

## Utah State Bar Commission

Wednesday, July 25, 2018

Limelight A, Sun Valley Inn

Sun Valley, Idaho

### Agenda

#### 1. 12:00 N. Lunch and President's Report: John Lund

- 05 Mins. 1.1 Welcome and Review Schedule
- 05 Mins. 1.2 Review 2018-2019 Meeting Schedule: **Dickson Burton (Tab 1; Page 3)**
- 10 Mins. 1.3 Review Retreat Information: **Dickson Burton**
- 10 Mins. 1.4 Report on Legal Market Project Status **(Tab 2; Page 5)**
- 10 Mins. 1.5 Review Proposals for Attorney's Fee and Advertising Rule Changes

#### 2. 12:50 p.m. Information Items

- 10 Mins. 2.1 Diversity Reports & IT Department Staffing: **John Baldwin**
- 20 Mins. 2.2 Access to Justice Committee Report: **Hon. Christine Durham**
- 10 Mins. 2.3 Supreme Court Committee Review of ABA Report on OPC
- 10 Mins. 2.4 Supreme Court Committee on Well-Being

#### 3. 1:40 p.m. Action Items

- 05 Mins. 3.1 Approve Creation of Senior Lawyers Section **(Tab 3; Page 13)**
- 05 Mins. 3.2 Appoint Shantelle Argyle & Greg Hoole as Fall Forum Chairs
- 10 Mins. 3.3 Approve Petition to Increase *Pro Hac Fees*: **Elizabeth Wright (Tab 4; Page 22)**

#### 4. 2:00 p.m. New Business

#### 5. 2:15 p.m. Commission Reorganization

- 05 mins. 5.1 Welcome New Bar Commissioners
- 05 mins. 5.2 Appoint *Ex Officio* Members **For Action**
- 05 mins. 5.3 Approve Executive Committee **For Action**
- 05 mins. 5.4 Adopt Resolution on Bank Signatures **For Action**
- 05 mins. 5.5 Sign Conflict of Interest Disclosures **(To Be Distributed)**

#### 4. 2:45 p.m. Recognize Retiring Commissioners

#### 5. 3:15 p.m. Executive Session

#### 3:30 p.m. Adjourn

(Over)

### **Consent Agenda (Tab 5; Page 41)**

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

1. Approve Minutes of May 11, 2018 Commission Meeting

### **Attachments (Tab 6; Page 45)**

1. Description of Commissioner Duties & Responsibilities
2. Commission Reimbursement Policies

### **Calendar**

August 17-18

Commission Meeting & Retreat

Canyons Resort, Park City

**TAB**  
**1**

**Executive Committee Meeting and Bar Commission Meeting**

**2018 – 2019 Schedule**

<b>Executive Committee Meeting</b>	<b>Bar Commission Meeting</b>
<p>Thursday, August 9, 2018 12:00 p.m. <i>Location: Law &amp; Justice Center and via Videoconference</i></p>	<p>Friday, August 17, 2018 12:00 p.m. Commission Retreat Saturday, August 18, 2018 9:00 a.m. Commission Meeting <i>Location: Canyons Resort, Park City</i></p>
<p>Friday, October 5, 2018 12:00 p.m. <i>Location: Law &amp; Justice Center and via Videoconference</i></p>	<p>Friday, October 12, 2018 9:00 a.m. <i>Location: TBD (Farmington?)</i></p>
<p>Thursday, November 8, 2018 12:00 p.m. <i>Location: Law &amp; Justice Center and via Videoconference</i></p>	<p>Friday, November 16, 2018 9:00 a.m. <i>Location: Law &amp; Justice Center</i></p>
<p>Friday, December 7, 2018 12:00 p.m. <i>Location: Law &amp; Justice Center and via Videoconference</i></p>	<p>Friday, December 14, 2018 9:00 a.m. <i>Location: Law &amp; Justice Center</i></p>
<p>Friday, January 11, 2019 12:00 p.m. <i>Location: Law &amp; Justice Center and via Videoconference</i></p>	<p>Friday, January 18, 2019 9:00 a.m. <i>Location: Law &amp; Justice Center</i></p>
<p>Friday, February 26, 2019 12:00 p.m. <i>Location: Law &amp; Justice Center and via Videoconference</i></p>	<p>Thursday, March 7, 2019 1:00 p.m. <i>Location: Spring Convention - St. George, Utah</i></p>
<p>Friday, April 5, 2019 12:00 p.m. <i>Location: Law &amp; Justice Center and via Videoconference</i></p>	<p>Friday, April 12, 2019 9:00 a.m. <i>Location: TBD (Provo?)</i></p>
<p>Friday, May 10, 2019 12:00 p.m. <i>Location: Law &amp; Justice Center and via Videoconference</i></p>	<p>Friday, May 17, 2019 9:00 a.m. <i>Location: Law &amp; Justice Center</i></p>
<p>Friday, July 12, 2019 12:00 p.m. <i>Location: Law &amp; Justice Center and via Videoconference</i></p>	<p>Thursday, July 18, 2019 9:00 a.m. <i>Location: Park City, Utah</i></p>

**TAB**  
**2**

# Committee Report on Lighthouse Research

04 May 2018

Submitted by: Mark O. Morris, Cara Tangaro, Liisa Hancock, Matthew Page, Tonia Hashimoto, and Carl Hernandez

## EXECUTIVE SUMMARY

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Abraham Lincoln is often quoted as saying, "A lawyer's time and advice is his stock and trade." After surveying members of Utah's public and business community, we believe the nuances of this concept are largely unknown and unappreciated by people who likely should, but do not consume legal services. It is also undisputed that there is a gigantic swath of potential consumers of legal services whose needs have gone, and continue to be, unmet. Yet strangely, the market is not responding to meet this acknowledged consumer demand.

Armed with the data provided by the Lighthouse Survey, we believe the Bar can be instrumental in educating, and in fact has a duty to educate the public about the benefits of obtaining a lawyer's time and advice. The Bar also is probably best suited to educate its members about the opportunities of not just serving unmet legal needs, but profiting thereby. Because the market is not organically reacting to meet this need, doing so may require some thinking outside the box that the Bar could help facilitate.

## PROJECT SUMMARY

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The Utah State Bar Commission selected Lighthouse Research to conduct a market survey to help determine the public's usage and perception of legal services and attorneys, and identify perceived barriers to the public using those services. This is a summary of the data developed by Lighthouse and some thoughts on how to use this data.

## METHOD

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The survey was conducted in two parts, a telephone survey and two focus groups. One survey focused on the general public, and the other on businesses of varied types and sizes. The full data derived will be published on the Bar's website following discussion with the Commission.

## SUMMARY OF THE PUBLIC TELEPHONE SURVEY

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The public telephone survey sought to identify reasons why the public would most readily use an attorney, and the perceived barriers discouraging potential clients from choosing to see an attorney.

When asked where they would go for assistance with specific matters, participants were most likely to use an attorney for Family Law—divorce, separation or custody (59%). The second most frequent was for a serious traffic citation or criminal charge (58%). Farther back was estate and retirement planning (25%).

When facing other challenges, many people turn first to a family member or friend. For example, when facing bankruptcy or tax issues 19 percent said they would seek advice from a family member or a friend, as opposed to just nine percent who said they would consult an attorney.

Interesting to note are the differences between the situations where individuals said they might use an attorney, and those when they actually used an attorney. Of those who used an attorney, 27 percent said they would consult an attorney for advice on family law matters, yet only 18 percent did so. Of the 19 percent who said they would use an attorney if faced with a serious traffic or criminal charge, only eight percent had in fact sought legal counsel. Conversely, of the 20 percent who said they would use an attorney for estate planning, 22 percent of respondents indicated they had done so.

The public's perception of attorneys was mid-range, coming in at 4.74 on a seven-point scale. On the positive side, 27 percent of respondents gave attorneys a rating of six or seven, while only five percent gave a rating of one or two.

The key barriers to the public's use of attorneys identified by the survey contained few surprises. The number one barrier is cost, with 88 percent naming pricing as the biggest factor in choosing not to seek legal counsel. The second barrier was lack of trust, at 23 percent, with "not knowing how an attorney can help" and "not knowing where to start" coming in at 13 and 11 percent respectively.

As to fee structures, 28 percent of respondents said they would prefer a "firm quote for an entire case or project," with 24 percent saying they would prefer a fee based in part or whole on the result. The third highest fee preference was "a set amount for a specific task," with 23 percent of respondents preferring this billing method.

Some other items:

- Utah County had a higher perception of attorneys than the Wasatch Front
- Women have a higher perception of attorneys than men.
- Household incomes over \$50,000 are more likely to use attorneys.

## SUMMARY OF THE PUBLIC FOCUS GROUPS

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Lighthouse Research conducted two public focus groups representing a cross section of the community. These groups were gathered and observed at Lighthouse's offices in Salt Lake City on February 6, 2018. Each group consisted of 12 individuals from Salt Lake, Davis, Summit and Utah counties. Incomes ranged from under \$30,000 per year to over \$150,000 per year. Education ranged from high school graduate to post-graduate education.

The focus groups rated their perception of attorneys at 4.92 on the one-to-seven rating scale. Participants described attorneys as powerful and knowledgeable advocates for their clients. Many

participants had negative perceptions of attorneys in general, perceiving them as aggressive, contentious, argumentative and dishonest. Most of the group who had used an attorney or who knew attorneys in their personal life had a positive perception of that individual attorney.

Participants who had not used attorneys saw little value in hiring an attorney. Participants who had used attorneys overwhelmingly stated that using an attorney had been worth it. The value of a perceived cost or loss was a key factor in choosing to use an attorney.

Participants indicated if they needed an attorney, the first step would be to consult family and friends, with 44 percent relying on a referral. Another 30 percent said they would use the internet to search for an attorney.

Perceived barriers to seeking legal services mirrored the phone survey: Cost, fear of attorneys and not knowing how to engage an attorney.

Participants in general demonstrated only a basic knowledge of what an attorney could do for them. There was a general lack of knowledge of what attorneys do, how they operate, and what they charge.

Nearly three-fifths of participants said they would prefer to pay an income-based sliding fee for legal services, while two-fifths preferred a flat fee. The largest concern about costs was the idea of an open-ended, hourly rate for a case that would not be known until the end.

At the end of each focus group, participants offered suggestions for making legal services more attainable and appealing to the public. The top suggestion was free consultations, clinics or seminars highlighting specific areas of expertise.

## SUMMARY OF THE BUSINESS TELEPHONE SURVEY

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The business telephone survey highlighted some key differences between business and the general public. The perception of attorneys is similar to the public perception, with a 4.78 overall rating. Respondents said the biggest value of attorneys for a business is to advise and to protect the business assets. Respondents gave a six or seven rating 35 percent of the time, and a negative (1 or 2) rating only 7 percent of the time.

Businesses are most likely to use attorneys for writing or negotiating contracts (59%) and purchasing or selling a business. Of those starting a new business, 22 percent said they would not seek the advice of an attorney, and 26 percent said they would not seek legal advice when facing employee specific issues, including problems.

Overall, 71 percent of respondents said their company had previously used an attorney, 52 percent of those found their attorney through "recommendations or referrals," and 29 percent said their attorney was someone they personally knew.

Again, there was a significant difference between businesses who said they MIGHT use an attorney for situations and those who actually did. Companies that said they might use an attorney if they were sued (24 percent) indicated they actually used an attorney only 5 percent of the time when faced with that situation. This was very surprising. Of the 18 percent of businesses who said they would use an attorney to write or negotiate a contract, only 8 percent actually used attorneys. However, although



only 11 percent of respondents said they would use an attorney for debt related issues, 13 percent did so when faced with that situation.

The most likely uses of attorneys for businesses were copyright, trademark or patent issues, the purchase or sale of a business, and to write or negotiate a contract.

The top barrier to businesses using legal services was cost, named by 82 percent of respondents. Lack of trust was second at 18 percent, and not knowing how an attorney can help third at 17 percent.

## SUMMARY OF THE BUSINESS FOCUS GROUPS

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Lighthouse Research conducted two business focus groups representing a variety of businesses in the community. These groups were gathered and observed at Lighthouse's office in Salt Lake City on February 7, 2018. One group consisted of nine business owners and the other had eight. The businesses were based in Salt Lake and Davis counties. The businesses employed from 1-2, to 50-99 people, with sales from under \$1 million to \$50 million per year.

The focus groups rated their perception of attorneys at 4.88 on the one-to-seven rating scale. Positive aspects of attorneys included saving businesses from trouble and saving money. Negative aspects included dishonesty and too expensive for the services received.

Participants in these groups fell into two categories: those who have attorneys on retainer and utilize their services frequently and those who would engage an attorney only if the need arises.

Participants indicated if they needed an attorney, the first step would be to consult family and friends or ask other attorneys they know for a recommendation. The top factors for businesses in choosing an attorney are experience and area of expertise.

Perceived barriers to seeking legal service focused on cost. A close second was businesses not seeing a need for an attorney as they felt they could handle many situations on their own, and hiring an attorney wasn't "worth it."

When asked why cost is such a barrier, participants said:

- Legal services are far too expensive
- Small and new businesses can't justify the cost
- Business owners feel they can handle the situation on their own
- Less expensive to pay a claim than hire an attorney
- Don't recognize the value—"There's a lot of different things competing for my money."

Most business participants were aware attorneys charged by the hour and indicated they would be willing to pay \$100-\$200 per hour if the need arises. Some participants indicated they would be willing to pay a small retainer (\$100-\$200 per month) that would allow them to call an attorney with a question on an as-needed basis.

Half of the participants said they preferred flat-fee pricing for services as opposed to a sliding income-based scale.

Participants recommended that attorneys educate business owners on the benefits attorneys can provide to businesses. As with the public, many business owners had relatively vague ideas of the benefits an attorney could provide.

## OPPORTUNITIES

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The results of these surveys point out a few key things. First, people think legal services are too expensive. We have a 20<sup>th</sup> Century cost structure in a 21<sup>st</sup> Century world. Second, people don't understand the value of hiring an attorney *before* trouble arises. Third, people are afraid of hiring attorneys because of cost, and fear of uncertain outcomes. The following are opportunities presented by these challenges:

1. Educate the public and business consumers on the prophylactic as well as remedial services an attorney can provide.
2. Show the value of attorney services to the public and to business owners—introduce and demonstrate the concept of “preventive lawyering.”
3. Encourage development of specific service/price packages that fit a variety of needs and budgets. Create a commodity of legal services.
4. Improve the perception of attorneys, with a focus on honesty, integrity and community service. Many are not aware of how much attorneys serve in the community outside of their jobs, and without charging for their time.
5. Formulate and disseminate a “marketing menu” of suggestions for solo attorneys and law firms.

## BARRIERS TO OPPORTUNITIES

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There are barriers to maximizing the opportunities and increasing the use of legal services by the business community and the public. These include, but are not limited to:

- Disagreement among Bar members about the need for change.
- Perceptions that making changes would cheapen or commercialize the profession.
- Cost and time.
- Geographical challenges between rural/urban clients.
- Process: How to best tell the story of what attorneys do, and where.
- Increased risk of malpractice claims without a commensurate margin of profit.

## ACTION PLAN FOR THE BAR

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Based upon what we have learned, the Bar can do several things to assist in achieving its goals of increasing the public's access to the legal system and improving the practices of Bar members. Here are some first steps for the Bar Commission to consider:

1. **Educate the Bar by contracting with an outside marketing firm or business school to develop a set of packages and products that attorneys may choose to offer.** Offering more services at lower prices could nevertheless translate into significant revenue. Consult with outside sources to develop specific "products" attorneys sell. The best product attorneys sell is peace of mind. Discuss with people at the University of Utah and BYU how they would communicate the advantages of hiring an attorney to the public. Assuming that small or solo firms are the most likely candidates to offer services to those who do not currently use attorneys, offer a seminar to small/solo firms to show them some ideas on how to market their practice. Sell value.
2. **Address the intimidation/fear factor.** Give attorneys the opportunity to be seen in public in relaxed settings. Partner with local media providers to broadcast regular "Legal Panels" where a group of alternating or randomly selected attorneys get together to discuss legal issues that are common among members of society and businesses. This is not an original idea—several state Bars already do this, including Florida and Texas. Have public seminars about things like estate planning and wills, starting your own business, and tax law.
3. **Educate the public.** The average person has no idea what an attorney can do for them and no idea of the programs the Bar offers people of limited or modest means. More particularly, the average person or business does not see the potential for *avoiding* problems, rather than solving them once they arise, if only they were to seek counsel up front and regularly. Revive the "Have You Heard the One About the Attorney" campaign from several years ago. Show the public the good that attorneys do in the community. Tell stories of how attorneys have helped business and individuals.
4. **Offer more visible public support.** Fund a Scott M. Matheson scholarship for legal education, a Christine M. Durham "Women in Legal Education," and Raymond S. Uno "Minority in Legal Education" Scholarship for high school seniors. These would not have to be huge, full ride-scholarships, but smaller \$1-\$3,000 awards given to students who intend to pursue a legal career. Set aside a portion of revenues to sponsor community events, especially in outlying areas. It's amazing how much a small donation can mean to a community theater, or a rodeo, or a band that's going on a once-in-a-lifetime trip. Get involved with women's shelters like Safe Harbor and others, and the education foundation of the State's largest school districts.
5. **Increasing bar governance (board or subcommittee) to include more members of the public** from the business, technology, education and nonprofit sectors.

6. **Inviting our local universities to partner with the Bar to analyze the Lighthouse Research data** and to provide separate public relations and marketing proposals for Bar consideration which might include a public relations strategy and alternative service provision and fee structure proposals.
7. **Being more aggressive in being made aware of, partnering with and supporting existing clinics** and nonprofits that are providing services to underserved populations.
8. **Review and suggest potential changes to ethical rules and even statutes** that would provide protections to attorneys offering more accessible legal services, such that malpractice premiums and exposure can still be reasonably accommodated.

## ACTIONS SPECIFIC TO LARGER FIRMS

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Depending on practice areas, there are many things large firms can do to help grow their practice.

--Use social media and "Facebook Live" events to host legal Q&A's on a regular basis. Although there are some liability concerns, keeping questions general and avoiding specific legal advice make these a good way to attract clients. For example, an immigration attorney could use Facebook Live to discuss the ramifications of what is happening with DACA without giving specific legal advice. Or a tax attorney could discuss the top 10 mistakes he/she sees in tax returns.

--Buy into different fee structures. Although the hourly rate will work for some clients some of the time, there is an incredibly large pool of clients who have money they would be willing to spend on an attorney if they are shown the value in legal advice and they know those costs are fixed. Educate the public that going to an attorney and spending an hour to ask for advice will save time, money and stress in the future.

--Offer an initial consultation for a fixed amount and duration, and tell people about it. Most firms offer consultations for free or at a reduced rate, yet fail to notify potential clients of this great resource.

## CONCLUSION

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The Bar has dual obligations, to the public and to the profession. They are not necessarily in conflict, or mutually exclusive. The survey highlights opportunities to serve both.

**TAB**  
**3**

# **APPLICATION FOR NEW SECTION OF UTAH STATE BAR**

## **SENIOR ATTORNEY SECTION**

The Undersigned, being an active member of the Utah State Bar, hereby submits this Application for authorized formation by the Bar.

1. The primary purpose of the Senior Attorney Section will be to provide a pool of willing senior experienced attorneys (active and inactive, from this and other jurisdictions) who, by their joining this Section, manifest their willingness to provide pro bono legal services to under-served persons in the State of Utah through approved programs, projects and clinics, sponsored by the Utah State Bar or other approved sponsoring entities as permitted by Rule 14-803, governing the Utah State Bar.
2. Secondary purposes of this Section will be (1) to provide continued opportunities for senior attorneys to enjoy continued productive and social associations for said attorneys following their retirement from the full-time practice of law, and (2) to create a more realistic positive understanding by the public of the professional desires and commitment of the Bar to provide a broader access to the protections and rights under the rule of law to residents of the State of Utah.
3. The primary objective of this Section is unique – the assemblage of experienced lawyers who each have a desire to provide legal services at no cost to the under-represented population of our State. This will necessary be managed geographically, with the first efforts being focused on the cities along the Wasatch front in Salt Lake, Davis, Weber, Utah, and Summit Counties, and thereafter spread to other counites across the State as the community needs and Section membership dictate.
4. By-Laws of the Section (modeled after the for prescribed by the Board of Commissioners) will be submitted within 3 months following approval of this Application.
5. Attached to this Application are the names, contact information and signatures of 25 members of the Bar, indicating their intent to become charter Members of this section.
6. This Section proposes to have annual dues in the amount of \$10, which funds will be used to pay for the use of a conference room for an annual meeting, and de minimis expenses for recognitions and appreciations for extraordinary services rendered.

7. The proposed initial officers of the Section (who shall serve until official elections can be held) shall be:

President: Mary Jane Ciccarello  
335 4<sup>th</sup> Ave., SLC, UT 84103  
801-598-5810  
[mjc@borchardcenter.org](mailto:mjc@borchardcenter.org)


Vice President: Frank Nakamura  
4897 South Demar Cir., SLC, UT 84  
801-231-9989  
[fnakamuralaw@gmail.com](mailto:fnakamuralaw@gmail.com)

Secretary/Treasurer T. Richard Davis  
2066 Hubbard Ave., SLC, UT 84108  
[trdavis@princeyeates.com](mailto:trdavis@princeyeates.com)

The above persons agree to serve as initial officers of the Section until official elections can be held.

  
\_\_\_\_\_  
Mary Jane Ciccarello

\_\_\_\_\_  
Frank M. Nakamura

  
\_\_\_\_\_  
T. Richard Davis

This Application is submitted this 8 day of June, 2018.

  
\_\_\_\_\_  
T. Richard Davis, Applicant

7. The proposed initial officers of the Section (who shall serve until official elections can be held) shall be:

President: Mary Jane Ciccarello  
335 4<sup>th</sup> Ave., SLC, UT 84103  
801-598-5810  
[mjc@borchardcenter.org](mailto:mjc@borchardcenter.org)

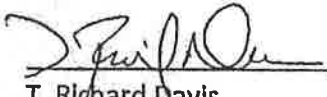
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801-231-9989  
[fnakamuralaw@gmail.com](mailto:fnakamuralaw@gmail.com)

Secretary/Treasurer T. Richard Davis  
2066 Hubbard Ave., SLC, UT 84108  
[trdavis@princeveates.com](mailto:trdavis@princeveates.com)


The above persons agree to serve agree to serve as initial officers of the Section until official elections can be held.

\_\_\_\_\_  
Mary Jane Ciccarello

  
\_\_\_\_\_  
Frank M. Nakamura

  
\_\_\_\_\_  
T. Richard Davis

This Application is submitted this 8 day of June, 2018.

  
\_\_\_\_\_  
T. Richard Davis, Applicant







We sign below evidencing our intent to become charter members of the Senior Attorney Section of the Utah State Bar:

[illegible]





**TAB**  
**4**

# Utah State Bar

## MEMORANDUM

TO: Utah State Bar Board of Bar Commissioners

FROM: John C. Baldwin  
Elizabeth A. Wright

DATE: July 10, 2018

RE: Amendments to the Pro Hac Vice Rule for Clarification, a Fee Increase and Annual Fee Requirement.

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We propose amending the Rule 14-806 to more accurately describe when pro hac admission is required and to more accurately describe the application process. We also propose increasing the pro hac vice application fee from \$250 to \$400 to cover the Bar's administrative costs associated with processing the applications and to make our fee consistent with the pro hac fees charged by other bars. Finally, we propose requiring lawyers admitted pro hac vice to pay an annual fee for each year the non-member lawyers continue to act as counsel in the cause.

If the Commission approves the rule changes and the fee increase, the Bar will petition the Supreme Court for a rule change and fee increase. The Court will determine whether the proposed changes should be made.

### **Clarification and Changes to Rule**

Changes for clarification include expressly stating that pro hac admission is required for an appearance before an administrative or regulatory agency *if the agency rules require*. The Utah Labor Commission, the Utah State Board of Oil and Gas Regulation and the Utah Department of Agriculture are just three of the agencies that require non-members appearing before them to be admitted pro hac vice. The Bar fields dozens of inquiries about pro hac

admission before state agencies or regulatory boards. We tell prospective applicants that they must refer to the agency rules to determine if admission is required. Proposed changes in regarding agency appearances better describe how the Bar administers the rule and will save applicants and Bar staff time by referring applicants to the agency rules to determine if pro hac admission is required.

Changes to the rule also clarify that that non-members representing parties in court mandated arbitrations must apply for pro hac vice admission. The current rule does not expressly state that non-members attorneys are required to have pro hac admission to represent a party in a court ordered arbitration. The Bar fields dozens of inquiries a year asking if pro hac vice admission is necessary in these types of matters. We refer the lawyer to the definition of the practice of law in Rule 14-802(b)(1), which states that “advocating for” a party’s interests is the practice of law. Putting the requirement in the rule will make the rule easier to understand for applicants and save Bar staff time in having to field inquiries on the issue. Arbitrations pursuant to private agreements do not require pro hac admission.

Finally, other cleanup changes have been made to rule like removing language stating an application for pro hac admission can be obtained at courthouses. Applications are only available online through the Bar’s website. Proposed language regarding the fee waiver better explains what type of pro bono work qualifies for the fee waiver. Applicants often call saying they want a fee waiver in order to represent a friend who cannot afford to pay them. Precisely describing the charitable work required for the fee waiver enables the Bar to objectively apply the fee waiver to individuals who are providing legal services to truly needy individuals.



## Fee Increase

We propose that the fee for pro hac admission be increased from \$250 to \$400. A \$400 fee would be closer to the amount of Utah's \$425 annual licensing fee and commensurate with the pro hac vice fees charged in other states. As you can see on the attached fee chart, 19 jurisdictions charge pro hac fees that are the same or very close to their annual licensing fee. Nevada, New Mexico and West Virginia charge *more* for pro hac vice admission than for their annual licensing fee. Also, Utah's fee is lower than all our western counterparts except California. Arizona charges \$475, Colorado \$300, Idaho \$325, Nevada \$550, New Mexico \$450, Oregon \$500, Washington State \$355 and Wyoming \$300. As you can see from the chart, even nationally, our pro hac fee is lower than most other jurisdictions.

Moreover, the fee has not been increased since 2010 and should be raised to keep up with the rising cost of having to administer the rule. In 2010, the fee was raised from \$175 to \$200. At that time, the Bar processed approximately 200 pro hac vice applications per year. Since 2014, we typically receive between 250-300 applications per year. Those out-of-state lawyers seeking temporary admission in Utah must provide the Bar with an original notarized application along with specified supporting documentation to obtain a receipt evidencing the same. The process culminates in the Bar issuing an "Acknowledgment of Supporting Documentation and Receipt of Pro Hac Vice Fee" which the applicant files with the court along with a motion for pro hac vice admission. Rule 14-806 refers to this document as a "receipt," which unfortunately conveys the impression that it merely evidences payment of the fee. The fee, however, is only a small part of the overall application process. The Bar essentially provides judges, who must either approve or

deny the non-member lawyer's admittance upon motion, with some measure of assurance based on objective criteria that the non-member lawyer is qualified to practice in Utah courts.

In reviewing the application, we frequently find submissions that are incomplete (e.g., unsigned, not notarized or missing required documents) or defective (copies rather than originals of certificates of good standing from home licensing jurisdictions or outdated certificates) which have proven, at times, to indicate a lack of good standing in the applicant's home licensing state.

Bar staff must email or call applicants and proposed local counsel with instructions of how to correct the problems where feasible. Often the applicant or local counsel will assume the other party is correcting the application and Bar staff must follow up again with each party to determine who will be submitting the correct documents. Moreover, the administrative time required often involves that of the Bar's general counsel where issues are more complicated, or lawyers refuse to accept direction from the general counsel's assistant rather than a lawyer.

Much of the processing time involves answering questions from applicants or contacting applicants to rectify deficiencies with the application or required documents. I am often required to speak to applicants regarding legal questions such as whether an applicant needs to apply, the requirements of Utah's rules or to determine if we should process a questionable application. We also maintain a record of all applications so that we can ensure applicants are not attempting to circumvent our admissions process by repeatedly seeking pro hac admission on cases rather than applying for admission in Utah. We cross-reference every application with our spreadsheets of prior applicants. Once an application is processed, we mail the receipt or arrange for pick up. The Bar also maintains files of the applications.

The fee requires out-of-state lawyers who use our courts to help promote the

administration of justice generally. It also obligates out-of-state lawyers who avail themselves of our judicial system to offset the Bar's time devoted to the process and to help financially support programs conducted by the Bar to fulfill the professional obligations imposed on lawyers.

### **Annual Renewal and Late Fee**

Finally, our rule should be changed to require non-member lawyers who are admitted pro hac vice to pay an annual fee of \$400. Utah licensed lawyers are required to pay annual licensing fees to cover the Bar's costs associated with regulating the practice of law. It is inherently unfair that non-member lawyers can practice on one case in Utah for an unlimited number of years after paying a one-time \$250 fee. A Utah licensed attorney who may be handling one case is required to pay an annual licensing fee.

Four states require pro hac admittees to pay an annual fee. Two of our western neighbors charge annual fees to pro hac admittees. Arizona charges a \$505 annual renewal and Nevada charges a \$550 annual renewal. As an incentive to pay the annual fee on time, Arizona charges a \$50 late fee to non-members who fail to timely pay their pro hac vice annual fee.

We propose that Utah's rule be changed to require an annual fee of \$400 for non-member pro hac admittees to contribute to the cost of administering lawyer regulation in the state of Utah. Additionally, non-members who fail to pay the annual renewal fee should be charged a \$50 late fee as an incentive to pay the annual fee in a timely manner.

Attached is a redlined copy of the rule with proposed changes. Also attached is a chart of pro hac vice admission fees and licensing fees in other states. The first chart shows pro hac fees by highest to lowest. The Second chart is western states only. The final chart shows pro hac fees by state. For comparison, the active license fee for each state is in the far-right column.

1 **Rule 14-806. Admission pro hac vice.**

2 (a) Application of rule. This rule applies to:

3 (a)(1) All actions or proceedings pending before a court of this state;

4 (a)(2) All actions or proceedings pending before an administrative body or governmental  
5 body in this state, unless the rules of that agency or governmental body provide otherwise;

6 (a)(3) All arbitration or alternative dispute resolution procedures in this state that are court  
7 annexed or court ordered, or that are mandated by statute or administrative rule; and

8 (a)(4) All services incident to any of these proceedings including, but not limited to,  
9 discovery and settlement negotiations.

10 (a)(5) This rule does not apply to arbitration or alternative dispute resolution procedures  
11 in which the parties engage voluntarily or by private agreement.

12  
13 (b) Eligibility. A lawyer who has been retained to represent a client in this state in an  
14 action or proceedings described in section (a) of this rule may file a written application to  
15 appear as counsel in that action or proceedings if the following conditions are met:

16 (b)(1) The lawyer is not a member of the Utah State Bar;

17 (b)(2) The lawyer is not a resident of Utah;

18 (b)(3) The lawyer is not regularly employed in Utah;

19 (b)(4) The lawyer is an active member in good standing in another state, territory or insular  
20 possession of the United States;

21 (b)(5) The lawyer associates with an active member in good standing of the Utah State  
22 Bar who is a resident of the State of Utah, hereinafter called "local counsel."

23  
24 (c) Names and Appearances. The name bar number and address of local counsel must  
25 appear on all notices, orders, pleadings and other documents filed in the case or  
26 proceeding in which the non-member attorney is appearing pursuant to this rule. Local  
27 counsel is required to personally appear and participate in pre-trial conferences, hearings  
28 and other proceedings before the court, board or administrative agency if the court, board  
29 or administrative agency deems such appearances or participation appropriate. Local  
30 counsel shall accept joint responsibility with the non-member attorney to the client,

31 opposing counsel and parties and to the court, board or administrative agency. Local  
32 counsel must continue as the local counsel of record in the case unless another member  
33 of the Utah State Bar is substituted as local counsel.

34  
35 (d) *Discretion.* A non-member attorney may be permitted to appear in a particular matter  
36 if the court board or administrative agency in which the case is pending determines that  
37 admission pro hac vice will serve the interests of the parties and the efficient and just  
38 administration of the case. Admission pro hac vice under this rule is discretionary with the  
39 court board or administrative agency in which the application for admission is made.  
40 Admission pro hac vice may be revoked by the court board or administrative agency upon  
41 its own motion or the motion of a party if the court determines that admission pro hac vice  
42 is no longer appropriate. Admission pro hac vice will be denied or, if granted, will be  
43 revoked if the court board or administrative agency determines that the process is being  
44 used to circumvent the normal requirements for the admission of attorneys to the practice  
45 of law in Utah.

46 In determining whether to enter or revoke the order of admission pro hac vice, the court  
47 board or administrative agency may consider any relevant information, including whether  
48 the non-member attorney:

49 (d)(1) is familiar with Utah rules of evidence and procedure, including applicable local  
50 rules;

51 (d)(2) is available to opposing parties;

52 (d)(3) has particular familiarity with the legal affairs of the party relevant to the case;

53 (d)(4) complies with the rulings and orders of the court, board or administrative agency;

54 (d)(5) has caused delay or been disruptive; and

55 (d)(6) has been disciplined in any jurisdiction within the prior 5 years.

56 (e) *Application Procedure.* The non-member attorney seeking admission pro hac vice  
57 must complete under oath and submit to the Bar an application form available from the  
58 Utah State Bar. The applicant must complete a separate application for each matter in  
59 which the applicant wants to appear. The application must include the following:

(e)(1) the name, the court or administrative body and the court or matter number in which the applicant wishes to appear;

(e)(2) the name of the party on whose behalf the applicant wishes to appear;

(e)(3) the name, number, and court of other cases pending or closed within the prior five years in any state or federal court or board or administrative agency of Utah in which the applicant appears pro hac vice;

(e)(4) a statement whether in any state the applicant is currently suspended or disbarred from the practice of law, has been disciplined within the prior five years, or is the subject of any pending disciplinary proceedings;

(e)(5) a statement that the applicant submits to the disciplinary authority and procedures of the Utah State Bar, is familiar with the rules of procedure and evidence, including applicable local rules, will be available for depositions, hearings, and conferences, and will comply with the rulings and orders of the court;

(e)(6) the name, address, Bar identification number, telephone number, and e-mail address of the member of the Utah State Bar to serve as local counsel;

(e)(7) an original certificate of good standing from the jurisdiction or jurisdictions in which the applicant is admitted dated no more than 60 days prior to the date of application; and

(e)(8) a \$400 application fee paid to the Utah State Bar. Fees paid under this rule will be used for attorney discipline investigations and proceedings.

(f) *Limited Exception to Original and Annual Fee.* The application fee and annual fee will be waived for:

(f)(1) non-member attorneys providing legal services without compensation or an expectation of compensation through a charitable, religious, civic, community, governmental, or educational organization in a matter designed primarily to address the needs of people of limited means. A non-member seeking a fee waiver to provide pro bono representation shall include in the application a verification that all clients represented in the action are of limited means and that no attorney fee shall be paid by the client.

89  
90 (f)(2) attorneys who are employees of and representing the United States of America or  
91 any of its departments or agencies.  
92

93 (g) Acknowledgment of Supporting Documentation and Receipt of Filing Fee. Upon  
94 receipt of a complete application and fee, the Bar shall issue an Acknowledgement of  
95 Supporting Documentation and Receipt of Filing Fee (hereinafter "Acknowledgement").  
96 In making the Acknowledgment, the Bar may attach copies or comment on any  
97 submitted material that may be appropriate for a tribunal to consider with an application  
98 for pro hac vice admission.  
99

100 (h) Filing with the tribunal. Once the Bar issues an Acknowledgement, local counsel  
101 must file the original Acknowledgment along with the following documents: (1) an  
102 original motion for admission pro hac vice; (2) a copy of the application; (3) a copy of  
103 the certificate of good standing; (4) an original proposed order; and (5) any submissions  
104 from the Bar together with proof of service on all parties in accordance with Utah Rules  
105 of Civil Procedure.  
106

107 (i) Appearances by non-member attorneys. An applicant shall not appear in a  
108 proceeding subject to this rule until the court, arbitrator, or administrative or  
109 governmental agency where the action is pending enters an order granting the motion  
110 for admission pro hac vice.  
111

112 (j) An attorney admitted pro hac vice shall comply with and is subject to Utah statutes,  
113 rules of the Supreme Court, including the Rules of Professional Conduct and Article 5,  
114 Lawyer Discipline and Disability, the rules of the court in which the attorney appears, and  
115 the rules of the Code of Judicial Administration.  
116

117 (k) Continuing Duty to Advise of Changes in Status. Out-of-state counsel admitted pro  
118 hac vice has a continuing duty during the period of such admission to promptly advise the  
119 Bar of a disposition made of pending charges or the institution of any new disciplinary

proceedings or investigations. The Bar shall then advise any court, board or administrative agency where the attorney has been admitted pro hac of any such information. Out-of-state counsel shall promptly advise the Bar if permission to appear pro hac vice pursuant to this rule is revoked by any court, board or administrative agency.

(l) *Annual Renewal.* On or before the anniversary date of the filing of the initial application with the Bar, the local counsel must certify to the Bar that the non-resident attorney continues to act as counsel in the cause or that the cause has been finally adjudicated. In the event that non-member counsel continues to act as counsel in the case, the non-member attorney shall remit to the Bar an annual fee of \$400 within 30 days of the anniversary date.

(m) *Failure to Renew.* Any non-member attorney who continues to appear pro hac vice in a cause and fails to pay the renewal fee set forth in (j) of this rule, shall be suspended from appearing in any proceeding subject to this rule after 30 days of the anniversary date. The Executive Director of the Utah State Bar shall notify the non-member attorney and local counsel of the suspension and shall file a certified copy of the notice with the court, board or administrative agency that approved the pro hac vice application. The non-member may be reinstated upon payment of the fees set forth in paragraph (j) of this rule and a \$50 late penalty. Upon payment of all accrued fees and late penalty, the Executive Director shall reinstate the non-member attorney and shall certify reinstatement to the appropriate court, board or administrative agency.

(n) *Appellate Matters and Other Forms of Review.* Out-of-state counsel admitted in a lower tribunal on a case or matter that is appealed must file in the appellate court or reviewing tribunal a notice of appearance. A new application to the Bar is not required.



~~(a) An attorney who is not a member of the Bar but who is admitted to practice law in another state or in any court of the United States or territory or insular possession of the United States shall apply to be admitted pro hac vice in accordance with this rule prior to appearing as counsel in a court of record or not of record.~~

~~(b) Nonresident counsel may be permitted to appear in a particular case if the court in which the case is pending determines that admission pro hac vice will serve the interests of the parties and the efficient and just administration of the case. Resident counsel may be permitted only if he or she has received a Practice Pending Admission Certificate. Admission pro hac vice under this rule is discretionary with the court in which the application for admission is made. Admission pro hac vice may be revoked by the court upon its own motion or the motion of a party if, after notice and a hearing, the court determines that admission pro hac vice is inappropriate. Admission pro hac vice shall be denied or, if granted, shall be revoked if the court determines that the process is being used to circumvent the normal requirements for the admission of attorneys to the practice of law in Utah.~~

~~(c) In determining whether to enter or revoke the order of admission pro hac vice, the court may consider any relevant information, including whether nonresident counsel:~~

~~(c)(1) is familiar with Utah rules of evidence and procedure, including applicable local rules;~~

~~(c)(2) is available to opposing parties;~~

~~(c)(3) has particular familiarity with the legal affairs of the party relevant to the case;~~

~~(c)(4) complies with the rulings and orders of the court;~~

~~(c)(5) has caused delay or been disruptive; and~~

~~(c)(6) has been disciplined in any other jurisdiction within the prior 5 years.~~

~~(d) The attorney seeking admission pro hac vice shall complete under oath and submit to the Bar an application form available from the Utah State Bar or court clerks' office. The applicant shall attach to the application form a Certificate of Good Standing from the licensing state in which the applicant resides. The applicant shall complete a separate application for each case in which the applicant wants to appear. The fee for each application is \$250, which shall be paid to the Utah State Bar. Fees paid under this rule~~

shall be used for attorney discipline investigations and proceedings. The following are exempt from the fee:

(d)(1) attorneys who are employees of and representing the United States of America or any of its departments or agencies; and

(d)(2) attorneys representing indigent clients on a pro bono basis.

(e) A copy of the application and a receipt showing payment of the fee shall be filed in the court in which the case is pending, with a motion by a member of the Bar to admit the applicant pro hac vice and a consent by that member of the Bar to appear as associate counsel. Associate counsel shall be a resident of Utah. The application form shall include:

(e)(1) the name, address, telephone number, fax number, e-mail address, bar identification number(s), and state(s) of admission of the applicant;

(e)(2) the name and number of the case in which the applicant is seeking to appear as the attorney of record or, if the case has not yet been filed, a description of the parties;

(e)(3) the name, number, and court of other cases pending or closed within the prior five years in any state or federal court of Utah in which the applicant or a member of the applicant's firm appears pro hac vice;

(e)(4) a statement whether, in any state, the applicant:

(e)(4)(A) is currently suspended or disbarred from the practice of law;

(e)(4)(B) has been disciplined within the prior five years; or

(e)(4)(C) is the subject of any pending disciplinary proceedings;

(e)(5) a statement that the applicant:

(e)(5)(A) submits to the disciplinary authority and procedures of the Bar;

(e)(5)(B) is familiar with the rules of procedure and evidence, including applicable local rules;

(e)(5)(C) will be available for depositions, hearings, and conferences; and

(e)(5)(D) will comply with the rulings and orders of the court;

(e)(6) the name, address, Bar identification number, telephone number, fax number, and e-mail address of the member of the Utah State Bar to serve as associate counsel;

(e)(7) for resident counsel only, a copy of the Practice Pending Admission Certificate; and

(e)(8) any other information relevant to the standards for the admission of the applicant.

~~(f) Utah counsel associated with nonresident or resident counsel seeking admission pro hac vice shall:~~

~~(f)(1) file a motion for admission of the applicant pro hac vice;~~

~~(f)(2) serve the motion by mail, hand delivery or facsimile on the Utah State Bar's general counsel on or before filing with the court and include a certificate of service with the motion evidencing service on the Bar's general counsel and upon the opposing parties, or, if represented, their counsel;~~

~~(f)(3) file a written consent to appear as associate counsel;~~

~~(f)(4) sign the first pleading filed;~~

~~(f)(5) continue as one of the counsel of record in the case unless another member of the Bar is substituted as associate counsel; and~~

~~(f)(6) be available to opposing counsel and the court for communication regarding the case and the service of papers.~~

~~(g) The court may require Utah counsel to appear at all hearings. Utah counsel shall have the responsibility and authority to act for the client in all proceedings if the nonresident attorney fails to appear or fails to respond to any order of the court.~~

~~(h) An attorney admitted pro hac vice shall comply with and is subject to Utah statutes, rules of the Supreme Court, including the Rules of Professional Conduct and Article 5, Lawyer Discipline and Disability, the rules of the court in which the attorney appears, and the rules of the Code of Judicial Administration.~~

Lowest to Highest Pro Hac Vice Fees (April 2018)			
State	Pro Hac Vice Fee	Comments	Active License Fee (for comparison)
California	\$50		\$430
Kansas	\$100		\$265
Washington, D.C.	\$100		\$280
Michigan	\$105		\$285
Indiana	\$145		none specified
Tennessee	\$170		\$170
Arkansas	\$200		\$275
Mississippi	\$200		\$335
South Dakota	\$200		\$415
Vermont	\$200		\$410 biannual fee
New Jersey	\$212		none specified
North Carolina	\$225		\$325
Texas	\$250		\$235
Nebraska	\$250		\$240
Virginia	\$250		\$250
Florida	\$250		\$265
South Carolina	\$250		\$335
Illinois	\$250	Per case / Annual Registration and \$121 fee	\$385
Utah	\$250		\$425
Wisconsin	\$250		\$440
New Hampshire	\$250		\$535
Iowa	\$250	Per case for 5 years.	none specified
Kentucky	\$270		\$270
Georgia	\$275	\$200 Per year	\$286
Alabama	\$300	Per case. Limit 5 times per year	\$300
Colorado	\$300		\$325
Ohio	\$300		\$350 biannual fee
Massachusetts	\$301		none specified
Idaho	\$325		\$425
Pennsylvania	\$350		\$225
West Virginia	\$350		\$250
Oklahoma	\$350		\$275
Washington State	\$355		\$355
North Dakota	\$380		\$380
Montana	\$385		\$395
Delaware	\$407		
Missouri	\$410		\$410

New Mexico	\$450		\$365
Louisiana	\$450		\$435
Wyoming	\$500		\$310
Oregon	\$500		\$537
Arizona	\$505	Per case / \$505 annual renewal / \$50 late fee for failure to renew	\$505
Nevada	\$550	Per case / \$550 annual renewal. Limit of 5 per lawyer	\$450
Maine	\$600		none specified
Alaska	\$660		\$660
Connecticut	\$695		\$640
Hawaii	\$760		\$524
Maryland	?		\$130 to Client Security Fund
Minnesota	None specified		\$248
Rhode Island	None Specified		\$325
New York	None specified		\$375 biannual fee

### Pro Hac Vice Fees by State (April 2018) *Western States*

State	Pro Hac Vice Fee	Comments	Active License Fee (for comparison)
California	\$50		\$430
Utah	\$250		\$425
Colorado	\$300		\$325
Idaho	\$325		\$425
Washington State	\$355		\$355
Montana	\$385		\$395
New Mexico	\$450		\$365
Wyoming	\$500		\$310
Oregon	\$500		\$537
Arizona	\$505	Per case / \$505 annual renewal / \$50 late fee for failure to renew	\$505
Nevada	\$550	Per case / \$550 annual renewal. Limit of 5 per lawyer	\$450
Alaska	\$660		\$660
Hawaii	\$760		\$524

### Pro Hac Vice Fees by State (April 2018)

State	Pro Hac Vice Fee	Comments	Active Fee (for comparison)
Alabama	\$300	Per case. Limit 5 times per year	\$300
Alaska	\$660		\$660
Arizona	\$505	Per case / \$505 annual renewal / \$50 late fee for failure to renew	\$505
Arkansas	\$200		\$275
California	\$50		\$430
Colorado	\$300		\$325
Connecticut	\$695		\$640
Delaware	\$407		
Florida	\$250		\$265
Georgia	\$275	\$200 Per year	\$286
Hawaii	\$760		\$524
Idaho	\$325		\$425
Illinois	\$250	Per case / Annual Registration and \$121 fee	\$385
Indiana	\$145		none specified
Iowa	\$250	Per case for 5 years.	none specified
Kansas	\$100		\$265
Kentucky	\$270		\$270
Louisiana	\$450		\$435
Maine	\$600		none specified
Maryland	?		\$130 to Client Security Fund
Massachusetts	\$301		none specified
Michigan	\$105		\$285
Minnesota	None specified		\$248
Mississippi	\$200		\$335
Missouri	\$410		\$410
Montana	\$385		\$395
Nebraska	\$250		\$240
Nevada	\$550	Per case / \$550 annual renewal. Limit of 5 per lawyer	\$450
New Hampshire	\$250		\$535
New Jersey	\$212		none specified
New Mexico	\$450		\$365
New York	None specified		\$375 biannual fee
North Carolina	\$225		\$325
North Dakota	\$380		\$380
Ohio	\$300		\$350 biannual fee



Oklahoma	\$350		\$275
Oregon	\$500		\$537
Pennsylvania	\$350		\$225
Rhode Island	None Specified		\$325
South Carolina	\$250		\$335
South Dakota	\$200		\$415
Tennessee	\$170		\$170
Texas	\$250		\$235
Utah	\$250		\$425
Vermont	\$200		\$410 biannual fee
Virginia	\$250		\$250
Washington, D.C.	\$100		\$280
Washington State	\$355		\$355
West Virginia	\$350		\$250
Wisconsin	\$250		\$440
Wyoming	\$500		\$310



**TAB**  
**5**

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

**MAY 11, 2018  
LAW AND JUSTICE CENTER**

- In Attendance:** President John Lund and President-elect H. Dickson Burton. Commissioners: Grace Acosta, John Bradley, Steven Burt, Heather Farnsworth, Mary Kay Griffin, Liisa Hancock, Mark Morris, Herm Olsen, Michelle Quist, Cara Tangaro, Heather Thuet and Katie Woods.
- Ex-Officio Members:** Nate Alder, Erik Christiansen, Julie Emery, Diana Hagen, Jamie Sorenson and Bebe Vanek.
- Not in Attendance:** Kate Conyers, and Ex-Officio members: Acting Dean Bob Keiter, Amy Fowler, Dani Cepernich, Margaret Plane, Rob Rice, and Dean Gordon Smith.
- Also in Attendance:** Executive Director John C. Baldwin, Assistant Executive Director Richard Dibblee, General Counsel Elizabeth A. Wright and Supreme Court Liaison Catherine Dupont.

**Minutes: 9:10 a.m. start**

**1. President's Report: John Lund**

- 1.1 Report on Meetings With Congressional Delegations.** John Lund reported that he, Dickson Burton, Margaret Plane and Frank Pignanelli traveled to Washington D.C. to meet with Utah's elected representatives as part of ABA Law Day. The ABA arranges the day and the topic is funding for the Legal Services Corporation. Utah representatives seemed to understand the importance of the funding.
- 1.2 Report on Summer Convention.** John Lund reported that Summer Convention Co-Chairs Justice Lee and Jen Tomchak have organized a great convention including keynote speaker Nina Totenberg. ABA President Hilary Bass will also attend to discuss retention of women in the practice.
- 1.3 Report on Supreme Court Review of OPC Report.** John Lund reported on the progress of the Committee reviewing the ABA recommendations about the Utah lawyer disciplinary process. The Committee's recommendations will be presented to the Utah Supreme Court which can accept or reject the various recommendations.
- 1.4 Report on Access to Justice Coordinating Committee.** John Lund reported that Retired Justice Durham and Amy Sorenson are co-chairing this committee whose goal is to coordinate all the groups that provide legal services to the needy in Utah in order to

make them aware of other providers and enable the organizations to work together when appropriate. Not all the groups are obvious legal services providers. For instance, the YWCA helps battered women get legal assistance with protective orders.

## **2. Action Items**

- 2.1 Approve 2018-2019 Budget.** Kellie Bartz, the Bar's Finance Director, joined the Commission to discuss the 2018-2019 Budget. **After a review of the budget and a discussion of future revenue projections, John Lund moved to approve the 2018-2019 Budget. Herm Olsen seconded the motion which passed unopposed.**

### **OUT OF ORDER**

- 2.2 Select Committee of the Year Award Recipient** After discussing the nominees and the Awards Committee recommendation, **Cara Tango moved to award the Innovation in Law Practice Committee the Committee of the Year. Michelle Quist seconded the motion which passed unopposed.**
- 2.3 Select Section of the Year Award Recipient.** After discussing the nominees and the Awards Committee recommendation, **Cara Tangaro moved to award the Cyberlaw Section the Section of the Year. Grace Acosta seconded the motion which passed unopposed**
- 2.4 Select Judge of the Year Award Recipient.** After discussing the nominees and the Awards Committee recommendation, **Michelle Quist moved to award Judge Thomas Higbee Judge of the Year. Katie Woods seconded the motion which passed unopposed.**
- 2.5 Select Lawyer of the Year Award Recipient.** After discussing the nominees and the Awards Committee recommendation, **Michelle Quist moved to award Karra Porter Lawyer of the Year. Heather Thuet seconded the motion which passed unopposed.**
- 2.6 Select Malpractice Insurance Endorsement Partner.** After discussing the final terms of the endorsement agreement, **Dickson Burton moved that the Bar enter into a two year endorsement agreement with ALPS. Heather Thuet seconded the motion which passed unopposed.**

## **3. Discussion Item**

- 3.1 Legal Market Survey Committee Report.** Mark Morris summarized the Committee Report on Lighthouse Research regarding individual and small business perception and use of legal services in the state. The Commission discussed the Committee's eight recommendations for action, including asking the Court for changes to the Rules of Professional Conduct to allow for the technological changes in the delivery of legal services.

**The meeting adjourned at 12:00 p.m.**

**Consent Agenda**

1. Approved Minutes from the April 6, 2018 Commission Meeting.

**Handouts:**

1. Graph of Projected Cash Balances.
2. Nomination packet for award recipients.

**TAB**  
**6**

## POSITION DESCRIPTION

**TITLE:** Bar Commissioner  
**REPORTS TO:** Bar President and Constituents  
**EFFECTIVE DATE:** July 2015

### **Basic Functions:**

1. Serves as member of Board of Bar Commissioners in establishing policies to fulfill obligations of the Bar as indicated under the Utah Supreme Court's Rules for Integration and Management and under the Bar's Bylaws and Commission's Policies and Procedures.
2. With Bar Commission, adopts yearly budget for operations and capital.
3. Works towards fulfilling vision of the Bar, which is: *"A just legal system that is understood, valued, and accessible to all."*
4. Strives to uphold mission of the Bar, which is: *"Lawyers serving the public and legal profession with excellence, civility, and integrity."*
5. Attends regularly scheduled Commission meetings, including those associated with Annual and Spring Bar Conventions.
6. Serves on various Commission committees, which may include admissions related reviews, *ad hoc* study or governance committees, long range planning, budget and finance, executive committee, program review committees, or others as assigned.
7. Serves as liaison with sections, committees, and local bars as assigned by Bar President. In this capacity, each commissioner should: (a) call his or her assigned sections, committees and local bars at least once a month; (b) attend at least one meeting for each of his or her assigned sections, committees and local bars per quarter; and (c) provide a status report to the Commission as requested by the President.
8. Attends, if possible, admissions ceremonies and Bar socials.
9. Communicates with lawyers in division and reports on Bar activities and receives input for communication to the Commission.
10. Contacts local state senators and representatives on issues of Bar interests within legislative policies.

## **Summary of Bar Commission Reimbursement Policies**

### **1. Commission Meetings.**

- (a) **Mileage or airfare**, if necessary, for distant meetings – if they are held far enough from your office to make reimbursement appropriate (i.e., travel from Logan, St. George, or Provo to Salt Lake City, or *vice versa*), and;
- (b) **Lodging** for those who must travel some distance (i.e., travel from Logan, St. George to meetings in Salt Lake City, etc.).

### **2. Commission Meetings held at Spring Convention.**

- (a) **Mileage** plus tolls and parking or, **reasonable airfare**;
- (b) **Standard per diem** for two day's meals, incidentals, and gratuities;
- (c) **Two night's lodging in a standard room** in the convention hotel, and;
- (d) **Rental car**, if necessary.

### **3. Commission Meetings held at Summer Convention.**

- (a) **Mileage** plus tolls and parking or, **reasonable airfare**;
- (b) **Standard per diem** for three day's meals, incidentals, and gratuities;
- (c) **Three night's lodging in a standard room** in the convention hotel, and;
- (d) **Rental car**, if necessary.

### **4. Worthwhile Educational Opportunities.**

At the discretion of the Bar President and pursuant to approved travel budgets:

- (a) **Mileage** plus tolls and parking or, **reasonable airfare**;
- (b) **Meals, incidentals, and gratuities** while traveling to and at the event;
- (c) **Lodging at the event hotel**, and;
- (d) **Rental car**, if necessary.

### **5. Other General Office Expenses.**

With the advance approval of the Bar President:

- (a) **Telephone, postage, supplies, copying**, and other similar expenses, but *not* expenses for secretarial or clerical assistance.

### **6. Procedures for Receiving Reimbursement.**

- (a) **Spring and Summer Convention.** Reimbursement for Commission Meetings held at the Spring and Summer Conventions will be solicited by the Bar's Executive Secretary via e-mail immediately after the conventions. Commissioners indicating a desire for reimbursement will be reimbursed for lodging, per diem, and mileage at standard rates.
- (b) **Reimbursement for other travel** will require supporting documentation.