees and take the oath as required by Rule 14-716(c) within six months or approval for admission is automatically withdrawn. Failure to timely satisfy the provisions of this rule requires an Applicant to recommence the application process including the submission of a new application, the payment of application fees, a new character and fitness investigation and the retaking of the Bar Examination, if applicable.

**Deleted:** (c) Licensing ceremony. There will be two licensing ceremonies a year to administer the required oath to be placed on either Active or Inactive attorney status: May and October.¶

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**Rule 14-717. Readmission after resignation or disbarment of Utah attorneys.**

(a) Readmission after resignation without discipline pending. Readmission subsequent to the resignation without discipline pending of a member of the Bar requires a new application, payment of fees, and a character and fitness investigation. An Applicant is not required to retake the Bar Examination but must fully comply with the requirements of Rule 14-716.

(b) Readmission of Disbarred Attorneys. An Applicant for readmission to the Bar after disbarment shall satisfy all requirements of this article, including Rules 14-703, 14-707(c), 14-708 and 14-716, and shall satisfy all other requirements imposed by Rule 14-525, the OPC, and Utah courts. A report and recommendation shall be filed by the Character and Fitness Committee in the district court in which the Applicant has filed his or her petition for readmission. The district court must approve the Applicant's petition for readmission under Rule 14-525 before an Applicant can be admitted and licensed under Rule 14-716 to practice law.

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(c) A Disbarred Attorney Applicant must undergo a formal hearing as set forth in Rule 14-708(c). A Disbarred Attorney Applicant has the burden of proving rehabilitation by clear and convincing evidence. No Disbarred Attorney Applicant may take the Bar Examination prior to being approved by the Character and Fitness Committee as provided in Rule 14-708(a). In addition to the requirements set forth in this rule and in conjunction with the application, an Applicant under this rule must:

(c)(1) file an application for admission in accordance with the requirements and deadlines set forth in Rule 14-707(c).

(c)(2) provide a comprehensive written explanation of the circumstances surrounding her or his disbarment or resignation;

(c)(3) provide copies of all relevant documents including, but not limited to, orders containing findings of fact and conclusions of law relating to disbarment or resignation; and

(c)(4) provide a comprehensive written account of conduct evidencing rehabilitation.

(c)(5) To prove rehabilitation, the Applicant must demonstrate and provide evidence of the following:

(c)(5)(A) strict compliance with all disciplinary and judicial orders;

(c)(5)(B) provide evidence of full restitution of funds or property where applicable;

(c)(5)(C) a lack of malice toward those who instituted the original proceeding against the Applicant;

(c)(5)(D) unimpeachable character and moral standing in the community;

(c)(5)(E) acceptance of responsibility for the conduct leading to the discipline;

(c)(5)(F) a desire and intent to conduct one's self in an exemplary fashion in the future;

(c)(5)(G) treatment for and current control of any substance abuse problem and/or psychological condition, if such were factors contributing to the disbarment or resignation; and

(c)(5)(H) positive action showing rehabilitation by such things as a person's occupation, religion, or community or civic service. Merely showing that the Applicant is now living as and doing those things she or he should have done throughout life, although necessary to prove rehabilitation, does not prove that the individual has undertaken a useful and constructive place in society;

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## Rule 14-718. Licensing of Foreign Legal Consultants.

(a) Requirements of Foreign Legal Consultants. The burden of proof is on the Applicant to establish by clear and convincing evidence that she or he:

(a)(1) is a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority; and

(a)(2) has paid the prescribed fee and filed a Complete Application as a Foreign Legal Consultant Applicant;

(a)(3) is of the good moral character and satisfies the requirements of Rule 14-708;

(a)(4) intends to practice as a legal consultant in this state and to maintain an office in this state for that purpose; and

(a)(5) has passed the MPRE.

(b) Proof required. An Applicant shall file with the Bar's Admissions Office:

(b)(1) a certificate from the professional body or public authority in such foreign country having final jurisdiction over professional discipline, certifying as to the Applicant's admission to practice and the date, and as to her or his good standing as such attorney or counselor at law or the equivalent;

(b)(2) a duly authenticated English translation of such certificate, if it is not in English; and

(b)(3) such other evidence as to the Applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of this rule as the Bar may require.

(c) Scope of practice. A person licensed to practice as a Foreign Legal Consultant under this rule may render legal services in this state with respect to the law of the foreign country in which such person is admitted to practice law. She or he shall not violate any provision of the Rule 14-802 and shall not:

(c)(1) appear for a person other than herself or himself as attorney in any court, or before any magistrate or other judicial officer, in Utah other than as permitted under Rule 14-802 or upon qualified admission pro hac vice pursuant to Rule 14-806; or

(c)(2) render professional legal advice on the law of this state or of the United States;

(c)(3) be, or in any way hold herself or himself out as a member of the Bar; or

**Deleted:** (c) Reciprocal treatment of members of the Bar. In considering whether to license an Applicant to practice as a Foreign Legal Consultant, the Bar may in its discretion take into account whether a member of the Bar would have a reasonable and practical opportunity to establish an office for the giving of legal advice to clients in the Applicant's country of admission. ¶

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**Deleted:** (d)(2) prepare any instrument effecting the transfer or registration of title to real estate located in the United States; or¶

(d)(3) prepare any will or trust instrument effecting the disposition on death of any property located in the United States and owned by a resident of the United States or any instrument relating to the administration of a decedent's estate in the United States; or¶

(d)(4) prepare any instrument in respect of the marital or parental relations, rights or duties of a resident of the United States, or the custody or care of the children of such a resident; or¶

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(c)(4) carry on her or his practice under, or utilize in connection with such practice, any name, title or designation other than the following:

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(c)(5)(A) her or his own name;

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(c)(5)(B) the name of the law firm or other entity with which she or he is affiliated, in each case only in conjunction with the title "Foreign Legal Consultant" as set forth below;

(c)(5)(C) her or his authorized title in the foreign county of her or his admission to practice, in each case only in conjunction with the title "Foreign Legal Consultant" as set forth below; and

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(c)(5)(D) the title "Foreign Legal Consultant", which shall be used in conjunction with the words "admitted to the practice of law only in [name of the foreign country or her or his admission to practice]."

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(d) Rights and obligations. Subject to the limitations set forth in paragraph (d), a person licensed as a Foreign Legal Consultant shall be considered a lawyer affiliated with the Bar as permitted by this rule and shall be entitled and subject to:

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(d)(1) the rights and obligations set forth in the Utah Rules of Professional Conduct or arising from the other conditions and requirements that apply to a member of the Bar under rules adopted by the Supreme Court; and

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(d)(2) attorney-client privilege, work-product privilege and similar professional privileges.

(e) Subject to disciplinary proceedings. A person licensed to practice as a Foreign Legal Consultant shall be subject to professional discipline in the same manner and to the same extent as members of the Bar and specifically shall be subject to discipline by the Supreme Court as delegated by rule and shall otherwise be governed by Chapter 13, the Utah Rules of Professional Conduct, Chapter 14 Article 5, Lawyer Discipline and Disability, Article 6, Standards for Imposing Lawyer Sanctions, and other applicable rules adopted by the Supreme Court.

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(e)(2)(A) affiliation in the same law firm with one or more members of the Bar by:  
(e)(2)(A)(i) employing one or more members of the Bar;  
(e)(2)(A)(ii) being employed by one or more members of the Bar or by any partnership, professional corporation or limited liability company which includes members of the Bar or which maintains an office in this state; and  
(e)(2)(A)(iii) being a partner in any partnership, shareholder in any professional corporation or member in any limited liability company which includes members of the Bar of this state or which maintains an office in this state; and

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(f) Requirements for licensure. Every person licensed to practice as a Foreign Legal Consultant:

(f)(1) prior to receiving a license to practice as a Foreign Legal Consultant, shall attend the Bar's OPC ethics school;

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(f)(2) shall execute and file with the Bar, in such form and manner as the Supreme Court may prescribe:

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(f)(2)(A) her or his understanding of, and commitment to observe, the Utah Rules of Professional Conduct and the other rules adopted by the Supreme Court, and to the extent applicable to the legal services authorized under paragraph (c) of this rule;

(f)(2)(B) written notice to the OPC of any change in her or his membership status, good standing or authorization to practice law in any jurisdiction where licensed, including the commencement of all formal disciplinary proceedings and of all final disciplinary actions taken in any other jurisdiction.

(g) License fees. A person licensed as a Foreign Legal Consultant shall pay annual license fees which shall be equal to the fees required to be paid by a member of the Bar on Active status.

(h) Revocation of license. In the event that a person licensed as a Foreign Legal Consultant no longer meets the requirements for licensure set forth in paragraph (a) or (g), her or his license shall be revoked following the procedures set forth in Chapter 14 Article 5, Lawyer Discipline and Disability, and Article 6, Standards for Imposing Lawyer Sanctions.

(i) Admission to Bar. In the event that a person licensed as a Foreign Legal Consultant is subsequently admitted as a member of the Bar under Chapter 14 Article 7, Admission to the Utah State Bar, the license granted to such person shall be deemed superseded by the license granted to such person to practice law as a member of the Bar.

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Deleted: (and an undertaking to provide written notice of any future change) in such person's good standing as a member of the foreign legal profession referred to in paragraph (a)(1) of this rule and of any final action of the professional body or public authority referred to in paragraph (b)(1) of this rule imposing any disciplinary censure, suspension, or other sanction upon such person

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Deleted: (g)(2)(D) a duly acknowledged instrument, in writing, setting forth her or his address in this state, her or his address in the foreign country, and designating the clerk of the Supreme Court as her or his agent upon whom process may be served, with like effect as if served personally upon her or him, in any action or proceeding thereafter brought against her or him and arising out of or based upon any legal services rendered or offered to be rendered by her or him within or to residents of this state, whenever after due diligence service cannot be made upon her or him at such address or at such new address in Utah as she or he shall have filed in the office of such clerk by means of a duly acknowledged supplemental instrument in writing.¶

(g)(3) Service of process on the clerk of the Supreme Court, pursuant to the designation filed as aforesaid, shall be made by personally delivering to and leaving with the clerk of the Supreme Court, or with a deputy or assistant authorized by such clerk to receive such service, at her or his office, duplicate copies of such process together with a fee of \$10. Service of process shall be complete when such clerk has been so served.¶

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### Rule 14-719. Qualifications for admission of House Counsel Applicants.

(a) Scope of practice. An attorney admitted to the Bar as House Counsel shall limit her or his practice of law including legal representation to the business of her or his employer.

However, House Counsel can provide pro bono legal services under the auspices of an approved sponsoring entity consistent with Rule 14-803 of the Utah Rules of Lawyer Discipline and Disability. House Counsel shall not:

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(a)(1) Appear before a court of record or not of record as an attorney or counselor in the State of Utah except as otherwise authorized by law or rule; or

(a)(2) Offer legal services or advice to the public or hold herself or himself out as being so engaged or authorized. An attorney granted a House Counsel license is not prevented from appearing in any matter pro se, performing pro bono services under Rule 14-803, or from fulfilling the duties of a member of the active or reserve components of the armed forces or the National Guard.

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(b) Requirements of House Counsel Applicants. To be recommended for admission to the Bar as House Counsel, a person must establish by clear and convincing evidence that she or he:

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(b)(1) has filed a Complete Application for admission and paid the prescribed application fee;

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(b)(2) is at least 21 years old;

(b)(3) graduated with a First Professional Degree in law from an Approved Law School or equivalent degree from an Unapproved Law School located within a U.S. state, territory or the District of Columbia;

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(b)(4) is licensed to practice law and in active status in a U.S. state, territory or the District of Columbia;

(b)(5) either (A) is a bona fide resident of the State of Utah or (B) maintains an office as the employer's house counsel within the State of Utah;

(b)(6) is employed and practices law exclusively as house counsel for a non-governmental corporation, its subsidiaries or affiliates, an association, a business, or other legal entity whose lawful business consists of activities other than the practice of law or the provision of legal services;

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(b)(7) has provided an affidavit signed by both the Applicant and the employer that the Applicant is employed exclusively as house counsel and that Applicant has disclosed to the employer the limitations on House Counsel's license of practicing under this rule;

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(b)(8) is of good moral character and satisfies the requirements of Rule 14-708;

(b)(9) has presented satisfactory proof both of admission to the practice of law and that she or he is a member in good standing in all jurisdictions where currently admitted;

(b)(10) has a proven record of ethical, civil and professional behavior and has never been disbarred or resigned with discipline pending, or their equivalent, in any jurisdiction, and is not currently subject to lawyer discipline or the subject of a pending disciplinary matter;

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(b)(11) has received a passing MPRE score; and

(b)(12) has complied with the oath and enrollment provisions of Rule 14-716 and paid the licensing fees required for active status.

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(c) Timing of application and admission. An application under this rule may be filed at any time but the Applicant must be able to demonstrate that she or he satisfies the requirements of this rule as of the date the application is filed.

(c)(1) The processing of the application and the character and fitness investigation require a minimum of four months to complete.

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(c)(2) Upon approval the Applicant must comply with the provisions of Rule 14-716 concerning licensing and enrollment fees.

(c)(3) A person licensed as House Counsel shall pay annual license fees which shall be equal to the fees required to be paid by a member of the Bar on Active status.

(d) Unauthorized practice of law.

(d)(1) It is the unauthorized practice of law for an attorney not licensed in Utah to practice law in the state except as otherwise provided by law.

(d)(2) An attorney who complies with the requirements of subsection (b)(1) may provide services to an employer in Utah while the application is pending as long as the application is filed within six months of the out-of-state attorney accepting a house counsel position.

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(d)(3) An attorney who provides legal advice to her or his employer but is not an active member of the Bar or licensed as House Counsel pursuant to this rule may be referred for investigation for the unauthorized practice of law.

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(e) Continuing legal education requirement. House Counsel shall pay the designated filing fee and file with the MCLE Board by July 31 of each year a Certificate of Compliance from the jurisdiction where House Counsel maintains an active license establishing that she or he has completed the hours of continuing legal education required of active attorneys in the jurisdiction where House Counsel is licensed;

(f) Subject to disciplinary proceedings. A person licensed as House Counsel shall be subject to professional discipline in the same manner and to the same extent as members of the Bar and specifically shall be subject to discipline by the Supreme Court as delegated by rule and shall otherwise be governed by Chapter 13, the Rules of Professional Conduct, Chapter 14 Article 5, Lawyer Discipline and Disability, [Article 6, Standards for Imposing Lawyer Sanctions](#), and other applicable rules adopted by the Supreme Court, and all applicable statutory provisions.

(h) Notification of change in standing.

(h)(1) House Counsel shall execute and file with the Licensing Office a written notice of any change in that person's membership status, good standing or authorization to practice law in any jurisdiction where licensed.

(h)(2) House Counsel shall execute and file with the [OPC](#) a written notice of the commencement of all formal disciplinary proceedings and of all final disciplinary actions taken in any other jurisdiction.

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(i) No Solicitation. House Counsel is not authorized by anything in this rule to hold out to the public or otherwise solicit, advertise, or represent that he or she is available to assist in representing the public in legal matters in Utah.

(j) Cessation of activity as house counsel. A House Counsel license terminates and the House Counsel shall immediately cease performing all services under this rule and shall cease holding herself or himself out as House Counsel upon:

(j)(1) termination of employment with the qualified employer as provided in subsection (b)(6);

(j)(2) termination of residence, or the maintenance of his or her office in the State of Utah as provided in subsection (b)(5);

(j)(3) failure to maintain active status in a sister state or United States territory or the District of Columbia, or to satisfy the Bar's annual licensing requirements, including compliance with mandatory continuing legal education requirements as provided for in this rule;

(j)(4) completion of any disciplinary proceeding in Utah or any other jurisdiction, which warrants suspension or termination of the House Counsel license.

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(k) Reinstatement after temporary lapse in license. An attorney whose House Counsel license is terminated pursuant to subsection (j)(1), (j)(2), or (j)(3) shall be reinstated to practice law as a House Counsel if within six months from the termination the attorney is able to demonstrate to the Admissions Office that she or he has:

**Deleted:** (j)(5) an attorney who seeks admission to practice in this state as House Counsel and who previously had a Utah House Counsel license that was terminated due to a disciplinary proceeding pursuant to subsection (j)(4) or whose license was terminated for a period longer than six months pursuant to subsection (j)(1), (j)(2), or (j)(3) must file a new application under this rule.¶

[\(k\)\(1\) transferred to inactive status in accordance with subsection \(l\); or](#)



(k)(2) employment with a qualified employer and has provided the required verification of employment pursuant to subsection (b)(7);

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(k)(3) established a residence or maintains an office for the practice of law as House Counsel for the employer within the State of Utah; and

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(k)(4) active status in a U.S. state, territory or the District of Columbia and has complied with the Bar's annual licensing and MCLE requirements for House Counsel.

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(l) Inactive status. House Counsel who is not currently practicing may transfer to inactive status under Rule 14-203(a)(4). Doing so will prevent the lapse of the license as long as the inactive status is maintained.

(l)(1) Inactive House Counsel may return to active status upon demonstration of compliance with requirements (k)(1) through (k)(4) and payment of the necessary fees in accordance with Rule 14-203(b).

(m) Notice of change of employment. House Counsel shall notify, in writing, the Licensing Office of the termination of the employment pursuant to which the House Counsel license was issued.

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(n) Full admission to the Utah State Bar. A House Counsel license will be terminated automatically once the attorney has been otherwise admitted to the practice of law in Utah as an active member of the Bar. Any person who has been issued a House Counsel license may qualify for full membership by establishing by clear and convincing evidence that she or he:

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(n)(1) has filed a complete written request for a change of status with the Admissions Office in accordance with the filing deadlines set forth in Rule 14-707(b). The request for a change of status must include:

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(n)(1)(A) a Reapplication for Admission form updating the information provided in the original application, including payment of the prescribed application fee. If the original application for admission is more than two years old, a new Complete Application for admission must be filed;

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(n)(1)(B) a criminal background check dated no more than 180 days prior to the filing of the change of status request;

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(n)(1)(C) satisfactory proof of both admission to the practice of law and that House Counsel is a member in good standing in all jurisdictions where currently admitted; and

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(n)(1)(D) has a proven record of ethical, civil and professional behavior and has never been disbarred or resigned with discipline pending, or their equivalent, in any jurisdiction and is not currently subject to lawyer discipline or the subject of a pending disciplinary matter.

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(n)(2) is of good moral character and satisfies the requirements of Rule 14-708;

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(n)(3) has successfully passed the Bar Examination as an Attorney Applicant under Rule 14-704, has transferred a passing UBE score under Rule 14-712, or qualifies for admission under Rule 14-705. Time spent in Utah practicing as House Counsel or performing pro bono services does not qualify an attorney for admission under Rule 14-705;

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(n)(4) has successfully passed the MPRE; and

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(n)(5) complies with the provisions of Rule 14-716 concerning licensing and enrollment fees.

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Petition for reconsideration and appeal procedure; accommodation requests. An Applicant must file a petition for reconsideration of the decision within ten calendar days of the date of the notice of the Test Accommodations Committee. The petition for reconsideration shall contain a short and plain statement of the reasons the Applicant is entitled to relief.

(c)(1) Burden of proof. The Applicant bears the burden of proving at the hearing by clear and convincing evidence each of the elements set forth above in (a)(1) through (a)(3);

(c)(2) Reconsideration hearing process. The review panel consisting of no fewer than three members of the Admissions Committee may consider only the documentation the Applicant submitted at the time she or he requested accommodation and the decision of the Test Accommodations Committee. The Applicant and the Test Accommodations Committee may present expert witnesses to support their respective positions. The name(s) of the expert(s) must be disclosed to the respective parties at least five calendar days before the hearing. Any attempt to change the original accommodation request or submit new medical documentation will be considered a new request for accommodation. The new request must be resubmitted to the Test Accommodations Committee for review and is subject to the time deadlines set forth in Rule 14-706(a).

(c)(3) Reconsideration decision. The review panel shall affirm the decision of the Test Accommodations Committee if there is substantial and credible evidence to support it. The Admissions Committee review panel shall issue a written decision 15 calendar days after the completion of its reconsideration. The review panel shall provide its written findings and recommendation to three members of the Board. The Board panel shall make a decision on behalf of the Bar and notify the petitioner in writing of its final decision.

(c)(4) Appeal process. Within 30 calendar days after the date of the Board's final decision, the Applicant may appeal to the Supreme Court by filing a notice of appeal with the clerk of the Supreme Court and serving a copy upon the General Counsel for the Bar. At the time of filing the notice of appeal, the Applicant shall pay the prescribed filing fee to the clerk of the Supreme Court. The clerk will not accept a notice of appeal unless the filing fee is paid.

(c)(5) Record of proceedings. A record of the proceedings shall be prepared by the Bar and shall be filed with the clerk of the Supreme Court within 21 calendar days following the filing of the notice of appeal.

(c)(6) Appeal petition. An appeal petition shall be filed with the Supreme Court within 30 calendar days after the record of proceedings has been filed. The appeal petition shall state the name of the petitioner and shall designate the Bar as respondent. The appeal petition must contain the following:

(c)(6)(A) a statement of the issues presented and the relief sought;

(c)(6)(B) a statement of the facts necessary to an understanding of the issues presented by the petitioner;

(c)(6)(C) the legal argument which the petitioner believes demonstrates that she or he has a disability under the ADA and qualifies for the specific accommodations requested; and

(c)(6)(D) a certificate reflecting service of the appeal petition upon the General Counsel.

(c)(7) Response petition. Within 30 calendar days after service of the appeal petition on the General Counsel, the Bar, as respondent, shall file its response with the clerk of the Supreme Court at the time of filing. Respondent shall serve a copy of the response upon the petitioner.

(c)(8) Format of appeal and response petitions. Except by permission of the Supreme Court, the appeal petition and the Bar's response petition shall not exceed 25 double-spaced pages, each. These documents shall be typewritten on 8 ½ inches by 11 inches paper. The text, including footnotes, shall be in type no smaller than ten characters per inch for monospaced typeface and 13-point or larger for proportionally spaced typeface. An original and six copies of the appeal petition and the response petition shall be filed with the clerk of the Supreme Court.

(c)(9) The clerk of the Supreme Court will notify the parties if any additional briefing or oral argument is required. Upon entry of the Court's decision, the clerk shall give notice of the decision.

(g) Disbarred Attorneys.

(g)(1) A Disbarred Attorney Applicant must undergo a formal hearing as set forth in Rule 14-708(c). A Disbarred Attorney Applicant has the burden of proving rehabilitation by clear and convincing evidence. No Applicant may take the Bar Examination prior to being approved by the Character and Fitness Committee as provided in Rule 14-708(a). In addition to the requirements set forth in Rule 14-717 and in conjunction with the application, an Applicant under this rule must:

(g)(1)(A) provide a comprehensive written explanation of the circumstances surrounding her or his disbarment or resignation;

(g)(1)(B) provide copies of all relevant documents including, but not limited to, orders containing findings of fact and conclusions of law relating to disbarment or resignation; and

(g)(1)(C) provide a comprehensive written account of conduct evidencing rehabilitation.

(g)(2) To prove rehabilitation, the Applicant must demonstrate the following:

(g)(2)(A) positive action showing rehabilitation by such things as a person's occupation, religion, or community or civic service. Merely showing that the Applicant is now living as and doing those things she or he should have done throughout life, although necessary to prove rehabilitation, does not prove that the individual has undertaken a useful and constructive place in society;

(g)(2)(B) provide evidence of strict compliance with all disciplinary and judicial orders;

(g)(2)(C) unimpeachable character and moral standing in the community;

(g)(2)(D) proof of present professional competence and knowledge;

(g)(2)(E) lack of malice toward those who instituted the original proceeding against the Applicant;

(g)(2)(F) personal assurances supported by corroborating evidence of a desire and intention to conduct one's self in an exemplary fashion in the future;

(g)(2)(G) provide evidence of treatment for and current control of any substance abuse problem and/or psychological condition, if such were factors contributing to the disbarment or resignation; and

(g)(2)(H) provide evidence of full restitution of funds or property where applicable.

(h) Review of decision of Character and Fitness Committee; Applicant's request.

An Applicant must file a written request for Board review with the Deputy General Counsel within ten calendar days of the date of notice of the Character and Fitness Committee decision. A panel of three Board members will review the decision. The review shall be a closed proceeding and will be limited to consideration of the record produced in the formal hearing including a certified copy of the transcript of the formal hearing, the Applicant's memorandum, if any, and the Bar's responsive memorandum, if any. An Applicant's appearance at the Board review will be permitted only if the review panel deems it necessary.

(h)(1) Memoranda. After filing a written request for Board review, an Applicant may file a written memorandum identifying the Applicant's objections to the decision of the Character and Fitness Committee. The issues in the memorandum must be limited to matters contained in the record. The memorandum must be filed within 30 calendar days

of the filing of the request for Board review. The Bar may file a response, but no reply memorandum will be permitted.

(h)(2) The decision of the Character and Fitness Committee shall be affirmed if there is substantial and credible evidence to support it. To meet her or his burden of proof, the Applicant must cite to the record and show that the evidence did not support the decision.

(h)(3) Payment of transcript. An Applicant is responsible for paying for and obtaining a duly certified copy of the transcript of the formal hearing proceedings or other electronic record copy as described in Rule 14-708(c)(3).

(h)(4) Harmless error. An Applicant must demonstrate that any errors of law, fact or procedure formed a basis for denial or approval. Harmless error does not constitute a basis to set aside the decision.

(h)(5) The Board panel shall issue a final written decision within 30 calendar days of completing its review.

(i) Supreme Court appeal. Within 30 calendar days after the date of the decision of the Board panel, the Applicant may appeal to the Supreme Court by filing a written notice of appeal with the clerk of the Supreme Court and the general counsel. At the time of filing the notice of appeal, the Applicant shall pay the prescribed filing fee to the clerk of the Supreme Court. The clerk will not accept a notice of appeal unless the filing fee is paid.

(i)(1) Record of proceeding. A record of the proceeding shall be prepared by the Bar and shall be filed with the clerk of the Supreme Court within 21 calendar days following the filing of the notice of appeal.

(i)(2) An appeal petition shall be filed with the Supreme Court 30 calendar days after the record of the proceedings has been filed with the Supreme Court. The appeal petition shall state the name of the petitioner and shall designate the Bar as the respondent. The appeal petition must contain the following:

(i)(2)(A) a statement of the issues presented and the relief sought;

(i)(2)(B) a statement of the facts necessary to an understanding of the issues presented by the appeal;

(i)(2)(C) the legal argument supporting the petitioner's request; and

(i)(2)(D) a certificate reflecting service of the appeal petition upon the General Counsel.

(i)(3) Within 30 calendar days after service of the appeal petition on the Bar, the Bar, as respondent, shall file its response with the clerk of the Supreme Court. At the time of filing, a copy of the response shall be served upon the petitioner.



(i)(4) Format of appeal and response petitions. Except by permission of the Supreme Court, the appeal petition and the Bar's response petition shall not exceed 25 double-spaced pages, each. These documents shall be typewritten on 8 ½ inches by 11 inches paper. The text, including footnotes, shall be in type no smaller than ten characters per inch for monospaced typeface and 13-point or larger for proportionally spaced typeface. An original and six copies of the appeal petition and the response petition shall be filed with the clerk of the Supreme Court.

(i)(5) The clerk of the Supreme Court will notify the parties if any additional briefing or oral argument is permitted. Upon entry of the Supreme Court's decision, the clerk shall give notice of the decision.

Request for review. A request for review of the decision must be filed with the Bar in writing within 15 calendar days. The request for review shall contain a short and plain statement of the reasons that the Applicant is entitled to relief. A review panel consisting of no fewer than three members of the Admissions Committee shall review all relevant evidence. The review panel shall make a decision on the request for review and shall notify the Applicant in writing of its decision in the form of a final decision.

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

(c)(1) Record of proceeding. A record of the proceedings shall be prepared by the Bar and shall be filed with the clerk of the Supreme Court within 21 calendar days following the filing of the notice of appeal.

(c)(2) An appeal petition shall be filed with the Supreme Court 30 calendar days after the record of proceedings has been filed. The appeal petition shall state the name of the petitioner and shall designate the Bar as respondent. The appeal petition must contain the following:

(c)(2)(A) a statement of the issues presented and the relief sought;

(c)(2)(B) a statement of the facts necessary to an understanding of the issues presented by the appeal;

(c)(2)(C) the legal argument supporting the appeal; and

(c)(2)(D) a certificate reflecting service of the appeal petition upon the General Counsel.

(c)(3) Within 30 calendar days after service of the appeal petition on the Bar, the Bar, as respondent, shall file with the clerk of the Supreme Court a response. At the time of filing, a copy of the response shall be served upon the petitioner.

(c)(4) Format of appeal and response petitions. Except by permission of the Supreme Court, the appeal petition and the Bar's response petition shall not exceed 25 double-spaced pages, each. These documents shall be typewritten on 8 ½ inches by 11 inches paper. The text, including footnotes, shall be in type no smaller than ten characters per inch for monospaced typeface and 13-point or larger for proportionally spaced typeface. An original and six copies of the appeal petition and the response petition shall be filed with the clerk of the Supreme Court.

(c)(5) The clerk of the Supreme Court will notify the parties if any additional briefing or oral argument is permitted. Upon entry of the Supreme Court's decision, the clerk shall give notice of the decision.

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

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

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

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

(c)(2) Appeal process. Within 30 calendar days after the date of the final decision, the Applicant may appeal to the Supreme Court by filing a written notice of appeal with the

clerk of the Supreme Court and serving a copy upon the General Counsel. At the time of filing the notice of appeal, the Applicant shall pay the prescribed filing fee to the clerk of the Supreme Court. The clerk will not accept a notice of appeal unless the filing fee is paid.

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

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

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

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

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

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

(c)(5) Format of appeal and response petitions. Except by permission of the court, the appeal petition and the Bar's response shall not exceed 25 double-spaced pages, each. These documents shall be typewritten on 8 ½ inches by 11 inches paper. The text, including footnotes, shall be in type no smaller than 10 characters per inch for monospaced typeface and 13-point or larger for proportionally spaced typeface. An original and six copies of the appeal petition and the response petition shall be filed with the clerk of the Supreme Court.

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

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

# Tab 2

**Utah State Bar  
Commission on the  
Future of Legal Services in Utah**

November 20, 2014  
12:00 Noon  
Utah Law & Justice Center

- |          |   |
|----------|---|
| 12:00 N. | <b>Lunch</b>  |
| 12:15 pm | <b>Welcome, Introductions and Commission Charge</b><br>James D. Gilson, Utah State Bar President        |
| 12:30 pm | <b>Presentation on Clients &amp; the Marketplace</b><br>John Lund, Commission Co-Chair                  |
| 12:40 pm | <b>Presentation on Attorneys &amp; Delivery of Services</b><br>Nate Alder, Commission Co-Chair          |
| 12:50 pm | <b>Presentation on Education &amp; Training</b><br>Dickson Burton, Study Committee Chair                |
| 1:00 pm  | <b>Process Overview &amp; Small Group Assignments</b><br>Nate Alder and John Lund, Commission Co-Chairs |
| 1:15 pm  | <b>Set Next Meeting and Adjourn</b><br>Proposed: Thursday, December 11 <sup>th</sup> , 12:00 Noon       |



# Utah State Bar®

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<http://www.utahbar.org>

November 20, 2014

John C. Baldwin  
Executive Director

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*Re: Invitation to Participate on Utah State Bar's Commission on the Future of Legal Services in Utah*

I am writing to extend you an invitation to serve as a member of the Utah State Bar's Commission on the Future of Legal Services in Utah ("Futures Commission").

The Utah State Bar is currently involved in a comprehensive evaluation of the future of the legal profession in Utah and evolving issues in the practice of law resulting from developments in technology and globalization, and changes in demographics and economics. We are now in the process of forming this commission of approximately twenty-five individuals, including government officials, community leaders, thought leaders, and business and legal representatives. The commission will be chaired by Bar Commissioner John Lund of the law firm of Snow, Christensen & Martineau, and Past Bar President Nate Alder of the law firm of Christensen & Jensen. You have been nominated to serve because of your many attributes, skills, talents, insights, and as someone who will be able to contribute to envisioning the future.

The Utah State Bar was organized in 1931 and exists under the direction of the Utah Supreme Court by virtue of the Utah State Constitution. We currently license 11,600 lawyers. Our mission is to serve the public and legal profession with excellence, civility and integrity and strive towards a just legal system that is understood, valued and accessible to all.

The charge and scope of this Futures Commission is to "gather input, study, and consider the ways current and future lawyers can provide legal and law-related services to the public, especially to individuals and small businesses." The Futures Commission will conduct its introductory and organizational meeting on November 20<sup>th</sup>, 2014 at Noon in the Bar's offices at 645 South 200 East in Salt Lake City. Lunch will be served. We will meet on a regular basis through the first six months of 2015. Our goal is to report to the Utah Supreme Court by August 1, 2015. We understand that you have many important interests competing for your time, and therefore want to be respectful of your schedule, so we commit to making meetings as efficient and convenient as possible.

You will be contacted personally by a member of the Bar Commission shortly to answer any questions you may have about this study and to formalize this request for your involvement. More information about the Bar may be found at [www.utahbar.org](http://www.utahbar.org). We hope you will seriously consider joining with us in this important endeavor.

Sincerely,

James D. Gilson  
President, Utah State Bar



**Utah State Bar  
Commission on the  
Future of Legal Services in Utah  
Commission Charge**

The charge and scope of the Commission on the Future of Legal Services in Utah is to gather input, study, and consider the ways current and future lawyers can provide legal and law-related services to the public, especially to individuals and small businesses.

## **Utah State Bar Commission on the Future of Legal Services in Utah**

---

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**Utah State Bar  
Commission on the  
Future of Legal Services in Utah**

**Proposed Study Committee Members**

***\* Please let us know if you wish to request participation on a different committee.***

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S.J. Quinney College of Law Representative  
Prof. Gordon Smith  
Heather Farnsworth  
Hon. Elizabeth Hruby-Mills  
Janise Macanas  
Maybell Romero  
Angelina Tsu  
Curtis Jensen

**2. Clients & the Marketplace**

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Anne Burkholder  
James Clarke  
Don Gale  
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Eric Maxfield  
Charlotte Miller  
Christopher Warton

**3. Attorneys & the Delivery of Services**

Nate Alder  
Shantelle Argyle  
Dan Becker  
Christian Kesselring  
Hon. David Nuffer  
Stuart Ralphs  
Jacey Skinner  
Charles Stormont  
Scott Young

# *Being a Leader in the Law: Reflections on Meeting the Responsibilities of the Legal Profession*<sup>\*</sup>

by Curtis M. Jensen & Gregory H. Gunn

**AUTHOR'S NOTE:** Mr. Jensen would like to acknowledge and thank John Baldwin, Justice Matthew B. Durrant, Justice Christine M. Durham, Judge David Nuffer, Toby Brown, Former Chief Justice Michael D. Zimmerman, James Rasband, Robert Adler, Jim Gilson, John Lund, and Frederic Ury, for their contribution, comments, and feedback.

The practice of law has changed and, in the words of Yogi Berra, "[t]he future ain't what it used to be." Not too long ago, attorneys were the sole source from which nonattorneys could access legal information and services. With a strong economy and a demand for legal services, legal practices were growing. All indicators seemed to point to the continuation of a strong legal market. However, the practice of law has evolved due to the blurring of lines between professions, changes in the economy, and technological advances that provide greater public access to legal information. Public perception of the legal profession has continued to decline, with many individuals (including small business owners and the middle class) now unable to afford the legal services attorneys provide. The story does not end there. There is also a growing number of attorneys (mostly new graduates) that are either underemployed or unemployed. The combination of these changes has affected the current legal market, and there is disagreement on how to move through this transitional period. While there is a true challenge facing the profession, there seem to be many voices and many perspectives on how to respond.

CURTIS M. JENSEN is one of the founding partners of Snow, Jensen & Reece, located in St. George, Utah.



The law schools seem to think it is about changing the law schools; the bar associations think it is about new programs; nonlawyers, and perhaps even some lawmakers, think that market forces will be the answer. Regardless of your voice and perspective, we remain firm that attorneys of the Utah State Bar can work together with others to provide a solution for the future of the practice of law within the state of Utah.

### CHANGES IN THE PRACTICE OF LAW

The practice of law is changing, and we must recognize this change, both as individuals and as a legal community. If we think like leaders, these changes need not be negative. Rather than remain passive, we should be prepared to take whatever steps are necessary to lead our communities forward. This article summarizes the sources of the changes in the legal market, their potential effect on us as a legal community, and steps we can take to move forward in a way that benefits us as well as our clients.

### Sources of Change in the Legal Market

In today's legal market, attorneys no longer serve as the sole source of legal information. Both technology and globalization allow individuals easy access to legal information – information that at one time was only available through attorneys.<sup>1</sup> These two developments, along with a dramatic shift in the economy, have turned the legal market into a buyer's market.

GREGORY H. GUNN is a J.D. Candidate 2015, S.J. Quinney College of Law, University of Utah.



Technology now allows individuals to complete legal documents on their own, obtain answers to their legal questions, and quickly decide where and how to get their legal advice. The presence of online legal service alternatives such as LegalZoom and DirectLaw may be a contributing factor to this change,<sup>2</sup> or it could be caused by a shift in legal consumers' expectations for online resources,<sup>3</sup> leaving "offline" attorneys out of the competition for new customers and expansion of their practice. What is clear is that individuals are going online for legal information – information that is abundantly available on almost any subject or issue – and accessing that information without any specialized legal skills.

The recession of 2008 left its stamp upon many aspects of the economy, and the legal profession (like many others) is still feeling the effects.<sup>4</sup> Now, attorneys face competition for clients, not just among attorneys within the same geographic area but also with online service providers and "do-it-yourself" software programs.<sup>5</sup> Without leaving the comforts of home, consumers have access to legal information that is not only easily accessible and inexpensive but also instantaneous.

Meanwhile, law firms are learning they can no longer continue

to do business as they had in the past and are attempting to make changes. In order to remain competitive through the recession, attorneys had to be more efficient at providing the services clients requested while at the same time allowing clients to pay a pre-determined rate or giving clients the opportunity to redline the billing statements. The post-recession consumer of legal services now imposes timeline and price expectations for the delivery of services. Clients now have the real alternative of simply taking their business to someone (online or in person) willing to perform the services at the client's desired price and within the client's desired timeframe. Corporate clients are more cognizant of legal costs, making them cautious before hiring outside work.<sup>6</sup>

The economic changes that began in 2008 have turned the legal market into a buyer's market.<sup>7</sup> During this time, the number of lawyers was growing while the market was shrinking and becoming more demanding. Globalization has also played a critical role in reshaping the traditional model of providing legal services. One can simply email his or her legal request to an online legal service provider and receive a final document that is ready for submission to a client or filing with the court. Businesses and

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attorneys now realize they can tap into a whole new market of outsourced legal services provided at considerable cost savings.<sup>8</sup> In the end, clients who once paid top dollar now know the majority of their work can be accomplished not only more efficiently but also at a much lower cost.<sup>9</sup>

### The Effect of These Forces on the Legal Market

Although technology, globalization, and a dramatic shift in the economy have affected how attorneys find and retain clients, these factors have not changed the public's perception of attorneys. A recent study asked participants to identify the contribution that attorneys made to society. One-third of those surveyed said attorneys contributed "nothing" or "not very much" to society and placed attorneys at the bottom of the ten professions on the survey.<sup>10</sup> These results are similar to the survey's 2009 results.<sup>11</sup>

The time when students went to law school, graduated, and found a job that provided a large income may be over — with many possible law school applicants choosing to not even apply.<sup>12</sup> The current reality is that there are more students than there are available jobs,<sup>13</sup> and students are finding that they cannot secure a job through traditional methods.<sup>14</sup>

There is another side to the current legal market. The legal system is not functioning as intended, leaving a gap between those trained to provide legal services and those needing legal services.<sup>15</sup> Simply put, there are many people in need of legal services who simply cannot afford them.<sup>16</sup> Many of these individuals have limited access to legal services because of demographics as well as time constraints. People just do not have the resources and/or the time to expend on quality services, protracted litigation, or other constraints traditionally associated with the practice of law. This gap affects not only individuals without funds for legal services who would be served pro bono but also middle class individuals who are unable to pay the going price for the services they need.<sup>17</sup> This causes many to make the choice to forego legal services altogether.

This "access to justice paradox"<sup>18</sup> asks "[h]ow is it that we have people badly in need of a lawyer with no one to turn to and, at the same time, find that thousands of young lawyers are unemployed

and underemployed?"<sup>19</sup> The problem is much more than just mere economics or supply and demand — "[t]he access to justice paradox seems to defy the most basic principles of supply and demand."<sup>20</sup>

### RADICAL CHANGES MAY NOT BE NEGATIVE IF WE THINK LIKE LEADERS IN THE LAW

With "[t]he *status quo*... coming unstuck"<sup>21</sup> and a realization that the past is just that — the past, the legal profession will have to face changes, but such changes do not have to negatively impact our practice of law. As a profession, we can face the task of recognizing the change in the legal market and make adjustments in our practices, allowing us to provide necessary legal services to our communities.<sup>22</sup> As law students, when we entered law school, many of our professors told us that law school would "teach us to think like a lawyer." Expanding on this common phrase, we should not just think like a lawyer, but also think like a leader in the law. As attorneys, we have received three years of formal training and possess a unique skill set. Law school taught us to see, think, and read critically. It also trained us to keep an eye towards identifying potential problems, exploring options, developing and analyzing thoughtful solutions, and advocating for the implementation of those solutions. With this refined skill set and training, we often find ourselves being the key decision maker, the counselor and advisor, the advocator of change — the one everyone in the room is looking to for the answer.

There are times to be bold and times to be understanding and compassionate. We have learned to be articulate and skillful with our communication, to be good listeners, and to identify things others may miss. Therefore, we must have courage to lead and speak out where voices are not heard, where rights need to be defended, and where remedies and protections need to be asserted. We become leaders in our communities, we become leaders in the boardroom, we become advocates for those who have no voice — regardless of their economics, demographics, and physical limitations or circumstances. We need to think and act as leaders in the law and that will allow our profession to meet the challenges it now faces.

The preamble to the Utah Rules of Professional Conduct





discusses this concept of being a leader in the law:

As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. . . . A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance and therefore, all lawyers should devote professional time and resources and use civic influence in their behalf to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.<sup>[23]</sup>

The responsibility of being an attorney has not changed as a result of the economy or the level of online access individuals have to

legal information. Although there is some unrest concerning the current state of the legal profession, if we in the legal profession would reflect upon the essential values contained in the preamble and live up to the aspirations of our profession, the answer becomes much clearer – lawyers can be the solution.

### MOVING FORWARD

This is a complex problem. There are no easy solutions. Solving this problem will take changes in practices and attitudes among many different people and groups. But, as members of the Utah Bar, there are things we can all do now to address it. First, supporting existing programs such as pro bono and Modest Means; second, using technology to build relationships; third, finding opportunities to add value to a client's business; and finally, being open and cognizant of further opportunities.

### Support the Current Existing Programs

Over the past several years, the Utah State Bar, in association with the Utah State Courts, has implemented two programs in hopes of addressing, in part, this access to justice paradox. Chief Justice Matthew B. Durrant's recognition of the Bar's

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access to justice programs in his State of the Judiciary Address to the legislature acknowledges the progress of these programs:

There are of course situations when self-help resources aren't enough, when only a lawyer will do, and the State Bar has stepped up with two important programs. The first is the Pro Bono program, in which lawyers accept cases without any compensation, and the second is the recently developed Modest Means program, in which litigants pay on a sliding fee schedule, based on their ability to pay. Both of these efforts require willing lawyers, as well as coordination to get the willing lawyers together with clients in need. The Bar is providing both, and they deserve our thanks for making legal representation more accessible.<sup>[24]</sup>

In addition to these two programs, we have several local bar associations and sections that continuously volunteer their time in meeting and providing legal services to the underserved members of our public. There are other ways in which the Bar has tried to assist the legal market with additional opportunities to serve the community and to allow attorneys to develop practical skills, such as, the Mentoring Program and Lawyer Referral Directory. In addition, many sections and committee organizations are available within the Bar and noted on the Bar's website.<sup>25</sup>

Pro bono work, as well as Modest Means work, has many tangible benefits for the attorney providing this service. This work may allow for the learning of a new practice area; refining skills in a current practice area; strengthening client relationship skills by serving a greater number of clients; raising reputation through increased standing among judges and peers; and connecting with various service providers that may be able to serve a paying clients' needs.<sup>26</sup> Modest Means may also help build a book of business and develop your reputation within your legal community.

### Using Technology To Build and Develop Relationships

Today's legal market is an "increasingly difficult and challenging environment...that calls for clear thinking, strategic focus, and

flexibility in addressing rapidly changing realities."<sup>27</sup> Technology should not be viewed as a hindrance to our ability to practice law but as a new opportunity. Technological advancements within our profession have enabled us to make substantial cost savings in law office operations and delivery of legal services. As an example, as much as I enjoy listening to the bands of the 1970s, I must admit it is more enjoyable hearing the rich harmonics, bone-jarring base beats, organ runs, and sound quality with today's technology than the 8-track stereos of yesterday. Today we do not need to have shelves of books to do our research, but instead we may simply press a button to turn on a computer and begin typing the issue we need to research. We no longer need to assemble bound documents and boxes for mailing and delivery; we may simply drop those documents into a folder and easily press "send," and they are delivered and accessible instantaneously.

However, even with the influx of technology into the legal profession,

*"All attorneys...can build a positive professional reputation by volunteering with various legal and community groups, attending bar association events, and assisting with pro bono legal clinics."*

attorneys need to remember they have a distinctive advantage over web-based legal services – and that is personal service. At the 2012 American Bar Association's Tech Show, speakers urged the implementation of technology to establish personal relationships with customers and increase

communication.<sup>28</sup> There simply is no replacement for the face-to-face meeting to solve problems and provide solutions. Even if we continue to advance down the road of greater technology and if alternative legal services find some way of advancing their product by incorporating an artificial intelligence quotient, it will never approach the personal and emotional empathy that we provide and personally offer to our clients. We should remain ever vigilant in helping our clients avoid problems before they arise. We should let them know we have a genuine concern for them and their business. We do not have to wait for their call to show our concern or assistance but can simply send an email, forward an online article, or pick up the phone and have a meaningful discussion.

### Adding Value to a Client's Business

In today's market, and as we establish sacred attorney-client bonds, we should always be looking for ways to assist our

clients, peers, and colleagues to avoid problems before they arise. To distinguish us as attorneys – especially from the alternative legal service providers – we should let clients witness that we do possess a genuine concern for them and their business. We need to be actively engaged in providing service that is personal, valued, and specific to the client. Our clients should always feel that we are doing our best to address their concerns and problems, that we are effectively communicating with them, and that we in return value our relationship with them and the opportunity to provide them with pertinent legal services.

For many years, an attorney's ability to know where to find the answer to a client's legal question was a feature that made attorneys indispensable. Now, a Google search can find the same answer to that client's legal question in less time and for less money. Although clients may not fully understand how to search the internet for the correct answer or properly use nontraditional legal services, it is still a resource they are willing to seek out and try as an alternative. But, just knowing where to find the answer does not develop trust. We develop a "trusting relationship... [by] investing...time to understand [the] client's business and

doing a better job seeing the world through their eyes."<sup>29</sup> We need to put ourselves in the client's shoes and ask, if we were this client, is this the type of legal service we would expect to receive? "This gives us the best opportunity to use our legal expertise to solve their problems in a way that makes [attorneys] indispensable. Thus, as our clients grow, we have the opportunity to grow with them."<sup>30</sup> This growth enriches both attorneys and clients economically as well as personally over time.

#### **Build Your Professional Reputation by Getting Involved in Your Local and State Bar and Your Community**

Attorneys typically only receive referrals from individuals who know and respect them. Reputation is most likely the best tool to develop business. It may take many years to build a positive reputation and just one negative incident to destroy it. All attorneys – and especially those new to the Bar – can build a positive professional reputation by volunteering with various legal and community groups, attending bar association events, and assisting with pro bono legal clinics. These experiences will not only provide attorneys with a greater network and the opportunity to build a positive professional reputation, but they will also allow

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for opportunities to provide more legal services to the community through pro bono or the Modest Means Program.

At all times, we must always remember to make it a priority to adhere to civility and ethics in our practice and in the manner we conduct our daily lives. We become professional by acting professional. We have a great opportunity – because of who we are and what we are – to provide services within the communities we live in. We can serve our communities, our neighbors, and friends by volunteering and serving on local boards and councils. As we simply get involved, we have the good fortune to meet new people in our community and forge new relationships and associations with them and they in return get to know us as individuals who – when needed – can provide them with the legal services they require.

### **Radical Changes vs. Rethinking the Paradigm**

It could be argued that the simple thoughts and solutions outlined above are grossly insufficient to cope with the ever-evolving changes facing our profession as a result of advancements in technology and globalization. Perhaps more significant changes do need to take place among several sectors of our society. First, is it time to take a closer look at law schools and the legal education format they are utilizing as some have advocated? Should the model in the law schools be reviewed and revised? Should greater emphasis be placed on graduating law students that are fundamentally equipped to meet the rigors of the legal environment with better technical, management, and interpersonal skills?

Others would advance that we, as attorneys, need to be more open as a legal profession to innovations, new ideas, and alternatives to the current model and traditional practices in our profession. They advance ideas such as finding ways to let in alternative legal service providers and opening up limited practices to technicians, paralegals, and others who do not necessarily want to engage in the traditional practice of law. They suggest that the legal profession should allow some of these unmet legal services to be serviced by outsiders with specific training, and we, as attorneys, should assist in developing and refining those providers with the proper skills and settings to provide such services; that bar associations should be more forward thinking and look for ways of complementing our practice and unmet needs with technology and globalization that is available to the profession today; or that the legal profession should adopt a “one-stop” shopping model where clients can tap into the expertise and assistance of several professionals

under one roof. Perhaps those other professions are just as suited to providing such services – we see it happening more each day with title companies, accountants, insurance agencies, engineers, business executives, and entrepreneurs. Should we be so resistant in limiting such outside professionals, or should we be more conscientious in constructively coordinating our services with these other professions to further meet the needs of the adapting legal consumer? Finally, should we be more proactive in improving our traditional model and breaking down the barriers that limit our efficiency and effectiveness – such as looking to expertise in better management of operations, capital infusion of law practices, different paradigms, utilization of bridge programs such as incubators for new lawyers or service clinics for underemployed lawyers to further train and refine their professional skills and thereby providing service at a greater reduced cost? Has the time come for serious consideration of such changes, or will such changes be considered extreme and radical by some within our profession, or as the beginning of the demise of our great profession?

### **CONCLUSION**

It is clear the legal profession is going through a change, but the nobility and honor of our profession remains a constant. As leaders in the law, we have the opportunity before us to create a market that still requires our unique skills, ideas, and commitment in solving today's problems. We should not fear the changes coming to our profession but seek out and look for ways to benefit our practice and profession by providing valuable services more efficiently and economically. We should continuously look for opportunities to serve, to create better access to ourselves and our services, and to always approach our profession honorably by acting at all times within our practice with civility, diligence, and integrity. As we refocus our efforts and embrace the changes before us, we can uphold the principles of our profession and provide greater access to legal services. But are attorneys, law firms, and bar associations prepared to confront and meet these ever-evolving changes brought on by technology, globalization, and consumer demands? This is the real question and are we not the ones who possess the unique skills and training to be problem solvers and provide solutions?

*\* This article is part of a longer piece that is forthcoming in the Utah Law Review OnLaw edition and originated from a Symposium/CLE held last September that addressed the Twin Crises in the Law.*

1. See Mark Curriden, *Future of Law Panel: Change With the Times or Find Another Line of Business*, A.B.A. (Feb. 12, 2011, 7:30 PM), [http://www.abajournal.com/mobile/article/future\\_of\\_law\\_panel\\_change\\_with\\_the\\_times\\_or\\_find\\_another\\_line\\_of\\_business/](http://www.abajournal.com/mobile/article/future_of_law_panel_change_with_the_times_or_find_another_line_of_business/).
2. See Rachel M. Zahorsky, *The Future of Law: Old-Fashioned Client Relationships and Warnings for Solos*, A.B.A. (Mar. 29, 2012, 10:00 AM), [http://www.abajournal.com/news/article/the\\_future\\_of\\_law\\_old-fashioned\\_client\\_relationships\\_and\\_warnings\\_for\\_solos/](http://www.abajournal.com/news/article/the_future_of_law_old-fashioned_client_relationships_and_warnings_for_solos/); see also Dan Pinnington, *The Future of Law: The Challenges and Opportunities of Practising Law in a Global Village*, LAW PRO MAGAZINE, Sept. 2013, at 27 available at <http://www.practicepro.ca/LAWPROMag/Pinnington-Future-of-Law.pdf> (describing LegalZoom and RocketLawyer as "major legal service players").
3. See Zahorsky, *supra* note 2. ("[Ninety-seven] percent of consumers expect companies to have a robust Web presence, and many look to videos on YouTube and Vimeo as ways to get to know lawyers and make hiring decisions.").
4. See GEORGETOWN UNIV. LAW CTR., 2013 REPORT ON THE STATE OF THE LEGAL MARKET 2-4 (James W. Jones et al. eds., 2013) available at [http://scholarship.law.georgetown.edu/cslp\\_papers/4](http://scholarship.law.georgetown.edu/cslp_papers/4) [hereinafter GEORGETOWN] (discussing the "financial doldrums" in the legal markets around the world and lawyer productivity as being "essentially flat").
5. See Katy Murphy, *Law Schools at a Crossroads: Weak Job Prospects, High Tuition Causing Fewer to Apply*, MERCURY NEWS (Oct. 2, 2013, 8:06 AM), [http://www.mercurynews.com/ci\\_24192739/law-schools-at-crossroads-weak-job-prospects-high](http://www.mercurynews.com/ci_24192739/law-schools-at-crossroads-weak-job-prospects-high).
6. See Pinnington, *supra* note 2, at 26.
7. See Richard Susskind, *Richard Susskind: Disaster Ahead for Lawyers Unwilling to Change*, A.B.A. (Oct. 14, 2009, 9:00 AM), [http://www.abajournal.com/legalrebels/article/richard\\_susskind/](http://www.abajournal.com/legalrebels/article/richard_susskind/).
8. See Rachel Zahorsky & William D. Henderson, *Who's Eating Law Firms' Lunch?* A.B.A. (Oct. 1, 2013, 4:30 AM), [http://www.abajournal.com/magazine/articles/whos\\_eating\\_law\\_firms\\_lunch](http://www.abajournal.com/magazine/articles/whos_eating_law_firms_lunch).
9. See Mike Ayoitte, *Transparency is BigLaw's Kryptonite*, THE LAW HONEST LAWYER BLOG (Sept. 16, 2013), <http://lasthonestlawyer.org/2013/09/16/transparency-is-biglaws-kryptonite/>.
10. See Kevin O'Keefe, *Sad: Lawyers Contribute the Least to Society – Pew Survey*, REAL LAWYERS HAVE BLOGS (July 14, 2013), <http://kevin.lexblog.com/2013/07/14/sad-lawyers-contribute-the-least-to-society-pew-survey/>.
11. *Id.*
12. See Ryan Calo, *Why Now is a Good Time to Apply to Law School*, FORBES (Nov. 24, 2013, 1:43 AM), <http://www.forbes.com/sites/ryancalo/2013/11/24/why-now-is-a-good-time-to-apply-to-law-school/>.
13. "[T]he National Association for Law Placement released the results of its annual survey, showing 49.5 percent of law school graduates in 2011 had obtained jobs in law firms – a figure that compared with 50.9 percent for the class of 2010 and 55.9 percent for the class of 2009." GEORGETOWN, *supra* note 4, at 8-9.
14. See Wendy L. Werner, *Career Advice for Law Students and New Lawyers: A Roundtable Discussion*, LAW PRACTICE TODAY, (Mar. 2011), [http://www.americanbar.org/publications/law\\_practice\\_today\\_home/law\\_practice\\_today\\_archive/march11/career\\_advice\\_for\\_law\\_students\\_and\\_new\\_lawyers.html](http://www.americanbar.org/publications/law_practice_today_home/law_practice_today_archive/march11/career_advice_for_law_students_and_new_lawyers.html).
15. See Pinnington, *supra* note 2, at 25-26.
16. *Id.*
17. *Id.*; see also Debra Cassens Weiss, *Middle-Class Dilemma: Can't Afford Lawyers, Can't Qualify for Legal Aid*, A.B.A. (July 22, 2010, 7:36 AM), [http://www.abajournal.com/news/article/middle-class\\_dilemma\\_cant\\_afford\\_lawyers\\_cant\\_qualify\\_for\\_legal\\_aid](http://www.abajournal.com/news/article/middle-class_dilemma_cant_afford_lawyers_cant_qualify_for_legal_aid) (stating the expense of legal services is "out of reach for most people" because their income precludes them from legal aid but still does not allow them to afford legal services).
18. James R. Silkenat, *Trouble in Paradox: Our Nation's Unmet Legal Needs and Unemployed Young Lawyers*, N.Y. STATE BAR ASS'N J., Sept. 2013, at 55 available at <http://www.nysba.org/workarea/DownloadAsset.aspx?id=42868>.
19. *Id.* at 55-56.
20. *Id.* at 56.
21. Pinnington, *supra* note 2, at 31.
22. See GEORGETOWN, *supra* note 4, at 1.
23. Utah R. Prof'l Conduct, Preamble.
24. Matthew B. Durrant, Chief Justice, Utah Supreme Court, 2014 State of the Judiciary Address 5 (Jan. 27, 2014).
25. See <http://www.utahbar.org>.
26. See Nelson Miller, *Build Your Business With Pro Bono*, A.B.A., <http://www.americanbar.org/newsletter/publications/youraba/201303article01.html#top> (last visited Mar. 14, 2014).
27. GEORGETOWN, *supra* note 4, at 1.
28. See Zahorsky, *supra* note 2.
29. William Henderson, Commentary, *Why Are We Afraid of the Future of Law?*, THE NATIONAL JURIST, (Sept. 2012) at 8.
30. *Id.*

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Tab 3

## Summer Convention

The Utah State Bar puts on thousands of hours of continuing legal education in the state each year. The primary focus of the annual convention is different. It is to provide lawyers with an environment in which they can become more familiar with each other in informal and non-confrontational settings and become better educated about current legal developments, issues facing the Bar, and trends in the profession and the judiciary. We believe that the administration of the justice system will more appropriately function when its participants deal with each other with civility and are able to communicate more effectively with one another. This familiarity is facilitated, not surprisingly, from lawyers taking the time to get away from the often-confrontational relationships festering in today's practice settings.

We have found the greatest success at locations which provide the greatest variety of recreational and social events, where costs might be kept reasonable for lawyers, and at locations which are familiar to lawyers and their families. We break even on the event through sponsorships, vendors and registration fees. No general dues are used.

We regularly discuss how we might bring the event to Utah. It is our experience that the type of education and networking in a family-friendly recreational location can not be accommodated within the state just yet because no single property can appropriately house the numbers we attract and because conventions held in Salt Lake historically are poorly attended and cannot provide the get-away needed. Even if we were to hold a convention in Salt Lake, the economic impact would be minimal because lawyers would not stay overnight downtown.

We hold two conventions in the state each year. The Fall Forum is held every year on one day in November in Salt Lake and the Spring Convention is held over three days every March in St. George. Each provides some unique form of networking. The Spring Convention includes overnight accommodations, recreational activities and social events. It is becoming almost as large an event as the Summer Convention. As a practical matter we are almost outgrowing St. George.

We have regularly reviewed hotel availability closer to the Wasatch Front which might satisfy our needs, but none is large enough for the regular number of attendees we get annually at the Summer Convention. Park City needs additional space and its proximity to Salt Lake makes it problematic. Cedar City has enough hotel rooms throughout the city and it is far enough away with great recreational opportunities, but the hotel rooms are not close to each other and it might be difficult to completely book all that are available right now.

The primary location for the Summer Convention has recently been Sun Valley. We occasionally plan the event for southern California. Sun Valley has provided a wonderful blend of comfort, proximity, and recreational variety. The Sinclair Oil management team is aware of our concerns and constantly reminds us about their contacts to the state and the Utah-based resources which are used in operating that property.

It would be our desire to hold the Summer Convention in state. While it is a small part of the activities of the Bar and constitutes a miniscule number of the CLE hours we provide in the

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T
1	CONVENTION REGISTRATION TOTALS BY YEAR																			
2	YEAR	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
3	FALL FORUM																			
4	LOCATION									U. Park	U. Park	Little Am	Little Am	Salida	Salida	Madison	Idaho	Idaho	Idaho	Idaho
5	TOTAL REG.									388	276	508	540	588	565	666	507	554	475	468
6																				
7	SPRING CNV																			
8	LOCATION	ST. G.																		
9	TOTAL REG.	409	461	501	514	519	571	515	554	454	487	419	400	456	460	424	426	468	379	362
10																				
11	SUMMER CNV																			
12	LOCATION	CALIF.	IDAHO	IDAHO	IDAHO	IDAHO	CALIF.	IDAHO	IDAHO	IDAHO	IDAHO	IDAHO	NV	IDAHO	IDAHO	IDAHO	IDAHO	IDAHO	IDAHO	COLOR.
13	TOTAL REG.	465	526	507	544	568	479	542	492	496	550	438	367	450	418	424	451	464	372	325

	Utah (unified bar)	Alaska (unified bar)	Arizona (unified bar)	California (unified bar)	Colorado (voluntary bar)	Hawaii (unified bar)	Idaho (unified bar)	Montana (unified bar)	Nevada (unified bar)	New Mexico (unified bar)	North Dakota (unified bar)	Oregon (unified bar)	South Dakota (unified bar)	Washington (unified bar)	Wyoming (unified bar)
Pro Bono Program	1. Staff pro bono coordinator. 2. Bar provides in-kind services or indirectly assists a pro bono program. 3. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (50)	1. Staff pro bono coordinator but does not place cases. 2. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (50)	1. No formal pro bono program. 2. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (50)	1. No formal pro bono program. 2. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (50)	1. No formal pro bono program. 2. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (50)	1. Staff pro bono coordinator. 2. Bar provides in-kind services or indirectly assists a pro bono program. 3. Bar mandates the reporting of pro bono hours annually (50).	1. Bar sponsors a pro bono program that provides free direct legal representation in civil matters to people who cannot afford a lawyer. 2. Staff pro bono coordinator 3. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (50) 4. Bar funds an Access to Justice Commission.	1. Staff pro bono coordinator. 2. Bar provides in-kind services or indirectly assists a pro bono program. 3. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (50)	1. Bar mandates the reporting of pro bono hours annually (50). 2. Bar funds an Access to Justice Commission.	1. Staff pro bono coordinator. 2. Bar provides in-kind services or indirectly assists a pro bono program. 3. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (50)	1. Staff pro bono coordinator. 2. Bar sponsors a pro bono program that provides free direct legal representation in civil matters to people who cannot afford a lawyer. 3. Bar foundation pro bono fund for lawyer donations.	1. Bar sponsors a pro bono program that provides free direct legal representation in civil matters to people who cannot afford a lawyer. 2. Staff pro bono coordinator. 3. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (40)	1. Staff pro bono coordinator. 2. Bar sponsors a pro bono program that provides free direct legal representation in civil matters to people who cannot afford a lawyer. 3. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (40)	1. Staff pro bono coordinator. 2. Bar provides in-kind services or indirectly assists a pro bono program. 3. Bar has an Emeritus status pro bono program. 5. Bar has an MCLE Rule awarding credit for Pro Bono work.	1. No formal pro bono program. 2. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (30) 4. Bar has an Emeritus status pro bono program. 5. Bar has an MCLE Rule awarding credit for Pro Bono work.
Annual Meeting	Yes; out-of-state	Yes; in-state	Yes; in-state	Yes; in-state	No	Yes; in-state	Yes; in-state; out-of-state every 3 <sup>rd</sup> year	Yes; in-state	Yes; in-state; out-of-state every 3 <sup>rd</sup> year	Yes; in-state	Yes	No	Yes; in-state	No	Yes; in-state
Attendance at Annual Mtg.	4%	13%	9%	2%	n/a	7%	5.6%	8%	unknown	5%	12%	n/a	44%	n/a	20%
Mid-year Meeting	Yes	No	No	No	No	Yes	No	No	No	No	No	No	No	No	No
Bar Periodical	1. Yes 2. Printed and online. 3. 6 times per year.	1. Yes 2. Printed. Available online after 1 year. 3. 4 times per year.	1. Yes 2. Printed. Select articles available online. 3. 11 times per year.	1. Yes 2. Online 3. Monthly	1. Yes 2. Printed and online. 3. Monthly	1. Yes 2. Printed and online. 3. Monthly	1. Yes 2. Printed and online. 3. Monthly	1. Yes 2. Printed and online. 3. 6 times per year.	1. Yes 2. Printed and online. 3. Monthly	1. Yes 2. Printed and online. 3. 4 times per year.	1. Yes 2. Printed and online. 3. 4 times per year.	1. Yes 2. Printed and online. 3. 10 times per year.	1. Electronic monthly newsletter.	1. Yes 2. Printed and online. 3. 9 times per year.	1. Yes 2. Printed and online. 3. 6 times per year.

## Summer Convention Summary 2002-2014

<u>Date</u>	<u>Location</u>	<u>Attendance</u>	<u>Fee</u>	<u>Profit/Loss</u>
2002	Sun Valley	327	\$ 255	(\$ 10,202)
2003	Sun Valley	496	\$ 260	(\$ 4,356)
2004	Sun Valley	350	\$ 300	(\$ 2,262)
2005	Sun Valley	438	\$ 300	\$ 3,210
2006	Newport	367	\$ 350	(\$ 32,250)
2007	Sun Valley	450	\$ 375	\$ 3,707
2008	Sun Valley	419	\$ 400	\$ 10,097
2009	Sun Valley	424	\$ 450*	\$ 18,236
2010	Sun Valley	359	\$ 450*	\$ 12,086
2011	San Diego	381	\$ 450*	(\$ 11,692)
2012	Sun Valley	385	\$ 475*	(\$ 31,197)
2013	Snowmass	329	\$ 475*	(\$ 101,418)
2014	Snowmass	281	\$ 475*	(\$ 116,259)

### 2013 Snowmass

Actual Income      \$ 147,682  
 Actual Expenses    \$ 249,100

### 2014 Snowmass

Budgeted Income    \$ 150,000    Actual Income    \$ 101,389  
 Budgeted Expense   \$ 186,979    Actual Expense   \$ 217,648

### General Issues Causing Convention Losses

1. Attendance
2. Financial Guarantees
3. Incentives to Increase Attendance
4. Social Events intended to Enhance Experiences

\* Discounts given for "Under 3 Years" and "Paralegal" Registrations

Tab 4



# **PROPOSED RULE**

Utah Bar Rules re: Inactive & Pro Bono

14-803 Inactive Attorneys – rewrite, replace

14-804 Military Attorneys – indicate can do pro bono under 803

14-719 House Counsel – indicate can do pro bono under 803

**14-803 Pro Bono Authorization for Utah Inactive Attorneys and Attorneys Admitted in Other States.**

(1) **Authorization to Provide *Pro Bono* Services.** An Utah attorney who is enrolled as inactive under Rule 14-110-14-203(a)(4) of the rules governing the Utah State Bar or an attorney who is admitted in another state and is in good standing or its equivalent in all jurisdictions in which the attorney is admitted, shall be authorized to provide *pro bono* legal services under the following circumstances:

(a) without compensation or an expectation of compensation as described in Rule 6.1 of the Utah Rules of Professional Conduct;

(b) to persons of limited means or to organizations, as defined in paragraph (7) of this rule; and

(c) under the auspices of a sponsoring entity, which must be a not-for-profit legal services organization, governmental entity, law school, ~~Utah State Bar affiliate~~ Utah State Bar program, ~~local Bar affiliated bar association or committee~~, or other organization so designated by the Utah State Bar as providing *pro bono* legal services as defined in paragraph (7) of this rule.

(2) **Duties of Sponsoring Entities.** In order to qualify as a sponsoring entity, an organization must submit to the Utah State Bar an application identifying the nature of the organization as one described in section (1)(c) of this rule. In the application, the organization shall verify that they will provide appropriate training and support for volunteers. The organization is required to inform the Utah State Bar if the organization ceases to be a sponsoring entity under this rule.

(3) **Procedure for Attorneys Seeking Authorization to Provide *Pro Bono* Services.** An attorney admitted in Utah who is enrolled as inactive or an attorney who is admitted in another state but not in Utah, who seeks to provide *pro bono* services under this rule shall submit a statement to the Utah State Bar including a verification from a sponsoring entity or entities indicating that the attorney will be participating in a *pro bono* program under the auspices of that entity. An attorney who is seeking authorization based on admission in another state or states shall also disclose all other state admissions and certify they are in good standing or its equivalent in ~~that those~~ jurisdictions. The attorney's statement shall include the attorney's agreement that he or she will participate in any training required by the sponsoring entity. The attorney's statement shall further also include a certificate of good standing or its equivalent and a disciplinary history and a sworn statement that the attorney has read and is familiar with

the Utah Rules of Professional Conduct and will abide by them, that the attorney submits to the jurisdiction of the Utah Supreme Court and the Utah State Bar for disciplinary purposes, and that the attorney will neither ask for nor receive compensation of any kind for the legal services authorized. Upon receiving the attorney's statement with the entity's verification all information required under this paragraph, the Utah State Bar shall cause the master roll its records to reflect that the attorney is certified to provide *pro bono* services. That certification shall continue until the end of the calendar licensing year in which the statement is submitted, unless the lawyer or the sponsoring entity sends notice to the Utah State Bar that the program or the lawyer's participation in the program has ended.

(4) **Renewal of Authorization and Certification.** An attorney who has been authorized to provide *pro bono* services under this rule may must timely renew the authorization on an annual basis through the Utah State Bar's relicensing process— in order to continue providing *pro bono* legal services under this rule. In addition, an attorney who is seeking renewal based on admission in another state shall reaffirm resubmit that they are in good standing in all jurisdictions in which the attorney is admitted certificates of good standing or the equivalent and disciplinary histories from all other states in which the attorney is admitted.

(5) **MCLE Exemption.** The provisions of Rule 14-504 exempting attorneys from MCLE requirements by reason of being enrolled as inactive shall apply to inactive attorneys authorized to provide *pro bono* services under this rule, except that such attorneys shall participate in training to the extent required by the sponsoring entity.

(6) **Disciplinary Authority.** Lawyers admitted in another state who are providing legal services in this jurisdiction are subject to Utah Court's disciplinary authority, as provided in Rule 8.5 of the Rules of Professional Conduct, and all other Rules of Professional Conduct. Any lawyer who provides legal services pursuant to this rule shall not be considered to be engaged in the unlawful practice of law in this jurisdiction.

(7) **Authorized Pro Bono Legal Services.** *Pro bono* legal services as is defined in Rule 6.1 (a) and (b)(1) of the Rules of Professional Conduct includes: (a) legal services rendered to a person of limited means;(b) legal services to charitable, religious, civic, community, governmental or educational organizations in matters designed to address the needs of persons of limited means;(c) legal services to charitable, religious, civic, or community organizations in matters in furtherance of their organizational purposes.

(8) **Expenses and Attorney Fee Awards.** The prohibition against compensation for the volunteer attorney shall not prevent the approved legal services organization from reimbursing the volunteer attorney for actual expenses incurred while rendering services hereunder nor shall it prevent the approved legal services organization from making such charges for its services as it may otherwise properly charge. The approved legal services organization shall be entitled to receive all court-awarded attorney fees for any representation rendered by the volunteer attorney.

Comment:

[1] A volunteer attorney participating in any program advertised and recruited for through the Pro Bono Commission only needs to submit one statement. The Access to Justice Coordinator will then certify that volunteer for any sponsoring entities participating through the Pro Bono Commission.

[2] An attorney approved under this rule shall be assigned a certification number, which shall be used to identify the attorney's status as a pro bono attorney for purposes of e-filing access and recognition of limited status.

[3] This rule is intended to allow all attorneys, in good standing, to participate in pro bono services; including inactive, retired, military attorneys, or in house counsel practicing under a limited license. This rule does not allow attorneys licensed outside of Utah to participate in other legal practice absent conforming to pro hac vice requirements.

# **CURRENT RULE**

Rule 14-803. Inactive lawyers providing legal services for legal services organizations; purposes.

(a) Individuals admitted to the practice of law in Utah have a responsibility to provide competent legal services for all persons, including those unable to pay for such services.

(b) A lawyer who is or was admitted to practice law before the Supreme Court and who has assumed inactive status may provide legal services with an approved legal services organization if he or she:

(b)(1) has been a member in good standing of the Bar and has been approved to participate in the inactive pro bono lawyer program by the Bar's Office of Professional Conduct; and

(b)(2) agrees to abide by the Utah Rules of Professional Conduct and submit to the jurisdiction of the Bar for disciplinary purposes; and

(b)(3) neither asks for nor receives compensation of any kind for the legal services to be rendered.

(c) Activities. A volunteer attorney, in association with an approved legal services organization and under the general supervision of a supervising attorney, may:

(c)(1) appear in any court or before any administrative tribunal or arbitrator in Utah on behalf of a client of an approved legal services organization if a supervising attorney has given written approval for that appearance;

(c)(2) prepare pleadings and other documents signed by the volunteer attorney and supervising attorney to be filed in any court or before any administrative tribunal or arbitrator in Utah in any manner in which the volunteer attorney is involved;

(c)(3) render legal advice and perform other appropriate legal services but only after prior consultation with, and upon the express consent of, the supervising attorney; and

(c)(4) engage in such other preparatory activities as are necessary for any matter in which he or she is involved.

(d) Supervision and limitations.

(d)(1) A volunteer attorney may not perform authorized activities unless he or she is under the general supervision of a supervising attorney.

(d)(2) Volunteer attorneys are not, and shall not represent themselves to be, active members of the Bar licensed to practice law generally in Utah.

(d)(3) The prohibition against compensation for the volunteer attorney shall not prevent the approved legal services organization from reimbursing the volunteer



attorney for actual expenses incurred while rendering services hereunder nor shall it prevent the approved legal services organization from making such charges for its services as it may otherwise properly charge. The approved legal services organization shall be entitled to receive all court-awarded attorney fees for any representation rendered by the volunteer attorney.

(e) Certification and documentation.

(e)(1) Authorization to obtain an inactive pro bono attorney status in order for a volunteer attorney to perform authorized services shall become effective upon filing with and approval by the Bar of:

(e)(1)(A) a notice of authorization issued by an approved legal services organization with which the volunteer attorney is currently associated that states that an attorney employed by that organization will assume the duties of the supervising attorney; and

(e)(1)(B) a sworn statement by the volunteer attorney that he or she:

(e)(1)(B)(i) has read and is familiar with the Utah Rules of Professional Conduct as adopted by the Supreme Court and will abide by the provisions thereof;

(e)(1)(B)(ii) submits to the jurisdiction of the Supreme Court and the Bar for disciplinary purposes; and

(e)(1)(B)(iii) will neither ask for nor receive compensation of any kind for the legal services authorized.

(e)(2) Certification as an inactive lawyer providing pro bono legal services will not affect or negate the volunteer attorney's obligation to pay his or her annual inactive license fee.

(f) Withdrawal of certification.

(f)(1) If a volunteer attorney's certification is withdrawn for any reason, the supervising attorney shall immediately file a notice of such action in the official file of each matter pending before any court or tribunal in which the volunteer attorney was involved. In addition, all clients of the volunteer attorney immediately shall be notified.

(f)(2) An approved legal services organization may withdraw certification at any time and it is not necessary that the notice state the cause of such withdrawal. A copy of the notice filed with the Bar also shall be mailed by the organization to the volunteer attorney. The notice shall state either:

(f)(2)(A) the volunteer attorney has ceased to be associated with the organization, which notice must be filed within five days after such association has ceased; or that

(f)(2)(B) the notice of authorization is withdrawn.

(f)(3) The Bar, in its discretion and at any time, may withdraw authorization to perform authorized services. A copy of such notice shall be mailed by the Bar to the volunteer attorney and to the approved legal services organization to which he or she had been certified.

(g) Discipline. In addition to any appropriate proceedings including the unauthorized practice of law and attorney discipline which may be initiated by the Bar, pursuant to Article 5, Lawyer Discipline and Disability and other law, the volunteer attorney shall be subject to the following measures:

(g)(1) the presiding judge or hearing officer for any matter in which the volunteer attorney has participated may hold the volunteer attorney in contempt for any failure to abide by such tribunal's orders; and

(g)(2) the Bar or the approved legal services organization may, at any time, with or without cause, withdraw certification.

# **PROPOSED FORMS**

## **PRO BONO SPONSORING ENTITY APPLICATION**

Pursuant to Rule 14-803 of the Rules Governing The Utah State Bar  
\_\_\_\_\_ submits the following application to be  
recognized as a sponsoring entity for the purposes of working with inactive Utah pro  
bono attorneys or attorneys admitted in another jurisdiction licensed in Utah to provide  
pro bono services under Rule 14-803.

Nature of the Organization:

- |  |  |
|--|--|
| <input type="checkbox"/> Not for Profit Legal Services | <input type="checkbox"/> Utah State Bar Division |
| <input type="checkbox"/> Governmental Entity           | <input type="checkbox"/> Bar Association         |
| <input type="checkbox"/> Law School                    | <input type="checkbox"/> Other _____             |

As authorized by the above named organization, I hereby certify that we will provide  
necessary training and support for inactive pro bono attorneys.

\_\_\_\_\_  
Sponsoring Entity<sup>1</sup>

\_\_\_\_\_  
Authorized Entity Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
<sup>1</sup> Electronic signatures are acceptable. Please submit the form online or email it to the Access To Justice  
Coordinator at [probono@utahbar.org](mailto:probono@utahbar.org).

**PRO BONO ATTORNEY STATEMENT AND SPONSORING ENTITY  
VERIFICATION**

Pursuant to Rule 14-803 of the Rules Governing The Utah State Bar,  
**I hereby swear:**

I am an attorney licensed in the following jurisdictions:

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I have provided the Utah State Bar with certificates of good standing, or the equivalent,  
and a disciplinary history from all jurisdictions in which I am admitted

I will complete any training required by the entity through which I will conduct pro bono  
services,

I have read and am familiar with the Utah Rules of Professional Conduct as adopted by  
the Utah Supreme Court and will abide by those Rules,

I submit to the jurisdiction of the Utah Supreme Court and the Utah State Bar for  
disciplinary purposes,

Consistent with Rule of Professional Conduct 6.1, I will neither ask for nor receive  
compensation of any kind for the legal services authorized hereunder.

\_\_\_\_\_  
Name of Pro Bono Attorney (Print)

\_\_\_\_\_  
Pro Bono Attorney Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Sponsoring Entity) Hereby agrees to sponsor  
the named inactive attorney in providing  
pro bono services under our program.

\_\_\_\_\_  
Authorized Entity Attorney

\_\_\_\_\_  
Date

<sup>1</sup> Electronic signatures are acceptable. Please submit the form online or email it to the Access to Justice  
Coordinator at [probono@utahbar.org](mailto:probono@utahbar.org).

Tab 5



## JUDICIAL COUNCIL MEETING

### AGENDA

Monday, November 24, 2014

Judicial Council Room

Matheson Courthouse

Salt Lake City, Utah

*Chief Justice Matthew B. Durrant, Presiding*

1. 9:00 a.m. Welcome & Approval of Minutes . . . . Chief Justice Matthew B. Durrant  
(Tab 1 - Action)
2. 9:05 a.m. Chair's Report. . . . . Chief Justice Matthew B. Durrant
3. 9:15 a.m. Administrator's Report. . . . . Daniel J. Becker
4. 9:30 a.m. Reports: Management Committee, . . . . Chief Justice Matthew B. Durrant  
Liaison Committee, . . . . Justice Jill Parrish  
Policy and Planning . . . . Judge Reed Parkin  
Bar Commission. . . . John Lund, esq.  
(Tab 2 - Information)
5. 9:40 a.m. Judicial Performance Evaluation Commission (JPEC)  
Update. . . . . Joanne Slotnik  
(Information)
6. 10:00 a.m. 2015 Council Calendar Follow-up. . . . . Ray Wahl  
(Action) John Lund
7. 10:15 a.m. Rules for Final Action. . . . . Alison Adams-Perlac  
(Tab 3 - Action)
8. 10:25 a.m. Sworn Statement for Closed Meetings. . . . . Alison Adams-Perlac  
(Tab 4 - Action)
- 10:30 a.m. Break
9. 10:40 a.m. Standing Committee on Technology – Strategic and  
Tactical Plans. . . . . Judge John Pearce  
(Tab 5 - Action) Ron Bowmaster
10. 11:00 a.m. Approval for Proposed Problem-Solving Court Judge Royal Hansen  
Project – Third and Fourth District Court's Peyton Smith  
Veterans Courts. . . . . Judge Samuel McVey  
(Tab 6 - Action) Shane Bahr

11. 11:15 a.m. Board of District Court Judges Update. . . . . Judge Derek Pullan  
(Information) Debra Moore
- 11:35 a.m. Council Photo
- 11:50 a.m. Lunch
12. 12:20 p.m. Judicial Outreach Committee Update. . . . . Judge Elizabeth Hruby-Mills  
(Tab 7 - Information) Nancy Volmer
13. 12:40 p.m. Commissioner Workgroup Report. . . . . Judge Brent West  
(Tab 8 - Action) Debra Moore
14. 12:10 p.m. Executive Session
15. 1:00 p.m. Adjourn

#### **Consent Calendar**

*The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.*

1. Committee Appointment Nancy Sylvester  
(Tab 9)
2. Rules for Public Comment Alison Adams-Perlac  
(Tab 10)

# Tab 6

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

**OCTOBER 10, 2014**

**S.J. QUINNEY COLLEGE OF LAW**

- In Attendance:** President James D. Gilson; President-elect Angelina Tsu; Commissioners: Steven Burt, H. Dickson Burton, Kenyon Dove, Heather Farnsworth, Mary Kay Griffin, Susanne Gustin, John Lund, Herm Olsen, and Tom Seiler.
- Ex-Officio Members:** Dean Robert Alder, Heather Allen, Jesse Nix, Gabe White, Margaret Plane, Lawrence Stevens, Prof. Carl Hernandez (for Dean Rasband), Executive Director John C. Baldwin, Assistant Executive Director Richard Dibblee, General Counsel Elizabeth A. Wright and Supreme Court Liaison Tim Shea.
- Not in Attendance:** Hon. Michael Leavitt, Janise Macanas, Rob Rice; Ex-Officio Members: Nate Alder, Curtis Jensen, Katherine Judd, Aida Neimarlija, and Dean James Rasband.
- Also in Attendance:** Sean Toomey, Utah State Bar Communications Director, UVU Student Mr. Gonzalez, a guest of Tom Seiler.

**Minutes:**

**1. President's Report:**

- 1.1. Commission voted to approve the 2014-2015 Commission Priorities. **Tom Seiler moved to approve the priorities and John Lund seconded the motion which then passed unanimously.** The 2014-2015 Commission priorities are: 1. Improving Access to Justice: Pro Bono Commission & Modest Means Lawyer Referral; 2. Advocating for the Judiciary; 3. Reviewing Bar Operations: OPC, Summer Convention, NLTP, Bar Budget; 4. Planning for the Future of the Profession; 5. Celebrating Magna Carta/Rule of Law; and 6. Supporting Diversity.
- 1.2. John Lund reported on the Futures Committee. Purpose of the Committee is to gather input and study the future delivery of legal and law related services to individuals and small businesses. Committee is planning to meet two times per month with the goal of preparing a report to the Court and the Commission listing 5 action steps for how the Bar can meet the needs of a changing profession. Goal is to have a report ready for the July 2015 Summer Convention.
- 1.3. Constitution Day. John Baldwin reported on the success of constitution day. Figures for lawyer participation and the number of classrooms served are behind Tab 1.

- 1.4. Dickson Burton reported on Magna Carta Project. Exhibit will be in Utah for two weeks in April 2015 and travel throughout the state. Program will involve schools and perhaps essay competitions. Gala event planned for April 14, 2015. Lawyers and community leaders will be invited to gala.
- 1.5. Fall Forum will take place at the Little America on November 20 and 21, 2014. Judges reception and CLE will be on Thursday evening the 20<sup>th</sup>. This is a new and exciting opportunity for lawyers to mingle with Judges from all over the state. Commissioners were encouraged to attend the Fall Forum.
- 1.6. Ethics Advisory Opinion Committee Opinion. Advisory opinion states it is a violation of the Rules 7.1 and 7.2 of the Rules of Professional Conduct to pay a consumer advocate to endorse a law firm. Opinion is behind Tab 11. Jim Gilson reported the advisory opinion had been appealed and that the Ethics Advisory Committee was hearing arguments regarding the objection to the opinion. Procedurally, the next appeal could be to the Commission.
- 1.7. Bar Program Review Committees. Jim Gilson distributed a handout listing the committee assignments for the four Bar program performance reviews. Programs to be reviewed are: OPC, Summer Convention, NLTP and the Bar Budget. Review Committees should get to know programs very well and give reports on how the programs are doing. Each Committee should have a report for the July 2015 Summer Convention Commission meeting in Sun Valley. Each Committee should meet before the next Commission Meeting in December 5, 2014. Committee Assignments are as follows:

**OPC:**

Larry Stevens  
Margaret Plane  
Herm Olsen  
Tom Seiler  
Susanne Gustin  
Steve Burt

**Summer Convention:**

Dickson Burton  
Angelina Tsu  
Heather Farnsworth  
Jim Gilson  
Curtis Jensen  
Aida Neimarlija

**NLTP:**

Kenyon Dove  
Jessie Nix  
Nate Alder  
Kat Judd

**Budget:**

Mary Kay Griffin  
Jim Gilson  
Angelina Tsu  
Janise Macanas  
Heather Allen  
Tim Shea

**2. Action Items:**

- 2.1. 2016 Summer Convention Site. Angelina reported that she and Aida have been going over prior summer convention budgets and Angelina reported on strategies for increasing attendance and cutting costs. Strategies included more personalized

networking to encourage attendance and not providing so many free registrations. Angelina and Aida are still in negotiations with hotels in California. They cannot make a recommendation until all figures are in. Front runners are Hyatt in San Diego and St. Regis in Laguna Beach. Commission once again discussed high cost and low attendance at summer convention and whether or not the Bar should continue to hold the event.

- 2.2. Confirm 2017 Sun Valley Summer Convention. John Baldwin reported that in order to reserve Sun Valley for the 2017 summer convention the Bar must notify the resort by the end of the month. **Dickson Burton moved to commit to Sun Valley for summer 2017 and Angelina Tsu seconded the motion which then passed with Tom Seiler opposed.**
- 2.3. 2013 Audit Report. **Mary Kay Griffin reported that the Bar has a clean opinion** Tanner LLC conducted an independent audit of the Bar's financial position for 2013. Commissioners were given copies of the audit report and Mary Kay Griffin gave a page-by-page explanation of the report. **John Lund moved to approve the 2013 audit report and Kenyon Dove seconded the motion which then passed unopposed.**
- 2.4. Lifetime Service Award. Commissioners discussed nominees listed behind Tab. 2. Angelina Tsu distributed a handout with more information about Judge Raymond Uno. After a vote by ballot, Judge Raymond Uno, Rod Snow, Judge James Davis, Felshaw King and Lyle Hillyard were selected to win.
- 2.5. Commissioners voted to give Laura Scott the Professionalism Award.
- 2.6. Jim Gilson nominated Steve Burt for the Community Member Award. **Herm Olsen moved to give the Steve Burt the Community Member Award and Heather Allen Seconded the motion which passed unopposed.**
- 2.7. Outstanding Mentor. **Angelina moved to give the award to three mentors instead of the usual two and Tom Seiler seconded the motion which passed unopposed.** Commission voted to award Tim Larsen, Debra Nelson and Tupakk Renteria Outstanding Mentor.
- 2.8. Heart and Hands Award. **Angelina Tsu moved to award Jenifer Tomchak the Heart and Hands Award. Heather Allen seconded the motion which passed unopposed.**
- 2.9. Pro Bono Rules. Commissioners agreed to discuss changes to the inactive pro bono attorney rules at the December meeting because it was time to conclude the meeting.

#### **HANDOUTS DISTRIBUTED AT MEETING:**

1. 2014-2015 Bar Program Performance Review committee assignments
2. 2013 Audit Report
3. Document listing Judge Raymond Uno's accomplishments as part of his nomination for the Lifetime Service Award.

**ADJOURNED:** Noon

**CONSENT AGENDA:**

1. Approve Minutes of August 22<sup>nd</sup> and 23<sup>rd</sup> Commission Meeting
2. Approve Motion for Admission of Bar Applicants



Tab 7

9:51 AM  
11/26/14  
Accrual Basis

# Utah State Bar Balance Sheet As of October 31, 2014

	Oct 31, 14	Sep 30, 14	Oct 31, 13
<b>ASSETS</b>			
<b>Current Assets</b>			
Checking/Savings			
1010 · Petty Cash	625	625	625
1011 · Cash in Bank	259,907	59,428	82,861
1060 · ILM Invested Funds Market Value	4,981,516	5,443,816	5,327,756
<b>Total Checking/Savings</b>	<b>5,242,047</b>	<b>5,503,869</b>	<b>5,411,242</b>
Accounts Receivable			
1071 · Accounts receivable	524	56,333	16,189
<b>Total Accounts Receivable</b>	<b>524</b>	<b>56,333</b>	<b>16,189</b>
<b>Other Current Assets</b>			
1070a · Other Accounts Receivable	1,946	6,379	186
1089 · Unbilled tenant costs	21,933		39
1100 · Prepaid Expense	66,068	71,648	78,246
1919 · Section ILM net earn rcvble	5,459	5,411	4,570
1920 · A/R - Section Funds	16,170	148,292	31,915
<b>Total Other Current Assets</b>	<b>111,575</b>	<b>231,730</b>	<b>114,956</b>
<b>Total Current Assets</b>	<b>5,354,147</b>	<b>5,791,932</b>	<b>5,542,387</b>
<b>Fixed Assets</b>			
1500 · Property & Equipment	4,419,599	4,417,687	3,596,936
1550 · Accumulated Depreciation	(3,238,299)	(3,223,580)	(3,064,636)
1600 · Land	633,142	633,142	633,142
<b>Total Fixed Assets</b>	<b>1,814,442</b>	<b>1,827,249</b>	<b>1,165,442</b>
<b>TOTAL ASSETS</b>	<b>7,168,588</b>	<b>7,619,180</b>	<b>6,707,830</b>
<b>LIABILITIES &amp; EQUITY</b>			
<b>Liabilities</b>			
<b>Current Liabilities</b>			
Accounts Payable			
2001 · A/P - Trade	6,340	90	575
<b>Total Accounts Payable</b>	<b>6,340</b>	<b>90</b>	<b>575</b>
<b>Other Current Liabilities</b>			
2910 · A/P - Sections Meeting revenue	945		
2010 · Other Accounts Payable	190,719	341,858	319,514
2100 · Accrued Payables	336,051	333,161	338,325
2350 · Capital Lease Obligations-ST	3,069	3,069	2,710
2920 · A/P - Section Funds	40	293,112	
<b>Total Other Current Liabilities</b>	<b>530,824</b>	<b>971,200</b>	<b>660,549</b>
<b>Total Current Liabilities</b>	<b>537,164</b>	<b>971,290</b>	<b>661,124</b>
<b>Long Term Liabilities</b>			
2400 · Capital lease obligations	5,348	5,348	8,416
<b>Total Long Term Liabilities</b>	<b>5,348</b>	<b>5,348</b>	<b>8,416</b>
<b>Total Liabilities</b>	<b>542,512</b>	<b>976,638</b>	<b>669,540</b>
<b>Equity</b>			
3500 · Unrestricted Net Assets (R/E)	4,063,712	4,063,712	3,698,625
Net Income	2,562,364	2,578,830	2,339,664
<b>Total Equity</b>	<b>6,626,076</b>	<b>6,642,542</b>	<b>6,038,289</b>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>7,168,588</b>	<b>7,619,180</b>	<b>6,707,830</b>

**Utah State Bar**  
**Summary Income Statement**  
**October 31, 2014**

	Year to Date			2014/15
	Actual	Budget	Variance Fav/(Unfav)	Total Budget
<b><u>Revenue</u></b>				
Licensing	\$ 3,978,535	\$ 3,869,829	\$ 108,706	\$ 3,998,400
Admissions	150,370	25,631	124,739	454,900
NLTP	44,850	43,075	1,775	85,300
Mgt - Service	14,166	2,598	11,568	12,000
In Kind Revenue	665	684	(19)	2,600
Mgt - Interest & Gain	12,080	5,701	6,379	17,100
Property Mgt	84,233	97,400	(13,167)	312,952
OPC	100	532	(432)	11,600
CMIS/Internet	70	500	(430)	500
CLE	132,508	111,012	21,496	405,200
Summer Convention	109,142	150,600	(41,458)	150,600
Fall Forum	47,489	8,782	38,707	88,200
Spring Convention	-	1,399	(1,399)	145,900
Bar Journal	40,511	52,956	(12,445)	139,600
Committees	10	-	10	1,000
Member Benefits	756	10,553	(9,797)	11,900
Section Support	-	-	-	92,281
Access to Justice	5,445	2,777	2,668	10,200
Commission/Sp Proj	100	270	(170)	7,300
Young Lawyers Division	-	100	(100)	100
<b>Total Revenue</b>	<b>\$ 4,621,030</b>	<b>\$ 4,384,399</b>	<b>\$ 236,631</b>	<b>\$ 5,947,633</b>
<b><u>Expenses</u></b>			(Fav)/Unfav	
Licensing	76,281	73,289	2,992	187,045
Admissions	186,759	188,667	(1,908)	474,411
NLTP	19,195	25,149	(5,954)	81,074
Bar Mgt	255,921	270,009	(14,088)	685,117
Property Mgt	157,098	199,205	(42,107)	537,392
OPC	410,482	403,816	6,666	1,204,272
General Counsel	66,402	68,826	(2,424)	259,529
Computer/MIS/Internet	65,772	64,646	1,126	176,437
CLE	107,282	107,162	120	372,144
Summer Convention	218,725	169,635	49,090	186,979
Fall Forum	16,302	24,892	(8,590)	97,963
Spring Convention	5,449	8,315	(2,866)	123,598
Bar Journal	56,214	63,848	(7,634)	185,181
Committees	76,712	81,654	(4,942)	110,903
Member Benefits	48,227	48,024	203	149,320
Section Support	27,769	33,859	(6,090)	92,281
Consumer Assistance	23,194	23,802	(608)	68,879
Access to Justice	53,443	57,451	(4,008)	184,705
Tuesday Night Bar	13,355	12,484	871	40,765
Legislative	50,000	304	49,696	71,642
Commission/Sp. Proj	74,500	101,064	(26,564)	177,475
Public Education	33,796	41,953	(8,157)	165,365
Young Lawyers Division	15,790	8,283	7,507	56,100
<b>Total Expenses</b>	<b>\$ 2,058,668</b>	<b>\$ 2,076,337</b>	<b>\$ (17,669)</b>	<b>\$ 5,688,577</b>
<b>Net Revenue/(Expense)</b>	<b>\$ 2,562,362</b>	<b>\$ 2,308,062</b>	<b>\$ 254,300</b>	<b>\$ 259,056</b>
<b>Add: Depreciation</b>	<b>58,876</b>	<b>48,448</b>	<b>10,428</b>	<b>165,458</b>
<b>Cash Increase/(Decrease) from Operations</b>	<b>\$ 2,621,238</b>	<b>\$ 2,356,510</b>	<b>\$ 264,728</b>	<b>\$ 424,514</b>
<b>Other Uses of Cash</b>				
Change in Assets/Liabilities	(37,033)	(37,033)	-	
Capital Expenditures	47,685	125,000	(77,315)	125,000
<b>Net Change in Cash</b>	<b>\$ 2,536,520</b>	<b>\$ 2,194,477</b>	<b>\$ 342,043</b>	<b>\$ 299,514</b>

# Utah State Bar<sup>®</sup>

## MEMORANDUM

TO: Commission

FROM: Elizabeth A. Wright

DATE: For December 5, 2014 Commission Meeting

RE: Updates on Selected Bar Matters

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### PETITION FOR ADVERTISING RULE CHANGES

Background: On February 11, 2013, the Bar filed a petition to revise the Utah Rules of Professional Conduct for Lawyer Advertising. The Bar's proposed amendments were published for public comment on June 11, 2013. Twenty-nine of the 30 comments received were opposed to the rules. The Court then asked the Supreme Court's Advisory Committee on the Rules of Professional Conduct (Committee) to review the proposed rules and comments and make further recommendations to the Court.

Current Status: On June 27, 2014, the Bar and the Committee filed a Joint Amended Petition to Revise Utah Rules of Professional Conduct for Lawyer Advertising. The Court sent the proposed rules back to the Committee with suggested changes. The Committee met in September and made all of the Court's changes. The Court sent the rules back out for comment and the comment period expires on December 16, 2014.

The Court made various tweaks to the language in the amended proposed rules. Substantively, the Court removed proposed language in 7.1 that said a communication is misleading if "*it compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.*" The Court also removed proposed language in 7.2 that defined advertisement as "*any communication made to induce persons to use a lawyer's services.*" The Court thought the proposed definition of advertisement was too broad.

There have been five comments from three different lawyers since October 30, 2014. A lawyer has objected to the proposed Rule 7.2 language that requires lawyers to disclose if actors or fictionalized events are used in advertising. The lawyer objects because he would like to be able to use stock photos on his website. (The rule does allow stock photos or fictionalized events if they are labeled as such). Two commenters objected to already existing language in Rule 7.3 that

prohibits a lawyer from soliciting clients. One commenter objected to proposed 7.1(b) language that states a communication is false or misleading if “it is likely to create an unjustified or unreasonable expectation about results the lawyer can achieve.” The commenter believes that “unjustified or unreasonable” is too subjective and that a “material misrepresentation” standard should be used.

## **UPL**

### ***Mary Ann Lucero***

Background: In 1997 the Bar obtained an injunction against Mary Ann Lucero prohibiting her from practicing law without a license. She had represented a landlord in an eviction action and taken all the rent money for herself. Ms. Lucero continued to practice law and in 2008 the Bar was able to obtain a bench warrant for her arrest. She served 120 days in jail in 2009. Ms. Lucero is very brazen and has continued to steal people’s money under the guise of acting as their lawyer. She conducts her business out of an office called “Wasatch Legal & Collection Services, LLC” in Draper. She tells her clients she will help them with their legal problems, takes a retainer, or in some cases, sets up a monthly payment plan and then does nothing or files one or two poorly drafted legal documents.

The Bar has been in constant pursuit of Ms. Lucero. We have tried to involve the AG’s office to no avail. She is difficult to serve and she keeps filing bankruptcy to stay the Bar’s civil proceedings against her.

Current Status: On October 29, 2014, Ms. Lucero failed to appear for an Order to Show Cause hearing. Judge Kennedy issued a bench warrant for her arrest, ordered her to serve 120 days in jail and pay \$13,000 in fines. The Bar issued a press release in hopes that someone would help us find her and to warn other victims to verify that someone is a licensed lawyer before

Costs For 2014: For the 2014 calendar year Kipp and Christian (discounted billing rate) resulting in \$5,877.33 through October 2014; allocation of General Counsel time.

## **PRO HAC VICE APPLICATIONS AND CERTIFICATES OF GOOD STANDING**

See attached chart for fiscal year beginning July 2014 through October 2014.

**Pro Hac Vice**  
**July 1, 2014 - June 30, 2015**

MONTH	TOTAL
July 2014	68
August 2014	16
September 2014	22
October 2014	21
November 2014	
December 2014	
January 2015	
February 2015	
March 2015	
April 2015	
May 2015	
June 2015	
<b>TOTAL</b>	
	<b>\$31,750.00</b>

**COGS**  
**July 1, 2014 - June 30, 2015**

MONTH	Regular (\$20)	Specialized (\$30)	Expedited (\$50)	TOTAL
July 2014				85 (approx. \$2550)
August 2014				71 (approx. \$2130)
September 2014	47 (\$940)	8 (\$240)	41 (\$2050)	96 (\$3230)
October 2014	45 (\$900)	12 (\$360)	15 (\$750)	72 (\$2010)
November 2014				
December 2014				
January 2015				
February 2015				
March 2015				
April 2015				
May 2015				
June 2015				
<b>TOTAL</b>				
				<b>Approx. \$9,920.00</b>

# Utah State Bar®

Lawyers working for justice. [www.utahbar.org](http://www.utahbar.org)

For Immediate Release  
November 12, 2014

Contact: Sean Toomey, Communications Director, Utah State Bar,  
645 South 200 East, SLC UT 84111, 801-297-7059, [sean.toomey@utahbar.org](mailto:sean.toomey@utahbar.org)

## Utah State Bar Warns Citizens of Scam Artist Acting as Attorney *Unsuspecting clients—especially immigrants—fall victim to fraud.*

Imagine someone impersonating an attorney helping you obtain proceeds from your spouse's life insurance policy only to have your "attorney" steal the proceeds. Envision paying for help with a foreclosure only to lose your home to the person who was purporting to help you. At least these people retained their freedom; one man in jail lost \$850 that his mother paid for legal assistance that never materialized. These unfortunate victims have one thing in common: Mary Ann Lucero, also known as Mary Ann Dipoma, who is not an attorney, but operates under the name of Wasatch Legal and Collection Services.

On October 29, 2014, Third District Court Judge Kennedy issued a bench warrant for her arrest, ordering her to spend 210 days in jail and pay \$13,000 in fines for violating an order prohibiting her from practicing law without a license. Anyone aware of Lucero/Dipoma's whereabouts should contact the Utah State Bar at 801-531-9077 or [info@utahbar.org](mailto:info@utahbar.org).

"Only persons who are active, licensed members of the Bar in good standing may engage in the practice of law in Utah" says Sarah Spencer, who, along with Jonathan Rupp, co-chairs the Utah State Bar's Committee on the Unauthorized Practice of Law. The committee is comprised of volunteer Utah attorneys who investigate complaints that non-attorneys are engaging in the practice of law. Spencer notes that "licensed attorneys are initially tested for skill and character, they commit to ethics rules, and they continue to develop competency through education, resulting in a profession that serves the community."

Before engaging someone who purports to be an attorney, please confirm their status by calling the Bar or visiting [www.utahbar.org/directory/](http://www.utahbar.org/directory/).

According to Co-chair Rupp, immigrants are often the targets of this fraud scheme. "In Latin American countries," he observes, "notary publics are attorneys, so it is easy to confuse those new to this country about who can practice law and who can be an immigration consultant." Utah is one of five states that allow people to work as immigration consultants without a law degree, but registration with Utah's Office of Consumer Protection is required for non-attorneys. To verify registration, call 801-530-6601 and press zero or visit [www.dcp.utah.gov](http://www.dcp.utah.gov) and select the green Search Registered Entities on the left.

Utah State Bar President James Gilson says that, "The Bar has many programs to assist people who may not be able to afford an attorney, who have limited funds, or who are unfamiliar with the legal process." The *Tuesday Night Bar* provides a free half-hour



consultation with an attorney most Tuesdays. The Bar also offers a lawyer-referral service for qualifying clients (with incomes of up to \$70,000 for a family of four) for discounted rates of up to \$50 or \$75 an hour; [www.utahbar.org/affordable](http://www.utahbar.org/affordable).

The Utah State Bar was established in 1931 and regulates the practice of law under the authority of the Utah Supreme Court. The 11,500 lawyers of the Bar serve the public and legal profession with excellence, civility, and integrity. They envision a just legal system that is understood, valued, and accessible to all. Visit [www.utahbar.org](http://www.utahbar.org) for more information on the Bar and the programs described above.

###

# Judge issues warrant for Utah 'scam artist' posing as attorney

By [Geoff Liesik](#), Deseret News

Published: Wednesday, Nov. 12 2014 11:30 p.m. MST

Updated: Thursday, Nov. 13 2014 6:54 a.m. MST



A 3rd District judge has issued a warrant for Mary Ann Lucero based on violations of a civil court order that bars her from practicing law without a license. Lucero, who also uses the name Mary Ann Dipoma, has been practicing law without a license for the past 20 years, according to the Utah State Bar.

Salt Lake County Jail

## Summary

A warrant has been issued for a woman the Utah State Bar considers a "scam artist" based on her long history of representing herself as an attorney to defraud people. "She did serve jail time in 2009. — 210 days in jail for the unauthorized practice of law — but that didn't stop her. She's continued since then to not only engage in the unauthorized practice of law, but to really rip people off. She's a scam artist." Elizabeth Wright

SALT LAKE CITY — A warrant has been issued for a woman whom the Utah State Bar considers a "scam artist" based on her long history of misrepresenting herself as an attorney.

Judge John Paul Kennedy issued the \$13,000 warrant for Mary Ann Lucero's arrest after she failed to appear for an Oct. 29 hearing in 3rd District Court. Kennedy also sentenced Lucero, also known as Mary Ann Dipoma, to serve 210 days in jail and pay a \$7,000 fine for violating the terms of an order that prohibits her from practicing law without a license.

The Utah State Bar first began investigating Lucero in 1994, according to Elizabeth Wright, the bar's general counsel. Three years later, the organization obtained an injunction against Lucero that prohibited her from practicing law without a license.

"She did serve jail time in 2009 — 210 days in jail for the unauthorized practice of law — but that didn't stop her," Wright said. "She's continued since then to not only engage in the unauthorized practice of law, but to really rip people off. She's a scam artist."

The new violations of the court's order arise out of Lucero's actions in recent months. In one incident, Lucero told a Salt Lake County man she was a lawyer and offered to help him get life insurance benefits following his wife's death, court records show.

"After all was done, (the man) received nothing but Ms. Lucero had all his funds," court records state.

Lucero also told a woman she was an attorney who could help her avoid foreclosure on an investment property, according to the court records. When the case was finished, court records show Lucero's boyfriend held the title to the client's property.

Court records also show that a state prison inmate and his mother paid Lucero \$850 after she told them she specializes in handling police abuse cases. She took the money but never filed a lawsuit, according to the allegations.

Lucero does have prior convictions for communications fraud, court records indicate. Wright said the state bar offers an easy way for people to make sure the person they are hiring is a licensed attorney.

"You can either call the bar or go to our website, [www.utahbar.org](http://www.utahbar.org), and verify whether or not someone is a lawyer," she said.

Anyone with information about where Lucero may be is asked to call their local police department or the Utah State Bar at 801-531-9077.

Email: [gliesik@deseretnews.com](mailto:gliesik@deseretnews.com)

Twitter: [GeoffLiesik](#)

October 8, 2014

Board of Commissioners  
Utah State Bar  
645 South 200 East, Suite 310  
Salt Lake City, UT 84111

**Tanner LLC**  
Key Bank Tower at City Creek  
36 South State Street, Suite 600  
Salt Lake City, Utah 84111-1400  
Telephone (801) 532-7444  
Fax (801) 532-4911  
[www.tannerco.com](http://www.tannerco.com)

Dear Board Members:

We have audited the financial statements of the Utah State Bar (the Bar) as of June 30, 2014 and for the year then ended (fiscal year 2014), and have issued our report thereon dated October 8, 2014. We are required to provide you with information about our responsibilities under auditing standards generally accepted in the United States of America, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated July 10, 2014. Professional standards also require that we communicate to you the following information related to our audit.

***Qualitative Aspects of Accounting Policies***

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Bar are described in Note 1 to the financial statements. No accounting policies were adopted that had a significant impact on financial reporting and the application of existing policies was not changed during fiscal year 2014. We noted no transactions entered into by the Bar during fiscal year 2014 for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate affecting the financial statements is the economic useful lives of property and equipment. The economic useful lives are based on the expected number of years the asset will be used. Management revisits these assumptions annually and adjusts the economic useful lives if warranted.

We evaluated the key factors and assumptions used to develop the estimate above in determining that it is reasonable in relation to the financial statements taken as a whole.

The financial statement disclosures are neutral, consistent and clear.

***Difficulties Encountered in Performing and Completing the Audit***

We encountered no difficulties in dealing with management in performing and completing the audit.

***Corrected and Uncorrected Misstatements***

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. The adjustment made during the audit is presented in the attached Exhibit.

***Disagreements with Management***

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. No such disagreements arose during the course of the audit.

***Management Representations***

We have requested certain representations from management that are included in the management representation letter dated October 8, 2014. A copy of that letter has been provided to you.

***Management Consultations with Other Independent Accountants***

Management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" in certain situations. If a consultation involves application of an accounting principle to the Bar's financial statements or a determination of the type of auditors' opinion that may be expressed on those statements, professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

***Other Audit Findings or Issues***

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management prior to retention as the Bar's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

***Independence***

Independence is crucial to the performance of audit services. We are subject to the independence standards of the American Institute of Certified Public Accountants.

All partners and employees of our firm are provided access to our policies and procedures relating to independence and conflicts of interest. Annually, we obtain written confirmation from partners and employees about their adherence to these policies.

There are no relationships between Tanner LLC and the Bar that in our professional judgment may reasonably be thought to impair our independence.

***Other Information in Documents Containing Audited Financial Statements***

With respect to the supplemental schedules accompanying the financial statements, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior year, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplemental schedules to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

\*\*\*\*\*

We will be pleased to respond to any questions you have about the foregoing. We appreciate the opportunity to be of service to the Bar.

This information is intended solely for the use of the Board of Commissioners, and is not intended to be and should not be used by anyone else.

Sincerely,

Tanner LLC

By:

  
Kent M. Bowman, Partner

**EXHIBIT**  
**ADJUSTING JOURNAL ENTRY**  
**June 30, 2014**

**Bar Operations**

Account		Description	Debit	Credit
<b>Adjusting Journal Entry # 1</b>				
Entry to adjust the payroll accrual as of June 30, 2014.				
2200	Accrued Salaries & Wages	\$	16,485.00	
5510	Salaries & Wages			\$ 16,485.00
		\$	<u>16,485.00</u>	\$ <u>16,485.00</u>

**TANNER**BUSINESS ADVISORS AND CERTIFIED  
PUBLIC ACCOUNTANTS

**Tanner LLC**  
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October 8, 2014

Board of Commissioners and Management  
Utah State Bar  
645 South 200 East, Suite 310  
Salt Lake City, UT 84111

Ladies and Gentlemen:

In planning and performing our audit of the financial statements of the Utah State Bar (the Bar) as of June 30, 2014 and for the year then ended, in accordance with auditing standards generally accepted in the United States of America, we considered the Bar's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing an opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Bar's internal control. Accordingly, we do not express an opinion on the effectiveness of the Bar's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. In addition, because of inherent limitations in internal control, including the possibility of management override of controls, misstatements due to error or fraud may occur and not be detected by such controls.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis.

A material weakness is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the Bar's financial statements will not be prevented, or detected and corrected, on a timely basis.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

We consider the following deficiencies to be significant deficiencies:

#### **Segregation of Incompatible Duties in Accounting and Finance Functions**

Internal controls should be designed to safeguard assets and help prevent losses, errors, or fraudulent acts. A fundamental concept in an adequate system of internal control is the segregation of incompatible duties. Proper segregation of incompatible duties dictates that the same individual should be involved only once in the authorization, recording, asset custody, and control activities related to a transaction. Currently, individuals have roles in more than one function of authorization, recording, asset custody, and control activities of a transaction.

We noted the following incompatible duties:

- The Chief Financial Officer authorizes accounts receivable write-offs and reconciles the bank account.
- The Chief Financial Officer has access to payroll records, prepares payroll checks, distributes payroll checks, and reconciles the payroll bank accounts and other bank accounts.
- The Chief Financial Officer maintains the general ledger, is authorized to record general ledger journal entries without independent review, and reconciles the bank accounts.

We suggest that management reassess the Bar's internal controls over these processes to ensure that proper segregation of incompatible duties for authorizing, recording, and maintaining custody of assets exists to reduce the opportunity for any one person to be in a position to both perpetrate and conceal irregularities.

#### **Documentation of Review of Manual Journal Entries**

To prevent one person from manipulating financial information and compromising assets, a review of manual journal entries must be done by another person who did not prepare the manual journal entries. There is no documentation of reviews of manual journal entries. We suggest that management reassess their processes for review of manual journal entries to ensure that another person who did not prepare the entries reviews them and that proper documentation of those reviews is maintained.

\*\*\*\*\*

The following deficiencies should be considered as part of the ongoing process of modifying and improving the Bar's internal control practices and procedures:

#### **Documenting Transaction Processes**

The Bar has not formally documented the processes and controls surrounding its key accounting processes including cash receipts, cash disbursements, property and equipment purchases, payroll, and the monthly financial close. Documenting these processes will help transition new employees into their roles and ensure that employees know and understand their responsibilities. Creating checklists will assist in ensuring all adjustments have been made to the financial statements at the end of a reporting period.

#### **Third-Party SOC 1 Reports**

The third-party payroll processing company, Intuit, does not have a SOC 1 report. A SOC 1 report provides reasonable assurance that transactions with the third party are captured completely, accurately, and timely. We suggest that management take into consideration whether a third-party provider has a SOC 1 report when choosing a third-party provider.

#### **Documentation of Control Performance**

The Bar does not currently retain evidence documenting the performance of certain internal controls (e.g., John Baldwin's monthly review of the financial statements). We were able, through inquiry of several individuals, to gain an understanding that these controls were generally being performed; however, we recommend that management create physical evidence of control performance (e.g., John Baldwin's signature and date on the financial statements after his review).



### **Bar Credit Cards**

The Bar currently provides credit cards to various employees including the IT director. The risk of misappropriation of Bar assets is greater when Bar credit cards are provided to employees, including an employee responsible to purchase information technology equipment. We recommend the Bar consider canceling Bar issued credit cards and implementing processes and controls for reimbursing employees for authorized purchases.

\*\*\*\*\*

This communication is intended solely for the information and use of the Board of Commissioners and management, and is not intended to be and should not be used by anyone other than these specified parties.

Sincerely,

Tanner LLC

By:   
Kent M. Bowman, Partner