

## **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. Dorothy 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, October 10, 2014  
S. J. Quinney College of Law  
Salt Lake City, Utah

### Agenda

#### 1. 9:00 a.m. President's Report: Jim Gilson

- |          |     |  |
|----------|-----|--|
| 10 mins. | 1.1 | Approve 2014-2015 Priorities ( <b>Cover Sheet</b> )                          |
| 10 mins. | 1.2 | Follow up on Study of the Future of Practice of Law: John Lund               |
| 05 mins. | 1.3 | Constitution Day Report: Sean Toomey ( <b>Tab 1</b> )                        |
| 10 mins. | 1.4 | <i>Magna Carta</i> Project Report: Dickson Burton & Larry Stevens            |
| 05 mins. | 1.5 | Fall Forum November 20 <sup>th</sup> - 21 <sup>st</sup> ( <b>Enclosure</b> ) |
| 15 mins. | 1.6 | Program Review Committee Appointments ( <b>Handout</b> )                     |
| 05 mins. | 1.7 | Review Recent Proposed Ethics Opinion ( <b>Tab 11</b> )                      |

#### 2. 10:00 a.m. Action Items

- |          |     |   |
|----------|-----|---|
| 20 mins. | 2.1 | Select 2016 Summer Convention Site: Angelina Tsu ( <b>Tab 8</b> ) |
| 10 mins. | 2.2 | Confirm 2017 Sun Valley Summer Convention                         |
| 20 mins. | 2.3 | Select Lifetime Service to Bar Award Recipients ( <b>Tab 2</b> )  |

#### Break

- |          |      |   |
|----------|------|---|
| 10 mins. | 2.4  | Select Professionalism Award Recipient ( <b>Tab 3</b> )             |
| 05 mins. | 2.5  | Select Community Member Award Recipient ( <b>Tab 4</b> )            |
| 05 mins. | 2.6  | Select Outstanding Mentor Award Recipient ( <b>Tab 5</b> )          |
| 05 mins. | 2.7  | Select "Heart and Hands" Award Recipient ( <b>Tab 6</b> )           |
| 10 mins. | 2.8  | Pro Bono Rules for Allow Retired: Elizabeth Wright ( <b>Tab 7</b> ) |
| 15 mins. | 2.9  | Audit Report: Mary Kay Griffin ( <b>Handout</b> )                   |
| 10 mins. | 2.10 | "Open Mic time"   |

#### 12:00 n. Reception with Students

#### 12:30 p.m. Tour New Law School Building Construction

#### 1:30 pm Adjourn

#### Consent Agenda (Tab 9)

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

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

(Over)

## Attachments (Tab 10)

1. August Financial Statements
2. Judicial Conduct Commission 2013-2014 Annual Report

## Enclosures

1. Fall Forum Brochure
2. Office of Professional Conduct 2013-2014 Annual Report to Utah Supreme Court
3. Utah State Bar Summary of Operations 2013-2014
4. Summary of Charlotte Miller Presentation at Commission Retreat

## Calendar

<b>October 16</b>	Admissions Ceremony	12:00 Noon	Abravanel Hall
<b>October 20-24</b>	Pro Bono Celebration Week		
	October 10 <sup>th</sup> (tentatively)	Reception for the public and Bar	Logan, Utah
	October 20 <sup>th</sup> at noon	Kick-off Celebration	University of Utah College of
	Law		
	October 21 <sup>st</sup> 5pm – 9pm	Recognition Dinner	Utah Valley University
	Library		
	October 21 <sup>st</sup> 5:30pm – 8pm	and Tuesday Night Bar Clinic	
	October 21 <sup>st</sup> 5pm – 7pm	Tuesday Night Bar	Utah Law and Justice Center
		Street Law Legal Clinic	Horizonte Center
<b>November 20-21</b>	Fall Forum		Little America
<b>November 25</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>December 5</b>	Commission Meeting	9:00 a.m.	Law & Justice Center

## 2015

**January 2** Election Notices Due



Tab 1



**2014 Utah State Bar Civics Education Program  
Week of Constitution Day - September 17<sup>th</sup>**

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276	Filled teaching opportunities. This included classrooms, assemblies, and community youth councils.
198	Volunteer Judges, Attorneys, Law School Students, and Paralegals
14	Counties
117	Schools (including three state-wide online academies)
17	Unfilled teaching opportunities.

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***2013 Constitution Day Numbers for Comparison:***

185	Filled teaching opportunities. This included classrooms, assemblies, and community youth councils.
149	Volunteer Judges, Attorneys, Law School Students, and Paralegals
12	Counties
96	Schools (including one state-wide online academy)
<66>	Unfilled teaching opportunities.

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***Thoughts about Next Year:***

1. Technology issues – The two systems (data and scheduling) do not tie together, creating considerable data entry time in a window of opportunity that is already narrow.
2. More auditoriums or class groups rather than individual classrooms.
3. Lesson plan changes. (see email attachment from Steve Gibbon)



### Participating Judges, Attorneys, Law Students, and Paralegals

Laurie Abbott  
Patricia Abbott Lammi  
Angela Adams  
Alison Adams Perlac  
Heidi Alder  
Briana Allen  
Miriam Allred  
Dan Anderson  
Rod N. Andreason  
Richard J. Armstrong  
Randy Austin  
Lance Bastian  
Brent Bateman  
Eric Bawden  
Brandon Baxter  
Tate Bennett  
Curtis G. Bentley  
Melissa Bernstein  
David Billings  
Bradley Blanchard  
Bryan Booth  
Christian Bryner  
Judge Bryce Bryner  
Jed Burton  
Nathan Butters  
Gabrielle Lee Caruso  
Heather J. Chesnut  
Judge Augustus Chin  
Paul Christensen  
Kent Christiansen  
Carlos Clark  
Elizabeth Clark  
Eric Clarke  
Steve Clayton  
Craig Coburn  
Colleen K. Coebergh  
Catherine Conklin  
Kate Conyers  
Mel Cook  
Christina Cope  
Victor P. Copeland  
Corbie Coy  
Michael Cragun  
Robert Culas  
Leslie Douglas Curtis  
Amber N Cushman  
Judge Robert J. Dale  
Timothy P. Daniels  
Susan Denhardt  
Jonathan Dibble  
Steve Dougherty  
Nick Dudoich  
Alan Dunaway  
Margaret S. Edwards

Dwight Epperson  
Christopher Evans  
Cornell Evans  
Liza Eves  
Judge Donald Eyre  
Joshua D.K. Figueira  
William Fontenot  
Michael Ford  
Jacob Franklin  
Robert Fugal  
Robert B. Funk  
Josh Gardner  
Steven C. Gibbon  
LeeAnn Glade  
Robert Haight  
Judge David R. Hamilton  
Garrett Handy  
Judge Royal Hansen  
Kent Hansen  
Scott L. Hansen  
Dustin Hardy  
Stewart Harman  
Daniel Harper  
Dani Hartvigsen  
Boyd J. Hawkins  
Jon M. Hogelin  
Jeff Holdsworth  
Joel William Hood  
Jeremy Humes  
Chad W. Hutchings  
Dixie Jackson  
Camille J. Jarvis  
Tyler J. Jensen  
Adriana Johnson  
David Clay Jones  
Lloyd Jones  
Chris Keen  
Mitch Kirkham  
Matthew Koyle  
Judge Michael Kwan  
Alyssa L. Lambert  
Loren Lambert  
Travis Larsen  
James Larson  
Leslie Larson  
Elliot R. Lawrence  
Judge Barry Lawrence  
Kendall G. Laws  
Ben Lear  
Larry Miles LeBaron  
Jake Lee  
Scott W. Lee  
Robert Lochhead  
Bruce Lubeck  
Comm. Kim M. Luhn  
Steve Lundwall

Scott Lythgoe  
Janise Macanas  
Travis Marker  
Judge Scott Matheson, Jr.  
Adelaide Maudsley  
Joyce Maughan  
Joshua Mauss  
Craig McAllister  
Jessica McAuliffe  
Daniel S. McConkie  
Veronica K. McDougal  
Casey McGarvey  
David McKenzie  
Judge Samuel D. McVey  
Larry Meyers  
Michelle Mitchell  
Robert P.K. Mooney  
Marty E. Moore  
Summer Morgenstern  
M. Covey Morris  
David Mortensen  
Felicity Murphy  
Josh Neves  
Kara H. North  
Herm Olsen  
Sarah Olson  
Jacob Ong  
Daniel Ortner  
Ellen Ostrow  
Douglas Oviatt  
Langdon T Owen  
Steve Owens  
Neal W. Pearson  
Chad Pehrson  
Fred Peña  
Brett Peterson  
Jaqualin Friend Peterson  
Christopher Pieper  
Denise M. Porter  
Edward Prignano  
Kevin Probasco  
Judge Derek P. Pullan  
David Reay  
Adam Revelli  
Knute Rife  
Kyle Roche  
Rebecca Rockwell  
Steven Rogers  
Rick Romney  
Judge Noel S.Hyde  
Julie Sagers  
H. Don Sharp  
Sharon S. Sipes  
Tom Sitterud  
L. Monte Sleight  
Michael Smith

Emily A. Sorensen  
Amy F. Sorenson  
David Stevenson  
Charles Stewart  
Ted Stokes  
Martin Stolz  
Charles Stormont  
Virginia Sudbury  
Nancy Sylvester  
Seth Tait  
Patrick L. Tanner  
Douglas Thompson  
E. Gregg Tobler  
Letitia Toombs  
Judge Kate Toomey  
Jenette Turner  
Ginger Utley  
Thomas Vaughn  
Aaron Waite  
Edwin S. Wall  
Gabe White  
Joane Pappas White  
Stephen Whiting  
Liz Whitney  
Colin Winchester  
Craig Winder  
Wesley Winsor  
Daniel M. Woods  
Tyler Woodworth  
Kelly Wright  
S. Wyatt Young  
Kristin Zimmerman



# Tab 2



## UTAH BAR COMMISSION MEETING AGENDA ITEM

**Title:** Lifetime Service Award

Item # 2.1

**Submitted by:** John Baldwin

Meeting Date: October 10, 2014

### ITEM/ISSUE:

To select the Lifetime Service Award Recipient(s)

### CRITERIA:

The Lifetime Service to the Bar Award recognizes lawyers or judges whose esteemed careers have been dedicated to significant involvement in the activities, programs, and leadership of the Utah State Bar and devoted to enriching the legal profession and serving the public. The award was first given in 2006. Recipients have included prominent senior members of the Bar, including twelve past Bar Presidents, three former Bar Commissioners; two with significant involvement in the American Bar Association and one with exceptional involvement in important Bar programs. Past winners were also members of the Utah State Legislature, Federal Court judges, the first Woman Utah Supreme Court Justice, and a founding member of the Utah Court of Appeals who was the first woman Utah State Bar President.

### NOMINEES:

- |                         |   |
|-------------------------|---|
| 1. Ronald C. Barker     | 9. Alan Sullivan (no supporting documentation)      |
| 2. Hon. Dee V. Benson   | 10. John Adams (no supporting documentation)        |
| 3. Lyle W. Hillyard     | 11. Hon. Royal Hansen (no supporting documentation) |
| 4. Louise Knauer        | 12. Bill Bohling (no supporting documentation)      |
| 5. Rodney G. Snow       | 13. Jon Hafen (no supporting documentation)         |
| 6. Hon. Brooke C. Wells | 14. Rob Clark (no supporting documentation)         |
| 7. Hon. James Z. Davis  | 15. Felshaw King                                    |
| 8. Hon. Paul M. Warner  |   |

### PAST RECIPIENTS AND NOMINEES:

Past Recipients	Other Nominations That Year
2012 Hon. Christine M. Durham	
2012 Brian R. Florence	
2011 Francis J. Carney	
2011 Bert L. Dart	
2011 Hon. Pamela T. Greenwood	
2011 W. Eugene Hansen	
2011 V. Lowry Snow	
2011 Francis M. Wikstrom	
2008 Judge J. Thomas Greene	
2008 M. Dayle Jeffs	
2008 Reed L. Martineau	
2008 Joseph Novak	
2006 Harold G. Christensen	
2006 Ray R. Christensen	
2006 James E. Faust	
2006 Hon. Bruce S. Jenkins	
2006 James B. Lee	
2006 Stephen B. Nebeker	

**INFO ONLY:**

**DISCUSSION:**

**ACTION NEEDED: X**



## ***Lifetime Service to the Bar Award***

***2006-2012***

*In recognition of an esteemed career dedicated to significant involvement in the activities, programs and leadership of the Utah State Bar and devoted to enriching the legal profession and serving the public.*

### **18 Total**

74 ½ Average Age at Receipt

### **Notably:**

12 Past Bar Presidents

3 Former Bar Commissioners/Bar Involvement (Nebeker, Jeffs, Wikstron)

2 Significant ABA Involvement (Greene and Durham)

1 Significant Bar Involvement (Carney)

### **Including:**

4 Utah State Legislators (Jenkins, Faust, Jeffs, Snow)

2 Federal Court Judges (Jenkins, Greene)

1<sup>st</sup> Woman Utah Supreme Court Chief Justice (Durham)

1 Founding Member of the Utah Court of Appeals (Greenwood)

1<sup>st</sup> Woman Utah State Bar President (Greenwood)



## Christy Abad

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**From:** Maria Clifford [Maria@barkerlawoffice.com]

**Sent:** Wednesday, September 03, 2014 4:45 PM

**To:** Christy Abad

**Subject:** Lifetime service award

Our office would like to nominate **Ronald C. Barker #0208**.

He has been a member since 1955.

Served on the UPL committee for 10+ years.

One of the few sole practitioner's in the state.

Previously practiced as a CPA and has been in general practice for over 58 years.

Thank you for your consideration.

Maria Clifford, Paralegal  
BARKER LAW OFFICE, LLC

9/17/2014





## Christy Abad

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**From:** Dan Chudleigh [DChudleigh@smith-lc.com]  
**Sent:** Wednesday, September 03, 2014 11:52 AM  
**To:** Christy Abad  
**Subject:** Lifetime Service to the Bar Award Nominee  
Christy,

I would like to nominate Hon. Dee V. Benson for the Lifetime Service to the Bar Award.

Judge Benson has served as a federal judge for 23 years.

As a law school professor at BYU and the University of Utah, he has taught many of the practicing attorneys in Utah.

Judge Benson's legal career has also included private practice, governmental committees, U.S. Attorney, and seven years on the Federal Intelligence Surveillance Court.

A full bio is available at the following link: [http://en.wikipedia.org/wiki/Dee\\_Benson](http://en.wikipedia.org/wiki/Dee_Benson)

Judge Benson has used his legal prowess to serve others throughout his life, and he is a deserving candidate for this honorable award.

Thank you,

**Daniel W. Chudleigh**

Associate

**SMITH LC**

1800 North Broadway, Suite 200

Santa Ana, California 92706

tel: 714.550.7720 | fax: 714.550.1251

[dchudleigh@smith-lc.com](mailto:dchudleigh@smith-lc.com)

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# Dee Benson

From Wikipedia, the free encyclopedia

**Dee Vance Benson** (born August 25, 1948) is a Federal judge and former chief judge for the United States District Court for the District of Utah. He was briefly a professional soccer player. He was nominated as judge by President George H. W. Bush on May 16, 1991, and confirmed by the United States Senate on September 12, 1991. In May 2004, Chief Justice William Rehnquist appointed Judge Benson to the Foreign Intelligence Surveillance Court for a seven-year term.

Benson was born in Sandy, Utah and graduated from Jordan High School. In 1973, he received a B.A. from Brigham Young University, and a J.D. as a member of the charter class of the J. Reuben Clark Law School at Brigham Young University in 1976. That year he also played professional soccer with the Utah Golden Spikers of the American Soccer

League. He later stated that it made him “realize that I didn’t have a future in professional soccer.”<sup>[1]</sup>

From 1976 to 1984, Benson practiced law in private practice. He was a Counsel, U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution from 1984 to 1986. He was a Chief of staff, U.S. Sen. Orrin Hatch from 1986 to 1988. He was a Counsel, Iran-Contra Congressional Investigating Committee in 1987. He was an Associate deputy U.S. attorney general from 1988 to 1989. He was a U.S. Attorney for the District of Utah from 1989 to 1991.

Benson was a federal judge to the United States District Court for the District of Utah. Benson was nominated by President George H.W. Bush on May 16, 1991, to a new seat created by 104 Stat. 5089. He was confirmed by the United States Senate on September 12, 1991, and received his commission on September 16, 1991. Benson served as chief judge of the district from 1999 until 2006.

Currently, Judge Benson presides as a federal judge for The United States District Court located in the Utah District (October 20, 2010).<sup>[2]</sup>

## Contents

- 1 Early life and education
- 2 Legal career
- 3 Judicial career
- 4 Controversial decisions
- 5 Publication
- 6 Selected rulings

## Dee Benson

### Personal information

<b>Full name</b>	Dee Vance Benson
<b>Date of birth</b>	August 25, 1948
<b>Place of birth</b>	Sandy, Utah, United States

### Senior career\*

Years	Team	Apps <sup>†</sup> (Gls) <sup>†</sup>
1976	Utah Golden Spikers	

\* Senior club appearances and goals counted for the domestic league only.

† Appearances (Goals).

- 7 References
- 8 External links

## Early life and education

Judge Benson is a Utah native and current resident. He was born, along with his identical twin brother, Lee Benson, on August 25, 1948 in Sandy, Utah. After graduating from Jordan High School, Mr. Benson attended Brigham Young University in Provo, Utah, where he received a Bachelor of Arts in 1973, majoring in Physical Education with a minor in Political Science. That same year, Mr. Benson became a member of the charter class at the J. Reuben Clark Law School at BYU. While in law school, he served as the editor for the BYU Law Review. Mr. Benson went on to receive his Juris Doctorate in the spring of 1976.<sup>[3]</sup>

In addition to his legal studies, Judge Benson played professionally in the American Soccer League which has since been disbanded. He was a member of Utah's team, The Golden Spikers. With soccer as a passion and an affinity for teaching, Judge Benson started and coached the first soccer team at Hillcrest High School in Midvale, Utah.

## Legal career

Upon graduation from BYU, Benson accepted a position with a Salt Lake City firm then known as Parr, Brown where he stayed less than one year. He was then offered and accepted a position as a litigator with the firm Snow, Christensen and Martineau, where he remained until 1984.<sup>[3]</sup>

During his eight-year tenure at Snow, Christensen, Benson took a two-year leave of absence to accept a position with the construction company Ralph M. Parsons Company based in Pasadena, California. With Ralph M. Parsons, he lived in a developing Saudi Arabian city known today as Yanbu. His duties as legal counsel for Parsons included reviewing contracts as well as handling lawsuits that arose with general contractors and employees. Legally, this was a complex assignment given the fact that there was no official court system and the country generally followed Sharia Law.

From 1984 through 1989, Benson served in various U.S. government posts in Washington, D.C., included:<sup>[3]</sup>

- Counsel to the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution from 1984-1986<sup>[3]</sup> – Notable issues that arose during his employment included The Balanced Budget Amendment.
- Chief of Staff to Senator Orrin Hatch from 1986-1988<sup>[3]</sup>
- Counsel to the Iran-Contra Congressional Investigating Committee<sup>[3]</sup> 1987, where he helped write the minority report with Dick Cheney.
- Associate Deputy Attorney General to Deputy Attorney General Harold G. Christensen; Christensen was his former senior partner at Snow, Christensen<sup>[3]</sup>

In 1989, Benson was appointed U.S. Attorney for the District of Utah. He was recommended to the post by his former boss, Senator Orrin Hatch after the then-U.S. attorney Brent Ward stepped down. (The U.S. Attorney's Office of Utah has compiled historical information on those who have served in this position. Full Interview with Judge Benson regarding his tenure as U.S. Attorney). Benson's recommendation was further supported by Senator Jake Garn and by U.S. Attorney General Richard Thornburgh. He was sworn in under an interim appointment on March 7, 1989. He received a presidential nomination from President George H.W. Bush and confirmation by the U.S. Senate before being sworn in on August 8, 1989. The Senate confirmation was considered uneventful and non-contentious. Benson held this post until 1991.<sup>[3]</sup>

Benson also holds adjunct law school professorships at Brigham Young and the University of Utah law schools, and teaches courses on criminal trial practice and evidence at the respective schools.<sup>[3]</sup>

## Judicial career

In May 1991, Benson was nominated for a federal judgeship to the United States District Court by George H.W. Bush. This seat was new for Utah, created by Congress in 1990, along with 84 others throughout the country. Benson was confirmed by the Senate and began serving on September 16, 1991. He held the position of Chief Judge of the District Court from 1999 to 2007.<sup>[3]</sup>

Through his appointment in 2004 to the Foreign Intelligence Surveillance Court in Washington, D.C., Benson travels to the nation's capital every 10 weeks to participate in court sessions. He will serve in this capacity until 2011 when his seven-year term will expire.<sup>[3]</sup>

Mike Lee, Republican U.S. Senate candidate in 2010 in Utah, served as a law clerk to Judge Benson in 1997.<sup>[4]</sup>

## Controversial decisions

In 2011, Judge Benson sentenced eco-activist Tim DeChristopher to two years in prison for disrupting an oil auction in 2008.<sup>[5]</sup> Benson had barred DeChristopher's defense team from explaining to the jury why he disrupted the auction. Critics have accused Judge Benson for doling a harsh sentence to DeChristopher. Peter Yarrow, the folk singer, and member of Peter, Paul, and Mary, wrote in an editorial for the Los Angeles Times, that DeChristopher's actions were comparable to leaders of the civil rights movement.<sup>[6]</sup>

"Tim is a hero to me," wrote Yarrow. "Throughout American history, acts of civil disobedience have led to change. Think about the Underground Railroad that helped escaped slaves to freedom, or about the courageous actions of people like Rosa Parks, who refused to stay in the back of the bus simply because of their skin color. Without this kind of defiance of unjust laws, our country would likely still be denying people of colour basic freedoms."

In 2012, Judge Benson denied convicted felon Dr. Dewey MacKay's request to remain free pending appeal of his guilty verdict. However, Judge Benson, without objection from the Prosecution, did allow MacKay to remain free pending appeal of Benson's denial.<sup>[7]</sup> Dr. MacKay was convicted in August, 2011 of 40 counts

related to illegally prescribing pain killers. Between 2005-2009 Dr. MacKay prescribed over 3.5 million pills of opiate painkillers.<sup>[8]</sup> During the appeal hearing, Benson said that the jury's verdict had sufficient evidence, but expressed sympathy towards MacKay and his family and stating that the 20-year mandatory minimum sentence issued by Benson was "too long". "It's very easy to get almost teary-eyed over the health issue alone," Benson said. "This is so hard for people who love and admire and respect this man, which is many." Benson told MacKay's family that he "can't even imagine" the "nightmare" they are going through. "It must be like a black cloud," he said. He said that America's jury system is not perfect, but added that jurors in MacKay's case performed their jobs diligently.<sup>[9]</sup> MacKay's attorney's used his failing health and large numbers of prescription drugs he takes as reasons why MacKay should stay out of prison.

## Publication

Judge Benson is the co-author of a textbook on evidence, described by online retailer West Thomson as follows: "This treatise examines each article of the Utah Rules of Evidence in a practitioner-friendly format. The current language and relevant legislative history for each article is presented, followed by checklists and an analytical overview of the Utah case law and United States Supreme Court cases interpreting each evidentiary rule.

Differences that may exist between the state and federal rules of evidence are also outlined."<sup>[10]</sup>

## Selected rulings

**Impact Energy Resources, LLC, *et al.* vs. Ken Salazar, *et al.*: Case No. 2:09-cv-435 and 2:09-cv-440.** This lawsuit was filed by three energy companies along with the Utah counties of Carbon, Uintah and Duchene against Interior Secretary Ken Salazar and related federal authorities. The case involved 77 gas and oil drilling leases that were cancelled by Secretary Salazar in February 2009. The plaintiffs sought to overturn the action by Secretary Salazar. Judge Benson ruled in favor of Salazar because the lawsuit was not filed within the statute of limitations mandating the filing of any challenge within 90 days of the Secretary's decision. He did, however, acknowledge that, "In this case, the secretary exceeded his statutory authority by withdrawing leases after determining which parcels were to be leased and after holding a competitive lease sale." Also in his ruling Judge Benson stated, "The plain language of the Mineral Leasing Act mandates the Secretary of Interior to accept bids and issues leases as part of the competitive leasing process for oil and gas leases. Ultimately though, the plaintiff's claims are time barred."<sup>[11]</sup>

**The United States of America vs. Tim DeChristopher: Case No. 2:09-CR-183.** Tim DeChristopher was indicted in U.S. Federal District Court for bidding on Federal energy leases without intent to pay for them. He claimed that he did so as an act of civil disobedience.<sup>[12]</sup> In March, 2011, after a four-day jury trial, DeChristopher was convicted and "faces up to five years on each of the two counts — disrupting a federal auction and making false statements on federal forms to enter the auction — and up to \$750,000 in total fines. Sentencing was set for June 23. ... Judge ... Benson strictly limited how much the defense could say about federal energy policies and climate change, which Mr. DeChristopher has said in numerous interviews were his primary motivations in going to the auction."<sup>[13]</sup> The prosecutor in the case was Assistant United States Attorney Scott B. Romney.<sup>[12]</sup> On July 26, 2011, Benson sentenced DeChristopher to two years in prison and a fine of \$10,000.<sup>[14]</sup>

**The Salt Lake Tribune, et al. vs. Elaine Chao, The U.S. Secretary of Labor, et al.: Case No. 2:07-cv-739.**

This suit was commenced by several Utah media organizations seeking access to documents relating to the Crandall Canyon mine collapse that killed six miners and three rescue workers in Utah. In dismissing the complaint, Judge Benson noted that, "It is not this court's or any other court's role to make law, only to interpret it." Plaintiffs contended that public access to the investigation would help insure accuracy. Judge Benson stated in his ruling, "The court finds many of these policy arguments persuasive," Benson wrote, but said it was not his place to make such decisions. "While it may be true that requiring all government investigations to be open would result in greater accountability and more accurate information, if such a requirement is to be imposed, it must come from a statute that is debated and passed by Congress and signed into law by the president."<sup>[15]</sup>

**Summum vs. Duchesne City, et al.: Case No. 2:03-cv-1049.** Summum is a religious group that sued the City of Pleasant Grove, Utah for the right to install a monolith containing their core beliefs next to an existing monolith of the Ten Commandments. The group contended that their First Amendment Rights were violated by the existence of the Ten Commandments monument. Judge Benson ruled against the group, holding their right to free speech had not been violated. The case was then appealed and heard by the Tenth Circuit Court who overturned Judge Benson's previous decision. Rather than allow Summum to place their monolith, the City of Pleasant Grove removed the Ten Commandments monolith. The case was then accepted and heard by The Supreme Court of the United States. The Court issued a unanimous ruling (No. 07-665) in favor of the city of Pleasant Grove No. 07-665 on February 25, 2009. The court found that monuments that were privately funded were considered government speech and therefore not in violation of any one group's First Amendment rights. In his opinion, Justice Samuel Alito analogized that, if the law accorded with Summum and its "civil liberties" supporters, New York City would have been required to accept a Statue of Autocracy from the German Empire or Imperial Russia when it accepted the Statue of Liberty from France.

**Caldera vs. Microsoft: Case No. 2:96-cv-645 B.** This case mirrored the much larger anti-trust case against Microsoft in Washington D.C. Utah based Caldera, Inc. brought the anti-trust suit against Microsoft for the anti-competitive practice of encoding Microsoft Windows 95 to only run properly if MS-DOS, a Microsoft product, was being used. Caldera's claim was that this practice unfairly inhibited the competition by eliminating DR-DOS as an alternative. Justice Benson denied 4 Motions for Summary Judgment by Microsoft to have the case dismissed. The case was eventually settled by the parties.<sup>[16]</sup>

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- <sup>2</sup> ^ United States District Court. (<http://www.utd.uscourts.gov/>) (accessed September 20, 2010).
- <sup>3</sup> ^ <sup>a</sup> <sup>b</sup> <sup>c</sup> <sup>d</sup> <sup>e</sup> <sup>f</sup> <sup>g</sup> <sup>h</sup> <sup>i</sup> <sup>j</sup> <sup>k</sup> The United States Attorney's Office District of Utah, "U.S. Attorney's (*sic*) for the District of Utah" (<http://www.justice.gov/usao/ut/history.html#benson>), bio/story of appointment. Accessed September 20, 2010.
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## External links

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- BYU Law Review (<http://www.lawreview.byu.edu/index.htm>)
- Crandall Canyon Mine - Deseret News (<http://www.deseretnews.com/article/700075941/Crandall-Canyon-miner-families-wonder-Why-not-my-loved-one.html>)

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Categories: 1948 births | Living people | American soccer players

| American Soccer League (1933–83) players | J. Reuben Clark Law School alumni

| American Latter Day Saints | Twin people from the United States

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## Christy Abad

---

**From:** Lauren Barros [lrb@lrbfamilylaw.com]  
**Sent:** Tuesday, September 02, 2014 4:35 PM  
**To:** Christy Abad  
**Subject:** Nomination for Lifetime Service Award

Hi Christy

I would like to nominate Louise Knauer for the Bar's Lifetime Service Award. Is there a form that I should complete?

Lauren

**LRBFamilyLaw**  
ATTORNEYS AT LAW

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9/17/2014



## Christy Abad

---

**From:** Katherine E. Judd [KEJ@ClydeSnow.com]  
**Sent:** Tuesday, September 30, 2014 2:59 PM  
**To:** Christy Abad  
**Cc:** John Baldwin; James D. Gilson  
**Subject:** Nomination for Lifetime Service Award - Rod Snow  
**Attachments:** Nomination for Lifetime Service Award - Rod Snow (00657128xB165B).pdf; Rod Snow CV (00657127xB165B).pdf

Dear Christy:

Walt Romney and I am proud to nominate Rod Snow for the Lifetime Service Award. For the Commissioners' consideration, I have attached a letter of nomination and Rod's CV. Please contact me if you have any questions or need additional information. As you will read in my nomination, Rod is an outstanding candidate for this honor and is worthy of full consideration by the Commission.

Best regards,  
Kat

Katherine E. Judd

**ClydeSnow**

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9/30/2014

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‡ ALSO ADMITTED IN COLORADO  
\* ALSO ADMITTED IN NEW YORK  
\* ALSO ADMITTED IN MASSACHUSETTS  
\* ALSO ADMITTED IN CALIFORNIA  
‡ ALSO ADMITTED IN OREGON  
‡ ALSO ADMITTED IN NEVADA

September 30, 2014

Utah State Bar Commission  
645 South 200 East  
Salt Lake City, UT 84111  
Email: cabad@utahbar.org

## Re: Lifetime Service Award to the Bar Nomination of Rodney G. Snow

Dear Commissioners:

Walter A. Romney, Jr., and I are pleased to nominate Mr. Rodney G. Snow for the Lifetime Service Award to the Bar. We can think of few in the legal community who are more deserving of this honor than Rod. He justly deserves recognition for his involvement in the activities, programs, and leadership of the Utah State Bar, devotion to enriching the legal profession, and years of service to the public.

I first met Rod while interviewing in 2006 for a summer clerk position at our law firm. He mouthed to me, "Can you read lips?" I mouthed back, "Yes." He chuckled and then audibly asked in a low, scratchy voice, "Can also speak? I'm not deaf." A bit embarrassed, but instantly taken by his humor, he has become an excellent friend, teacher, mentor, and a great inspiration.

Born in California, but raised and educated in Utah, Rod understood early that to show people respect and consideration produces long, fruitful relationships at all levels whether it be a client, partner, opposing counsel, junior associate, employee, or peer. He's personable, sprinkling just the right amount of (at times irreverent) humor and attentiveness into his approach to people. His personality is nearly impossible to resist, yet he remains completely authentic. It is obvious from the moment you meet this man that he truly enjoys people.

A leader in his profession, Rod has achieved many accomplishments in his 43 years as an attorney. After he graduated from the University of Utah College of Law, his interest in environmental improvement led him to the Environmental Protection Agency in Washington, D.C., where he helped forge lead-free regulations that changed gasoline's makeup and required catalytic converters in cars. As a young lawyer he worked closely with the gasoline and auto industries, as well as the Sierra Club. He claims he knows his

agency did a good job because “when we were done, everyone sued us.” While he loved his time at the EPA, he wanted the trial experience he wasn’t getting, so he took an offer from the U.S. Attorney’s Office in Salt Lake, where he worked for four years in the 1970s.

Sufficiently rooted in Utah, he joined his current law firm, which is now known as Clyde Snow & Sessions, of which he serves as President. In addition to mediation and arbitration for select cases, Rod’s practice consists of complex civil and white collar litigation and in the representation of clients in corporate and commercial cases, anti-trust matters, grand jury investigations, and before state and federal administrative agencies regarding regulatory matters. These agencies include the Environmental Protection Agency, the Securities and Exchange Commission, the Department of Labor, the Drug Enforcement Administration, the Food and Drug Administration, the Department of Homeland Security, and the Department of Justice.

In 1986 Rod was appointed Special Counsel for the Salt Lake County Special Grand Jury empaneled by the Third Judicial District Court. Serving from January 1986 to July 1987, he successfully investigated and prosecuted the Salt Lake County Attorney, certain members of the County Attorney’s staff, and Utah Power & Light Company. Rod was also appointed by the Utah Supreme Court in September 1986 as a Prosecutor *Pro Tempore*, a position he held from September 1986 to July 1987. In that capacity, he prosecuted indictments returned and other activities initiated by the 1986 Salt Lake County Special Grand Jury. Rod has been appointed Special Assistant Attorney General for the State of Utah on several occasions to represent the interests of the state and to investigate alleged violations of law by certain elected officials.

Rod has continuously served the legal community in various ways. He has served as the president of the Utah chapter of the Federal Bar Association. He has served as President of the American Inns of Court I. He has served at the direction of the courts on the Ethics and Advisory Committee, the Utah Supreme Court’s Advisory Committee on the Rules of Criminal Procedure, and on the Governor’s Commission on Criminal and Juvenile Justice. Rod has been appointed twice by former Governor Jon Huntsman as a member of the State Crime Victims Reparations Board (2005-2011). Along with other committee members, Rod created and enforced policies and governed federal funds that were given to crime victims.

While serving as a bar commissioner, Rod helped make Utah one of the first states to adopt a mandatory program for new lawyers in 2009. Rod was a co-chair of the New Lawyer Training Program Committee since its inception in 2006 until 2009, when it received “Committee of the Year” by the Bar. Using Georgia’s program as a model, Rod co-authored Utah’s New Lawyer Training Manual (adopted in 2008). Since then, he has presented on mentoring before Nevada State Bar members and other organizations. Along with others in the community, Rod assisted other states in setting up their NLTP programs. Rod continues to emphasize the responsibility that veteran attorneys have to guide those entering the profession. He has twice been a formal mentor through the Bar’s

program, but has also been a mentor to the attorneys at our firm. He especially enjoys working with those attorneys fresh out of law school. Even in the heat of a case, he doesn't miss teachable moments or opportunities to communicate or coach when needed. In extending an email of appreciation and praise or even just a smile of acknowledgment, he builds confidence and experience in each of us, unaware that we are soaking up his example and expertise.

In 2011, Rod was sworn in as President of the Utah State Bar. In his acceptance speech, Rod spoke about how the lawyer image has been tarnished over time. Some have made the law more of a business than a profession, he said. After reading a definition of a profession – “a group pursuing a common art . . . in the spirit of public service” – he challenged members of the Bar to be people lawyers, not just business lawyers. Recognizing the Bar's work to reestablish a positive image, he simultaneously rallied members of the Bar to take a proactive approach. Members will need to keep up with the changing industry and community needs if they are to be part of the “profession” as it is defined, he said. “There is no better way to improve our image than a return to service,” he said. “I may be the only Bar president to assume the post without a voice box,” Rod said, “and maybe there's a message in that.”

While Bar president, he helped initiate the new pro bono program and he continues to serve on the Pro Bono Commission. Through his efforts, a Pro Bono Commission was created in each of the 8 judicial districts. To date, some 1,400 attorneys have now signed up to accept a pro bono case. With Rod's encouragement and support, Rob Rice spent untold hours getting this project launched. Rod views this as a great accomplishment for the Bar which will assist thousands of individuals who otherwise would be unable to obtain legal services.

Additionally, Rod supported YLD and honored past YLD Presidents with a print of the first responders who died on 9/11. He supported and participated in the Wills for Heroes, Serving Our Seniors, and Tuesday Night Bar programs. While President he launched a new civics education program for high school students which has now been expanded to grade school and junior high school students on Constitution Day. Rod continues to support and advocate for And Justice For All, Utah Legal Services and Legal Aid, and has shown his support through speaking, writing editorials, and fund raising.

In addition to other honors for his practice excellence and service to the profession, Rod has been inducted as a fellow in both the American College of Trial Lawyers and the American Bar Foundation, been named the Utah State Bar's Distinguished Lawyer of the Year (2003), been the recipient of the Federal Bar Association's Distinguished Service Award (2009), and been named a Top 100 Attorney in Utah by Mountain States Super Lawyers (2012).

Despite not being a smoker, Rod was diagnosed with throat cancer in 2002. Others have attested that he was a gifted orator, a man who could move you to tears or engage your attention with a simple inflection change. He was a storyteller, a persuader, a

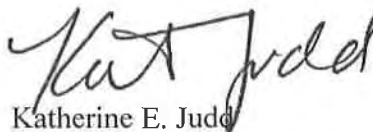
teacher, a singer with a rich tenor—and his voice was a crucial tool. Rod kept working through the cancer treatments. Early on, he'd have the laser treatment or biopsy on Friday and be back to work Monday or Tuesday. When the cancer persisted after removal of his voice box (said to cure 90% of similar patients), he underwent a laryngectomy. Told he'd have a different voice after his surgery, he quips that he hoped for Frank Sinatra's, but got Louis Armstrong's. Rod was in the operating room 28 times, yet maintained his practice and focus during this period of tremendous and repeated challenges.

Finally, Rod has the integrity and moral standing that is often assumed to be absent in this industry. When it's time to get the job done he doesn't just perform the necessary legal tasks at hand, he lives it. Even at age 71, he is often the last to leave the office and still works many weekends—often as the result of his non-billable obligations of service in the community and of his mentoring and teaching efforts within the firm. He is unwavering in his perseverance to give his clients the very best, even if, and perhaps particularly when, those clients are unpopular. Once an issue is brought forward, he sets out to build a team with the expectation that the rules of the game are that we are going to help our client realize the best outcome possible . . . period. Cases after case, he shows his team he trusts them to be professional, hardworking, and creative in ways to stay the course to the end and do the very best for our clients. As a result of his dedication and integrity, the bar gets raised for everyone from his clients to fellow attorneys to the profession in general.

Rod has served as a role model for me, along with countless others who have been the recipient of his wisdom as a professional, volunteer, and a colleague. Please give Rod's nomination your most favorable consideration. We cannot think of a more deserving individual.

Sincerely,

CLYDE SNOW & SESSIONS, P.C.



Katherine E. Judd

IN SUPPORT OF NOMINATION:



Walter A. Romney, Jr

# Rodney G. Snow

Clyde Snow & Sessions, Attorneys at law  
201 S. Main Street, 13th floor • Salt Lake City, Utah 84111  
T: 801.322.2516 F: 801.521.6280  
rgs@clydesnow.com

## Education

- University of Utah, College of Law, Salt Lake City, Utah  
*Juris Doctor, 1971*
- University of Utah, Salt Lake City, Utah  
*Bachelor of Science: Early American History, 1969*

## Professional Experience

- President, Director, and Shareholder of Clyde Snow & Sessions
- Attorney/Advisor, Office of General Counsel: Air Quality and Radiation Division, United States Environmental Protection Agency (1971–73)
- Assistant United States Attorney for the District of Utah (1973–77-lead counsel in over 42 criminal jury trials)
- Special Prosecutor, Utah Supreme Court (1986–87)
- Special Prosecutor, Utah State Bar (1999–2001)

## Honors and Activities

- President, Utah State Bar (2011-2012)
- Fellow, American College of Trial Lawyers
- Fellow, American Bar Foundation
- Co-Chair, Utah Supreme Court New Lawyer Training Committee
- Co-Chair, 2009 Utah State Bar Committee of the Year, New Lawyer Training Committee
- Distinguished Service Award, 2009 Federal Bar, Utah Chapter
- Twice-Elected State Bar Commissioner, Third Division (2005–10); Co-Chair, New Lawyer Training Committee (co-author of New Lawyer Training Manual, adopted by Utah Supreme Court on Dec. 19, 2008)
- Governor Appointee, Crime Victim Reparations Board
- Utah Father of the Year (2005)
- Distinguished Lawyer of the Year, Utah State Bar (2003)
- Master of the Bench, A. Sherman Christensen American Inn of Court I, (1987–present); President (1994–95)

## Publications

- *Education on the Fundamentals of Our Government and Democracy is on Life Support: We Can Help*, Utah Bar Journal (May/June 2012)
- *Lend a "Learned Hand" – Check Yes and Volunteer for a Pro Bono Matter*, Utah Bar Journal (Mar/Apr 2012)
- *Bar Commission Adopts New Policy on Inclusion and Diversity: It is no Longer Black and White*, Utah Bar Journal (Jan/Feb 2012)
- *Baby Boomers Meet Millennials in the Legal Workplace: From Face-lift to Facebook*, Utah Bar Journal (Nov/Dec 2011)
- *Practicing Law, a Profession or a Business?*, Utah Bar Journal (Sept/Oct 2011)
- *50 State Survey of Legal Malpractice Law, Utah*, available at [http://www.abanet.org/litigation/committees/professional/malpractice\\_survey.html](http://www.abanet.org/litigation/committees/professional/malpractice_survey.html) (2009)
- *Is Mandating Disclosure in Your Fee Letter That You do not Carry Malpractice Insurance a Sound Idea?*, Utah Bar Journal (Sept./Oct. 2005)
- *What Lawyers Ought to Know About Legal Malpractice: Recent Trends and Suggestions for Preventing Malpractice Claims*, Utah Bar Journal (Fall/Winter 1985)
- *The Law of Lawyers' Liability, Fifty-State Survey of Legal Malpractice*, State of Utah



**Nomination of Hon. Brooke C. Wells**  
**Utah State Bar's "Lifetime Service to the Bar Award"**

By: Lesley A. Manley & Matthew Willey<sup>1</sup>

In 1984, Judge Brooke C. Wells was one of four women featured in Utah Holiday Magazine in a cover story titled, "Hard Cases: Controversial Women Who Shake the Justice System." The article details not only some of the criminal cases Judge Wells was working on at the time as a criminal defense attorney with the Salt Lake Legal Defender Association, but also demonstrates how she went the extra mile for her clients and endeavored to improve the administration of justice for the underprivileged. Specifically, the article speaks to her approach toward clients. The article states:

[w]hat Wells calls 'the social worker in me' allows her the personal satisfaction of 'providing help for people who couldn't get it otherwise,' of going to court every day and winning one of the ten cases that are not supposed to be won. Many of her clients may have made 'serious errors' in judgment. 'Their sins take a different form than mine. But they are not irredeemable. Some of them become [very] important to me.'

Thirty years later, the "social worker" in Judge Wells has never left. In fact, it is one of the many qualities that make her an exemplary candidate for the Lifetime Service to the Bar Award. In addition to her duties as a Magistrate Judge, Judge Wells was instrumental in the creation of a federal drug court and the first of its kind federal mental health court. Utah's federal mental health court has gained national recognition due in large part to Judge Wells' leadership. She currently presides over both courts and continues to exhibit the same respect and courtesy to the participants in these programs as she did to her criminal defendant clients.

Specifically, Judge Wells makes each participant in drug and mental health court feel important and frequently commends their hard work in trying to turn their lives around. For example, each year Judge Wells coordinates a picnic at Liberty Party for the participants. She also has been known, much to the dismay of the U.S. Marshals' service, to drive some of the participants in her programs to doctor's appointments and on other errands. Sometimes these trips include a stop at Banbury Cross to get "her passengers" a donut for the ride home.

In addition to the mental health and drug courts, Judge Wells is cognizant of the employment barriers offenders often face. Recognizing this, she was instrumental in the creation of the Utah Defendant/Offender Workforce Development initiative ("UDOWD") and co-chaired the advisory board. UDOWD is a collaboration of state, federal and local agencies dedicated to identifying and eliminating barriers to employment. UDOWD has grown to a statewide initiative that has helped hundreds of offenders find employment and reduce rates of recidivism due in large part to the work and leadership of Judge Wells.

Judge Wells' most current project to aide those in the criminal justice system is the District of Utah Evidence-Based Practice Initiative titled ARC, which is short for "Assisting Re-

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<sup>1</sup> Currently, Lesley Manley and Matthew Willey serve as judicial law clerks for Magistrate Judge Brooke Wells.

Entry into the Community.” ARC aims to reduce recidivism by removing barriers to successful rehabilitation opportunities and creating new pathways for success via community support programs. The result will not only enhance the lives of participants but will increase community safety through a sustainable model for the future. This collaborative effort of the U.S. District Court, U.S. Probation, Utah Federal Defenders, Bureau of Prisons, and Dixie State University was created by a standing committee in which Judge Wells is a co-chair and is made up of several subcommittees staffed by representatives from each participating institution. Other districts in the United States are studying the District of Utah’s ARC program and modeling their own programs after it because of the way it provides a concrete way to institutionalize best practices. The creation of ARC would not have occurred without Judge Wells adding to her normal case load, taking the initiative, and becoming the driving force behind this nationally recognized effort.

Judge Wells has made a career of helping those who may find themselves on the wrong side of the criminal justice system. She has dedicated her life to serving and assisting these individuals. The “social worker in her” has made her an outstanding member of the Utah State Bar, an idol of many attorneys and an excellent choice for the Lifetime Service to the Bar Award.

## Christy Abad

---

**From:** Susan B. Motschiedler [SMotschiedler@parsonsbehle.com]  
**Sent:** Tuesday, September 30, 2014 1:20 PM  
**To:** Christy Abad  
**Cc:** Heather Farnsworth  
**Subject:** Women Lawyers of Utah Lifetime Service Nomination Letter

**Attachments:** 2014 0930 Wells Lifetime Service Nomination Letter.pdf



2014 0930 Wells  
Lifetime Servi...

Christy,

I have attached Women Lawyers of Utah Nomination of Chief Magistrate Judge Brooke Wells for the Lifetime Service Award. Please let me know if you have any questions or need any additional information from WLU.

Best,

Susan

Susan B. Motschiedler | Attorney at Law  
201 South Main Street, Suite 1800 | Salt Lake City, Utah 84111 Main 801.532.1234 | Direct  
801.536.6923 | Fax 801.536.6111 parsonsbehle.com

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## WOMEN LAWYERS of UTAH

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September 30, 2014

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Representative

### VIA EMAIL

Christy Abad  
Executive Secretary  
Utah State Bar  
cabad@utahbar.org

Re: Nomination of Chief Magistrate Judge Brooke C. Wells for the  
Lifetime Service to the Bar Award

Dear Christy:

On behalf of the Women Lawyers of Utah, I am pleased to nominate  
Chief Magistrate Judge Brooke C. Wells for the Utah State Bar's Lifetime  
Service to the Bar Award.

In 2003, Judge Wells was appointed as the first woman United States  
Magistrate for the District of Utah. Judge Wells currently serves as the  
Chief Magistrate Judge. Judge Wells received her Bachelors of Science in  
Political Science from the University of Utah and then continued on to  
receive her Juris Doctor, also from the University of Utah. Following  
graduation, she spent three years as a legal services lawyer in San Antonio,  
Texas. She then returned to Utah and worked at Salt Lake Legal Defenders  
Association for fifteen years where she quickly rose to become the chief  
capital-qualified defense attorney in the state, responsible for handling the  
most difficult cases in the criminal justice system. During much of that  
time, Judge Wells was also an Adjunct Professor and Trial Advocacy  
Course Coordinator at the University of Utah College of Law. From 1995  
until her appointment to the bench, Judge Wells served as the Chief of the  
Violent Crimes Division at the United States Attorneys' Office where she  
prosecuted violent crimes and civil rights cases.

Judge Wells is a fearless, committed and compassionate person. She  
was extremely active on the Women Lawyers of Utah Board in the late 80s  
and 90s and worked incredibly hard to help develop the domestic violence  
videos that Women Lawyers of Utah produced and distributed statewide.  
She then used her professional contacts, relationships, influence, charm and  
powers of persuasion to help arrange trainings on domestic violence for the  
Statewide Association of Prosecutors and Police Departments across the  
valley and across the state, which ultimately resulted in the reformation of  
law enforcement's approach to the handling of domestic violence cases,

resulting in greater protection for domestic violence victims. On that same note, she co-authored the Model Police Response Policy for Domestic Violence Calls in Utah.

Judge Wells has given extensively of her time through community service and professional organizations, including the Governor's Commission on Criminal and Juvenile Justice, Women Lawyers of Utah's Implementation Committee for the Gender and Justice Task Force, and as a member of the Board of Trustees for Disability Law Center, Legal Aid Society of Salt Lake, and Community Counseling Center. Judge Wells has also received numerous honors, including American College of Trial Lawyers (First Utah Woman, Inducted 1993), American Board of Criminal Lawyers (First Utah Woman, Inducted 1992), Woman Lawyer of the Year in 1988, and Department of Justice for Outstanding Achievement as an Assistant United States Attorney.

Judge Wells is also passionate about helping inmates reacclimate to society. From 2008 until the present, Judge Wells has presided over two specialized federal court programs. The first program, called RISE (Reentry Independence through Sustainable Efforts), was the only program in the United States, when it started, to have a specialized mental health court docket for people coming out of federal prison with severe mental illness. The mental health defendants have an obligation to attend counseling, take prescribed medications, and report to the court on a weekly basis as a part of their plea in abeyance that keeps them out of prison. Wells said, "It's a positive approach rather than a punitive approach...we're a problem-solving group." She has also been instrumental in a related pro bono project called Help RISE, where volunteer attorneys provide pro bono legal services to these same individuals. The Help RISE program received national recognition at the ABA Annual Conference in August, 2013 by receiving American Bar Endowment's Outstanding Public Service Project Award.

The second and related federal court program is a specialized drug court docket for re-entry for people with severe drug abuse problems. She also chairs a state federal advisory board to attempt to identify and eliminate barriers to employment, where re-entering offenders can meet their obligations instead of returning to prison.

Judge Wells is also an amazing pioneer for women attorneys. She was recognized as the Woman Lawyer of the Year in 1988. She became the first Utah woman inducted into the American Board of Criminal Lawyers in 1992. Also in 1992, Governor Mike Leavitt's Commission for Women and Families named her one of their ten "Remarkable Utah Women." In 1993, she became the first Utah woman to become a member of the American College of Trial Lawyers. Also, after nine years as federal

Christy Abad  
September 30, 2014  
Page 3

prosecutor, she was officially recognized by the Department of Justice for Outstanding Achievement as an Assistant United States Attorney. In 2003, Judge Wells was appointed the first woman United States Magistrate for Utah – a position for which she was uniquely qualified – and, not surprisingly, has distinguished herself again as a jurist.

We believe these achievements demonstrate Judge Wells' significant involvement in the activities, programs, and leadership of the Utah State Bar, and her devotion to enriching the legal profession and serving the public. Thank you for considering Judge Wells for this award.

Sincerely,

*/s/ Susan B. Motschiedler*

Susan B. Motschiedler  
President  
Women Lawyers of Utah

## Christy Abad

---

**From:** Heather Farnsworth [heather@matchfarnsworth.com]  
**Sent:** Tuesday, September 30, 2014 3:05 PM  
**To:** Christy Abad  
**Subject:** Fwd: Re: Women Lawyers of Utah Lifetime Service Nomination Letter

Christy:

I would like to express my support of WLU's nominations for Magistrate Judge Brooke Wells for the Lifetime Service Award. I have also reached out to my sections/committees/colleagues and have been given the Carolyn Nichols as a recommendation. Though I don't have a formal letter, I think she would also be an amazing choice and I would like to nominate her as well.

Thanks,

Heather



On 9/30/2014 1:20 PM, Susan B. Motschiedler wrote:

Christy,

I have attached Women Lawyers of Utah Nomination of Chief Magistrate Judge Brooke Wel

Best,

Susan

Susan B. Motschiedler | Attorney at Law  
201 South Main Street, Suite 1800 | Salt Lake City, Utah 84111  
Main 801.532.1234 | Direct 801.536.6923 | Fax 801.536.6111  
[parsonsbehle.com](http://parsonsbehle.com)

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9/30/2014





**Christy Abad**

**From:** John Baldwin  
**Sent:** Tuesday, August 26, 2014 11:02 AM  
**To:** Christy Abad  
**Subject:** Lifetime Service Award  
**Attachments:** Bio - long.doc

**From:** Herm Olsen [mailto:[herm@hao-law.com](mailto:herm@hao-law.com)]  
**Sent:** Monday, August 25, 2014 1:14 PM  
**To:** John Baldwin  
**Cc:** James D. Gilson; Angelina Tsu; Richard Dibblee  
**Subject:** FW: Lyle Hillyard

John,

Lyle is phasing down his practice after 47 years – the slacker!

But as a member of the Legislature for 33 years, he's been able to aid and assist the Bar in countless ways, mostly behind the scenes. I think he's an ideal candidate for a Lifetime Service Award or a Distinguished Lawyer Award – whichever pays more! Let me know if you have questions, or need further info. Herm

**HERM OLSEN**

*Attorney at Law*

HILLYARD, ANDERSON & OLSEN, P.C.

595 South Riverwoods Pkwy, Suite 100

Logan, Utah 84321

phone 435.752.2610

fax 435.753.8895

toll-free 877.752.2611

e-mail [herm@hao-law.com](mailto:herm@hao-law.com)

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**From:** Tamara Poppleton  
**Sent:** Monday, August 25, 2014 1:10 PM  
**To:** Herm Olsen  
**Subject:** Lyle Hillyard

*Tamara Poppleton*

*Legal Assistant to Lyle W. Hillyard and Ashley E. Bown  
 Attorneys at Law*

595 South Riverwoods Pkwy, Suite 100  
 Logan, Utah 84321

8/26/2014

phone 435.752.2610  
fax 435.753.8895  
toll-free 877.752.2611  
e-mail [tammy@hao-law.com](mailto:tammy@hao-law.com)

<image001.jpg>

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8/26/2014

**LYLE W. HILLYARD**  
595 S. Riverwoods Parkway, Suite 100  
Logan, Utah

**EDUCATION:**

Attended Utah State University and graduated in pre-law with honors in 1965.

Phi Kappa Phi, Honorary Scholastic Fraternity.  
Pi Kappa Alpha, Social Fraternity.

Attended University of Utah, graduated J.D. in top 1/4 of class in 1967.

**EXPERIENCE AND AWARDS:**

President of the law firm of Hillyard, Anderson & Olsen in Logan and have practiced law in Logan since 1967 when I helped establish my own firm.

Member of the Cache County Bar Association, Utah State Bar Association, American Bar Association, sustaining member, American Association for Justice, and American Board of Trial Advocates.

Post-Law School Practical Skills Training Committee, Utah State Bar, 1986.

Member of Executive Board Cache Valley Council Boy Scouts, 1969 to 1994. Member of Executive Board Trapper Trails Council BSA, 1995 to present.

Former Scoutmaster of Troop 79, 1975-1979, and Troop 319, 1984-1985. Former Varsity Scout Coach, 1996-1998. Cubmaster 2001.

First counselor in the Logan, Utah East Stake Presidency, Church of Jesus Christ of Latter-Day Saints (Mormon), 1985 to 1995.

Award of Merit, Old Ephraim District Boy Scouts, 1981.

Award of Silver Beaver – Trappers Trail, 1998.

Director of the Cache Chamber of Commerce from 1975-1978, serving as president 1977.

Received the Distinguished Service Award for Logan Jaycees and was also named as one of the three outstanding young men in the State of Utah by the Jaycees in 1972.

President of Logan Big Blue Club in 1976.

Past chairman of the Cache County Republican Party, 1972-1976.

Past member of the re-election committees for Senator Jake Garn and Senator Orrin Hatch.

Republican Member of Utah House of Representatives, 1981-1984, and served as member of House Standing Committees: Public Education, Rules and Judiciary and Joint Appropriations Subcommittee for Higher Education. Served as Assistant Majority Whip, Executive Appropriations and Management Committees, 1983-1984.

Member of Utah Senate, 1985 to present, and served as chairman of Senate Tax and Revenue Committee, Senate Judiciary Standing Committee, Joint Executive Appropriations Committee, Higher Education Appropriations Subcommittee, and as a member of the Joint Appropriations Subcommittees for Higher Education and for Public Education and of the Senate Rules Committee. Assistant Majority Whip, 1995-1998, Senate Majority Leader 1999-2000. President of the Senate, 2000. Chair Senate Rules Committee, 2002.

Selected by members of the House of Representatives as the most effective Republican Freshman at the end of the 1981 session.

Chosen legislator of the year 1986 by University of Utah students.

Awarded community service recognition by USU student body officers, 1986 and 1995.

Recognized for outstanding service to Bridgerland Area Vocational School, for which the electronic training area was named in his honor.

Vice-Chairman of Utah Education Strategic Planning Commission, Utah State Office of Education, 1987-1991.

Member of the following legislative committees:

- NCSL - 1983-1985 "Law and Criminal Justice"
- 1986-1987 "State and Local Relationships"
- 1989-1990 "Education and Job Training"
- 1993-2002 "Law and Criminal Justice"
  - (Vice Chairman 1996-1998)
  - (Chairman 2001-2002)
- 2001-present "Children's Policy Initiative Advisory Group"
- 2003-present "Communications, Technology & Interstate Commerce Committee"

Western Conference CSG - 1981-1983 "International Relations"  
1985-1986 "Tax and Revenue"  
1987-1989 "Revenue"

1996-present "Legislative Futures" 2000-present  
"Executive Board"

Tax Recodification Commission (Tax Revision  
Commission) - 1984 to present  
Chairman Title "53" Revision Committee - 1983-1987  
Constitution Revision Commission - 1985-1997  
Victims Rights Task Force - 1985-1986  
Family Court Task Force - 1985-1986  
State Republican Party Policy and Issue Committee -  
1986-1990  
Law and Citizenship (Constitution Bicentennial  
celebration) - 1986  
School Fee Advisory Board - 1985  
Grand Jury Task Force - 1986 to 1988  
WICHE Legislative Steering Committee on Regional Policy,  
Utah representative - 1987  
Child Support Task Force - 1987  
Governor's School Finance Incentives Committee - 1987  
Guardianship Task Force - 1987  
Tourism Task Force - 1987  
Member of Council on the U.S. Constitution and Bill of  
Rights - 1989  
Rules of Criminal Procedure Task Force - 1989  
Utah Commissioner on Uniform State Laws - 1995 to present  
Member of Scope & Policy Executive Committee  
Juvenile Court Recodification Chair – 1995 to 1997  
Juvenile Justice Task Force, 1996 to 1998  
Co-chairman of the Education Strategic Planning Commission - 1994 to 1998

Senator Hatch Citizen Advisory Committee, 1979 to present.

Member of Logan Library Board, 1978-1980.

Cache Valley Health Care Foundation Board of Trustees, 1986-1987.

Honorary Colonel Utah Highway Patrol, 1985 to present.

Member of USU Alumni Council and Executive Committee, 1977-1980.

Chairman of Advisory Board KUSU.

Member of Old Main Society, Utah State University.

Member of Dean's Advisory Council, USU College of Business.

Member of Advisory Board, Department of Civil and Environmental Engineering, USU.

Honorary Member of Golden Key National Honor Society.

Named Outstanding Alumnus of Utah State University for 1982.

Distinguished Lawyer in Public Affairs Service, Utah State Bar, 1986-1987.

Named as one of eight outstanding state legislators in the nation by American Legislature Exchange Council for 1987. Past State Chairman of ALEC.

Received the Utah Supported Employment Program Executive Management Team Award for efforts to support and develop services for individuals with handicaps on May 3, 1988.

Recipient of the Distinguished Service Award, Utah State University, 1989.

Representative to the Western Interstate Commission for Higher Education (WICHE) to serve as one of three commissioners representing the State of Utah, 1989-2000. Named to Executive Committee December, 1989 and 1994. Vice Chair, 1997. Chair, 1998.

Received special award from the Executive Director of Options for Independent Living, Logan, Utah, 1990.

Recognized as a friend of the College of HASS, Utah State University, 1990.

Recipient of Master's Advocate Degree from the Utah Governor's Counsel for People with Disabilities, 1990.

Recognized by the Utah Educational Media Association for support of funding for school media centers, 1990.

Recognition by the Utah Chiefs of Police Association, 1993.

Outstanding Service to the Property Tax Administration by the International Association of Assessing Officers of Utah, 1993.

Recognized as "Friend of Agriculture" by Utah Farm Bureau, November 21, 1996.

Received the Cache Chamber of Commerce "Total Citizen of the Year Award" for 1996

Received the 1997 Annual Advocate Award from the Utah Women's Lobby.

Received the Annual Award of the Commission on Criminal Juvenile Justice with outstanding contribution with the Utah Criminal Law in the Juvenile Justice System 1998

Received the "Top Hand Award" from Applied Technology 1998

Received George S. Eccles Ice Center Recognition Award

Received a Presidential Citation from the Aircraft Owners and Pilots Association of America, February 2000

Honored by the Martin Luther King, Jr. Human Rights Commission, October 13, 2000

Member of Utah Opera Board, 1998-2000.

Received the TEAMWORK award from MADD, November 9, 2000

Received the University of Utah College of Engineering Outstanding Service Award 2001

Received the Utah State University College of Agriculture Distinguished Service Award 2002

Received a Recognition award from the Governor's Committee on Employment of People with Disabilities May 6, 2003

Received the Distinguished Legislator Award from the Utah Trial Lawyers Association September 2003.

Received the Public Service Award from NAMI, Utah Cache Valley Affiliate 2003.

Received the Distinguished Service Award from the Utah Association of Realtors 2003.

Received the Utah Highway Patrol Honorary Colonel Excellence Award - June 7, 2006.

Received the Utah Taxpayers Association "Friend of the Taxpayer" Award for 2006.

National Conference of Commissioners on Uniform State Laws 2006 Enactment Winner.

Received recognition from ACEC for Outstanding Support for the Critical Infrastructure Needs

in Utah, 2006.

Received the 2006-2007 “Advocate of the Year” by the George Eccles Ice Center.

Received recognition from the Utah Coalition for Educational Technology for Championing Educational Technology during the 2007 General Session of the Utah State Legislature.

Received the Utah Association of Community Services Award of Appreciation for Dedicated Services for People with Disabilities, October 2007.

Received recognition from the Northern Utah Curriculum Consortium for Sponsoring Extended Day Kindergarten Legislation and Supporting Public Education in the State of Utah, 2007.

Received the Hero on the Hill recognition from the Legislative Coalition for People with Disabilities, July 16, 2007, and June 2, 2011.

Received the 2008 “Service Above Self Award” by the CVM Rotary Club.

Received the Utah Hotel & Lodging Association Legislator of the Year, February 18, 2009.

2009 Recipient of the Mike Styler and Leonard Blackham Legislative Leadership Award.

2010 Utah Association for Marriage and Family Therapy Advocacy Award.

Received the Guardian of Small Business awarded by NFIB Utah on August 13, 2010.

Received the President’s Award for Excellent Service and Dedication to Law Enforcement and The Utah Highway Patrol, June 8, 2011.

Recipient of the Cache Employment and Training Center 1961 – 2011 Award for Dedication and Commitment to the Citizens of Utah and for being Instrumental in Providing Resources for Disability Services throughout the State.

Received the 2011 ASUU Advocate of Higher Education Award.

Named a 2012 Business Champion by Salt Lake Chamber March 29, 2012.

Received the 2012 Legislature of the Year Award from the American Cancer Society.

Received the Executive Award of Merit from the Utah Department of Public Safety September 1, 2012.

Received the 2013 Justice Court *Amicus Curiae* Award (Friend of the Court Award) for



outstanding service to Utah justice courts, judges, and staff.

Received the 2013 Modern Pioneer Award from the National Society of the Sons of Utah Pioneers Temple Fork UP Chapter Board.

Received the Distinguished Legislative Service Award from the Utah Medical Association September 20, 2013

Received the 2014 Outstanding Citizen Award from the Cache Chamber of Commerce.

#### PERSONAL:

Raised in Smithfield, Utah. Parents: Mr. and Mrs. A. Lowell Hillyard.

Married Alice Thorpe, Logan, Utah.

5 children (Carrie, Lisa, Holly, Todd and Matthew) and 15 grandchildren



[About](#)[Self-Help](#)[Records](#)[Publications](#)[Commissioner Conduct Committee. 9/11](#)[Publications of Interest To](#)[Search](#)[Return to Top](#)**JUDGE JAMES Z. DAVIS**

Judge James Z. Davis was appointed to the Utah Court of Appeals by Gov. Michael O. Leavitt in November 1993. He received a law degree from the University of Utah College of Law in 1968. He served in military intelligence in the U.S. Army until 1970. Judge Davis was in private practice from 1971 to 1977, Deputy Weber County Attorney and Weber County Police Legal Advisor from 1973 to 1982, a partner in Thatcher, Glasmann & Davis from 1977 to 1982, and a shareholder and director at Ray, Quinney & Nebeker from 1982 until his appointment to the bench. Judge Davis was president of the Utah State Bar from 1991 to 1992. He completed a two-year term as presiding judge in January 1999.

10/05

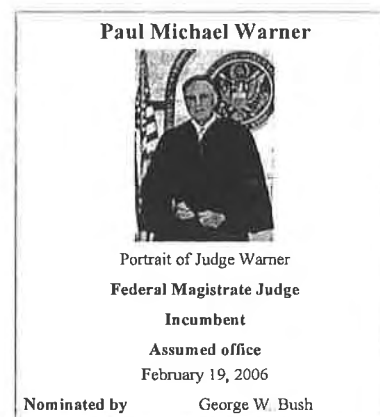
## Paul Warner (judge)

From Wikipedia, the free encyclopedia

**Paul Michael Warner** is a federal magistrate judge for the United States District Court for the District of Utah. He was appointed to this position on February 19, 2006.<sup>[1]</sup>

### Contents

- 1 Early life and education
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  - 2.2 Assistant Utah Attorney General
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  - 2.4 Utah State Bar and service to the legal profession
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  - 4.1 U.S. Attorney/Prosecutor cases
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- 5 Personal life
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### Early life and education

Warner was born in 1949 in Seattle, Washington. He grew up in Salt Lake City, Utah and graduated from East High School. He then served a two-year mission in the Philippines for The Church of Jesus Christ of Latter-day Saints. Warner received his Bachelor of Arts degree in English from Brigham Young University (BYU) in 1973. He graduated in the charter class of the J. Reuben Clark Law School at BYU in 1976. He received a Masters degree in Public Administration from the Marriott School of Management at BYU in 1984. He teaches at the BYU law school as an adjunct professor, teaching criminal trial practice, among other classes.<sup>[2]</sup>

### Legal career

#### Military service

After graduating from law school, Warner served six years as a trial lawyer in the Judge Advocate General Corps of the United States Navy, acting as both prosecutor and defense counsel, and eventually becoming Department Head and Chief Defense Counsel of the Naval JAG in San Diego. He continued his military service and was in the Judge Advocate General Branch of the Utah Army National Guard for 25 years. He retired in 2006 and currently is a Colonel and the State Staff Judge Advocate. He received the Legion of Merit and the Army Meritorious Service Medal with two oak leaf clusters in recognition of his long-term service, including his work in mobilizing members of the Guard for service in Operation Desert Storm.<sup>[3]</sup>

#### Assistant Utah Attorney General

In 1982, Warner was appointed as an Assistant Attorney General of Utah. He served nearly six and one-half years in that office. He was a member of the litigation division for four years, three of which he served as division chief. He then served for two and one-half years as Associate Chief Deputy Attorney General. While employed in the Attorney General's office, he was primarily involved with state law and public policy issues.

Warner worked on numerous high-profile cases, including the Hi-Fi murders. This was a criminal case in which three United States Air Force airmen committed murder, rape, and robbery in the Hi-Fi shop in Ogden, Utah. William Andrews and Dale Selby Pierre took five people hostage at the store and killed three of them. Pierre raped one of the female hostages before killing her. The two who survived had significant injuries. Keith Roberts assisted Pierre and Andrews with the robbery, but not with the other crimes. After the trial, Andrews and Pierre were found guilty and sentenced to death.

Warner also worked on the Arthur Gary Bishop murder cases. Bishop had a history of molesting children for many years before he was caught. His crimes advanced to murder, and he confessed to murdering five young boys from 1979 to 1983. He was tried and found guilty of five counts of aggravated murder, five counts of aggravated kidnapping, and one count of sexually abusing a minor, and was sentenced to death. Bishop was executed by lethal injection at Utah State Prison in Point of the Mountain on June 10, 1988.

#### U.S. Attorney

Warner joined the United States Attorney's Office for the District of Utah in 1989. He held the positions of First Assistant United States Attorney, Chief of the Criminal Division, and Violent Crimes and Hate Crimes Coordinator. On July 29, 1998 he was nominated by President Bill Clinton and supported by Senator Orrin Hatch to be the United States Attorney for the District of Utah.<sup>[4]</sup> Paul Warner was confirmed by the United States Senate and was sworn in on July 31, 1998. He was one of the only two U.S. Attorneys nationwide to be retained by President George W. Bush after Bush's election. Warner's taking office created a vacancy in the Criminal Chief's position, and he appointed veteran prosecutor Richard Lambert to the post. He also named Carlie Christensen as the new Civil Chief. She was the first female division chief in the office's history. He was Chairman of the United States Attorney General's Advisory Committee of U.S. Attorneys from 2001-2003.

Warner was the U.S. Attorney during the September 11 attacks in 2001, and played an important role in advising the government on counter terrorism issues following the terrorist attack. Warner's office had a major role in the security planning of the events during the Salt Lake City 2002 Olympic Winter Games. Because the Olympics were held four months after 9/11, there was a tremendous public safety effort on the federal, state and local level.<sup>[5]</sup> Regarding illegal immigration, Warner had proposed an emphasis on prosecuting aggravated re-entry cases when he was criminal chief. The office's effort expanded over time into cases involving more conduct such as alien smuggling, alien harboring, transporting, and passport fraud. In addition to "Operation Safe Travel" and the commercial driver's license initiative, the Office mounted a consistent on-going immigration enforcement effort.

### Utah State Bar and service to the legal profession

Paul Warner served on the Utah Supreme Court Advisory Committee on the rules of Civil Procedure, and he is on the Utah State Bar Mentoring Committee.<sup>[6]</sup> Paul Warner has been involved in numerous professional organizations, including serving as a Master of the Bench in the American Inns of Court and Chairman of the Board of Visitors for the BYU Law School. He has received multiple military and civilian professional awards, including his election as a Fellow in the American College of Trial Lawyers.

### Judicial career

In December, 2005, Warner accepted an appointment as the fourth United States magistrate judge in the District of Utah. He was sworn in on February, 2006. As a Magistrate Judge, Warner hears discovery disputes and other non-dispositive civil motions and lesser criminal offenses. Under a pilot program adopted by the federal judges in Utah, Warner has presided over civil trials with the consent of all parties.

### Notable cases/rulings

#### U.S. Attorney/Prosecutor cases

In 2002 the U.S. Attorney's Office filed the nation's first-ever Racketeer Influenced and Corrupt Organizations Act (RICO) prosecution of a street gang on drug-related charges. The case was "United States of America v. Tyrese Sharod Smith", 413 F.3d 1253 (10th Cir. 2005). The RICO conspiracy statute proved to be a particularly potent tool against two virulent criminal gangs. Ten members or significant associates of the King Mafia Disciples, a street and prison gang patterned after the Gangster Disciple Nation of Chicago, were indicted in 2002, charged with violations of the RICO conspiracy statute and with violent crime in aid of racketeering activity. KMD members engaged in drive-by shootings, walk-up shootings, home invasion robberies, drug trafficking crimes, and ordering murders from behind prison walls. One of the predicate acts, a murder ordered by the leader of KMD, was committed by members who killed a 19-year-old-boy with a sawed-off shotgun. This boy was mistakenly identified as a member of a rival gang. The leader of KMD was convicted after an eight-day trial and sentenced to life imprisonment. The nine other defendants pleaded and were sentenced to long terms.<sup>[7]</sup>

Litigation involving the Grand Staircase-Escalante National Monument was a significant civil case that was during Warner's time. The case was "Utah Association of Counties v. George W. Bush", 455 F.3d 1094 (10th Cir. 2006). President Clinton's controversial creation of the Grand Staircase-Escalante National Monument turned into litigation as several states-rights advocacy groups sued to have the designation reversed. Division Chief Carlie Christensen headed a team with DOJ attorneys who, in multi-year litigation, gained a favorable judgment in the District Court and an affirmance by the Tenth Circuit.<sup>[8]</sup>

Warner also prosecuted a case involving a bombing at Dixie State College in St. George, "U.S. v. Robert Allen Little, Jr.", 132 F.3d 43 (10th Cir. 1997),<sup>[9]</sup> and a case involving cross burning in Salt Lake City.<sup>[10]</sup> His specialty as a prosecutor was civil rights cases.

#### Magistrate Judge cases

Judge Warner presided over various proceedings in the case "United States of America v. Jeffrey Mowen", 2:09-CR-00098 (Utah 2010), which involved a man who used Morse code to allegedly order murders. Jeffrey Lane Mowen appeared before Warner, seeking a release from custody pending his trial on charges of wire fraud, witness tampering and retaliating against a witness, and solicitation to commit a crime of violence. Mowen had been arrested after scamming investors out of more than \$18 million in a Ponzi scheme. Federal prosecutors stated that Mowen attempted to have four former investors murdered by a white supremacist so they couldn't testify against him while he was in the Davis County Jail. Prosecutors also stated that Mowen used Morse code in one instance to dictate a letter to another inmate ordering the murders. Judge Paul Warner denied Mowen's request for pretrial release.<sup>[11]</sup>

Judge Warner also presided over many drug and child pornography prosecutions. In one case, a TV producer was arrested in 2007 at the Salt Lake City International Airport after child pornography was found in his luggage. Kevin Stewart McMahan was charged in federal court with one count each of possession and transportation of child pornography. Judge Warner agreed to release McMahan from custody pending trial under strict guidelines, such as wearing an ankle monitoring bracelet, because McMahan's job required extensive traveling, and he was not deemed to be a flight risk.<sup>[12]</sup>

Another case involved Idaho State University history professor Thomas Francis Hale who was accused of a hantavirus hoax in 2006. Federal prosecutors said the professor sent a fax suggesting that federal bankruptcy trustee Elizabeth Loveridge should check out the "Hazmat" that would be coming in an orange envelope. A few days later, an envelope arrived with "caution" written on it. There was a note inside that said "Termites or hantavirus from mice?" Assistant U.S. Attorney Trina Higgins said the note was wrapped around what was believed to be termites, and it didn't contain the hantavirus. The note was part of a federal indictment that was handed down against Hale, charging him with making the phony hantavirus hoax, lying to federal authorities and hiding assets during bankruptcy proceedings. Hale was arrested by the FBI's Joint Terrorism Task Force at the Salt Lake City International Airport after stepping off a flight from Chicago. Hale appeared before Judge Paul Warner, and he pleaded not guilty to the charges. Judge Warner ordered Hale to be released from the Salt Lake County Jail with a number of conditions of release, including that he have no contact with Loveridge except through her attorney and that he undergo mental health therapy.<sup>[13]</sup>

In another case, a Southwest Airlines co-pilot faced federal DUI charges in 2006. A federal complaint was filed against Carl Fulton, who was accused of operating a plane under the influence of alcohol. Fulton was pulled from the cockpit of a Southwest Airlines Flight preparing to leave Salt Lake City bound for Phoenix after a Transportation Security Administration screener detected alcohol on his breath. The screener followed Fulton and watched him board the flight. Airport police were called and Fulton was asked to step outside the plane, according to a complaint filed in federal court. Fulton made an appearance before Judge Paul Warner, and he was charged with one count of operation of a common carrier under the influence of alcohol or other drugs. The charge carries a maximum penalty of 15 years in prison and up to \$250,000 in fines.<sup>[14]</sup>

### Personal life

Warner is married and has four children; two boys and two girls.

## Publications and speeches

Warner has given hundreds of speeches, and he has testified before the U.S. Sentencing Commission.<sup>[15]</sup> He has spoken at national conventions on Project Safe Neighborhoods and as at numerous local functions, service clubs, and routine bar presentations. He has been the speaker every year for the past 12 years at Weber State College on the topic of American values and citizenship.

## References

- ↑ Judgepedia, Paul Warner ([http://judgepedia.org/index.php/Paul\\_Warner](http://judgepedia.org/index.php/Paul_Warner))
- ↑ justice.gov Paul Warner (<http://www.justice.gov/usao/ut/history.html#warner>)
- ↑ justice.gov (<http://www.justice.gov/usao/ut/history.html#warner>)
- ↑ Congressional Record (<http://books.google.com/books?id=mN5kIxQc3ecC&pg=PA20535&lpg=PA20535&dq=paul+warner+congressional+record&f=false>)
- ↑ The Free Library (<http://www.thefreelibrary.com/Congress%3A+More+funds+on+the+way+for+security+Olympics-a078907696>)
- ↑ Utah Bar ([http://www.utahbar.org/nlt/assets/Manual\\_April\\_2010.pdf](http://www.utahbar.org/nlt/assets/Manual_April_2010.pdf))
- ↑ Correctionsone, Jailed gang members a potent threat. (<http://www.correctionsone.com/prison-gangs/articles/1843724-Jailed-gang-members-a-potent-threat/%20%20>)
- ↑ The Free Library (<http://www.thefreelibrary.com/Grand+Staircase-Escalante+National+Monument%3A+the+politics+of...-a021130351>)
- ↑ Justia. U.S. Court of Appeals Cases and Opinions. (<http://cases.justia.com/us-court-of-appeals/F3/132/43/469436/>)
- ↑ "U.S. v. Magleby", 420 F.3d 1136, (10th Cir. 2005) (<http://ftp.resource.org/courts.gov/c/F3/241/241.F3d.1306.99-4245.html>)
- ↑ Deseret News (<http://www.deseretnews.com/article/700006611/Prosecutor-Accused-Lindon-con-man-Jeffrey-Mowen-used-Morse-code-to-order-murders.html>)
- ↑ Deseret News (<https://secure.deseretnews.com/article/660227209/Judge-releases-TV-producer-in-child-porn-case.html>)
- ↑ Deseret News (<http://www.deseretnews.com/article/650218727/Idaho-professor-is-accused-of-hantavirus-hoax.html>)
- ↑ [1] ([http://findarticles.com/p/articles/mi\\_qn4188/is\\_20060711/ai\\_n16527243/](http://findarticles.com/p/articles/mi_qn4188/is_20060711/ai_n16527243/))
- ↑ United States Sentencing Commission. ([http://www.uscc.gov/hearings/2\\_25\\_02/warner.PDF](http://www.uscc.gov/hearings/2_25_02/warner.PDF))

## External links

- Utah State Courts (<http://www.utcourts.gov/judgesbios/>)
- Utah State Law Library ([http://www.utcourts.gov/lawlibrary/blog/2010/06/how\\_utah\\_judges\\_are\\_selected.html](http://www.utcourts.gov/lawlibrary/blog/2010/06/how_utah_judges_are_selected.html))
- Congressional Record ([http://books.google.com/books?id=mN5kIxQc3ecC&pg=PA20535&lpg=PA20535&dq=paul+warner+congressional+record&source=bl&ots=6\\_9n6itbl5&sig=mxgwwvPJPhGKjEKnV72DZvuYGaqU&f=false](http://books.google.com/books?id=mN5kIxQc3ecC&pg=PA20535&lpg=PA20535&dq=paul+warner+congressional+record&source=bl&ots=6_9n6itbl5&sig=mxgwwvPJPhGKjEKnV72DZvuYGaqU&f=false))
- U.S. Attorneys for the District of Utah (<http://www.justice.gov/usao/ut/history.html#warner>)

Retrieved from "http://en.wikipedia.org/w/index.php?title=Paul\_Warner\_(judge)&oldid=615318603"

Categories: American Latter Day Saints | American Mormon missionaries in the Philippines | Living people | American judges

United States Attorneys for the District of Utah | J. Reuben Clark Law School alumni | Marriott School of Management alumni | 20th-century Mormon missionaries

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## *Second Division Candidates*



**FELSHAW KING**

During my time as a Commissioner the Bar has adopted many programs to help its members. My role as a Commissioner has been helpful in establishing these programs:

1. Casemaker.
2. A diversion program with the Office of Professional Conduct (OPC).
3. Counseling Program for members and families.
4. New Lawyer mentoring program.
5. New lawyer referral program.

The Commission has helped defeat legislation which could adversely affect the legal profession. A new challenge now on the horizon is sales tax on legal services. As a former legislator I can provide insight into the legislative process and continue to strengthen the Bar's relationship with the Legislature.

As you may know, there is a proposal not to replace a retiring judge in the Second District. We should contact our legislators to oppose this plan and the Bar should support us.

As a Commissioner I have worked to help solo practitioners and small firms. It has been a great experience to serve as a Commissioner. It would be an honor to serve an additional term and I ask for your support and vote.





# Tab 3



# UTAH BAR COMMISSION MEETING

## AGENDA ITEM

**Title:** Professionalism Award Selection

Item # 2.2

**Submitted by:** John Baldwin

Meeting Date: October 10, 2014

### ITEM/ISSUE:

To select the Professionalism Award recipient.

### CRITERIA:

The Professionalism Award recognizes a lawyer or judge whose "deportment in the practice of law represents the highest standards of fairness, integrity, and civility." The award was first given out in 2004 and includes a list of prominent members of the Bar who have exhibited the type of truthfulness, reliability, and honor which is held as a standard among their peers.

### NOMINEES:

- |                     |   |
|---------------------|---|
| 1. Greg Bell        | 7. Jim Jardine (no supporting documentation)        |
| 2. Martin Blaustein | 8. John Adams (no supporting documentation)         |
| 3. R. Bruce Johnson | 9. Phillip Ferguson (no supporting documentation)   |
| 4. Stuart Schultz   | 10. Rob Clark (no supporting documentation)         |
| 5. Laura Scott      | 11. Sharon Donovan (no supporting documentation)    |
| 6. John A. Snow     | 12. Bill Bohling (no supporting documentation)      |
|                     | 13. Hon. Royal Hansen (no supporting documentation) |
|                     | 14. Matt Durrant (no supporting documentation)      |

### PAST RECIPIENTS AND NOMINEES:

Past Recipients		Other Nominations That Year
2013	William S. Britt	Greg Bell
2012	Paul M. Durham	
2011	T. Richard Davis	T. Richard Davis Judge Glenn K. Iwasaki Sean Reyes
2010	Timothy B. Anderson	Richard Gunnarson
2009	Craig Mariger	Timothy B. Anderson T. Richard Davis
2008	Ellen Maycock Don Winder	
2007	Francis J. Carney	
2006	Bert L. Dart, Jr.	Victoria Kidman
2005	Hon. Richard C. Howe	Ray R. Christensen
2004	Ken Chamberlain M. Dayle Jeffs Stephen B. Nebeker Richard W. Campbell Hon. Gordon J. Low	Gary N. Anderson Carol Clawson Ray R. Christensen Ken Anderton Bill Schultz George Hammond Gayle McKeachnie

**INFO ONLY:**

**DISCUSSION:**

**ACTION NEEDED: X**



## Christy Abad

---

**From:** Dave Gessel [Dave@utahhospitals.org]

**Sent:** Tuesday, September 16, 2014 2:07 PM

**To:** Christy Abad

**Subject:** <no subject>

I would like to nominate Greg Bell for the professionalism award. Let me know if I need to do more.

Dave Gessel  
Bar #5954

9/17/2014



July 22, 2014

Utah State Bar Association  
Attn: Christy Abad  
645 South 200 East, Ste. 310  
Salt Lake City, UT 84111

Re. 2014 Fall Forum Awards

Dear Ms. Abad:

Please accept the following nominations for the 2014 Fall Forum Awards:

Outstanding Pro Bono Service Award: CarolSue Crismon  
Distinguished Community Member Award: Angilee Dakic  
Professionalism Award: Martin Blaustein

CarolSue Crismon is a staff attorney at Utah Legal Services, Inc. in the Pro Bono Law Division. CarolSue has headed the Pro Bono Division for the past four years. She has assisted clients on a pro bono basis in numerous civil domestic cases involving divorce and custody, domestic violence, protective/restraining orders, stalking injunctions, bankruptcy, and she is highly involved with the Pro Bono Institute. CarolSue works with the State Bar Association and coordinates pro bono attorney-client relationships to ensure that low-income Utahns have adequate representation and equal rights to justice in their vital legal matters. Therefore, CarolSue Crismon is an exceptional candidate for the Outstanding Pro Bono Service Award.

Angilee Dakic is a staff attorney at Utah Legal Services, Inc. in the Native American Tribal Law Division. She assists members of the five Native American Tribes throughout the state of Utah. Angilee logs extensive hours traveling to the various reservations throughout the state and represents clients in Tribal Courts, as well as State District Courts. Angilee also provides community education to the adults and children of the Tribes. Angilee attends activities and holds law clinics at the local Urban Indian Community Walk-In Center in Salt Lake City to ensure that Native American members of our Community have access to legal assistance and representation. Therefore, Angilee Dakic is an exceptional candidate for the Distinguished Community Member Award.

Martin Blaustein is a staff attorney at Utah Legal Services, Inc. in the Housing Law Division. Martin has assisted landlords who have difficulty with their tenants in housing matters. Martin also represents tenants who have legal causes of action against landlords who provide inadequate housing and living conditions for tenants, or fail to timely respond to deteriorating property conditions and problems that have or could become a health risk. Martin displays a heightened level of Professionalism and courtesy to all clients, court staff, opposing counsel, opposing parties, and local housing officials and agencies despite this difficult area of practice. Martin has been featured multiple times in published articles, as well as on the local news programs for his dedication to the practice and the professionalism that he possesses. Therefore, Martin Blaustein an exceptional candidate for the Professionalism Award.

These nominations are made in hopes of recognition of the hard-working individuals at Utah Legal Services Inc., at the Community Legal Center.

Sincerely,

Anonymous





## Christy Abad

---

**From:** Jan Marshall [janmarshall@utah.gov]  
**Sent:** Wednesday, September 17, 2014 9:51 AM  
**To:** Christy Abad  
**Subject:** Professionalism Award Nomination

Hi Christy,

I would like to nominate R. Bruce Johnson. He is the current chair of the Utah State Tax Commission, to be replaced by Sen. John Valentine at the end of this month. As Chair, Bruce has had a lot of oversight in increasing the efficiency of the appeals unit, in trying to provide swift resolution for the administrative appeals. Prior to being appointed Chair, Bruce supervised the ALJs who primarily hear the administrative appeals with the Tax Commission. I do not know what, if any, other information you might need. Here is a link to his bio: <http://www.utah.gov/governor/cabinet/appointments-johnson.html>

Thanks,  
Jan

9/17/2014

## R. Bruce Johnson, Commissioner Tax



Bruce Johnson was appointed to serve as a commissioner of the Utah State Tax Commission in October 1998 and was named Chair of the Commission in 2009. The Tax Commission is comprised of four commissioners who have the constitutional duty to administer and supervise all of the tax laws of the state, including property tax, income tax, franchise tax, sales tax and all miscellaneous taxes. The Commissioners promulgate rules, advise the legislature and governor on tax issues, and adjudicate tax disputes. The Auditing Division and the Taxpayer Services division handle audits and refund request respectively. The Processing Division processes income tax returns and payments as well as filings for most other taxes. The Division processed over \$6.8 billion in 2012. The Property Tax Division assesses most utility and natural resources properties in the state and assists and advises County assessors in assessing other property. In addition, the Commission's Motor Vehicle Division is responsible for registration and titling of motor vehicles in the state and the Motor Vehicle Enforcement Division is responsible for regulating the motor vehicle sales industry.

Johnson currently serves as President of the Federation of Tax Administrators. He is a past chair of the Multistate Tax Commission, where he currently serves on its Executive Committee. He was the founding national Co-chair of the Streamlined Sales Tax Implementing States and has served on the Executive Committee of the Governing Board. He was a member of former Governor Olene Walker's Tax Advisory Group and was the principal draftsman of Governor Walker's Recommendations on a Tax Structure for Utah's Future. He is also a member of the Utah Tax Review Commission, a former Board Member of the National Tax Association and past chair of the American Bar Association Tax Section Committee on State and Local Taxes. He received the Outstanding Trial Attorney Award from the Department of Justice.

Prior to his appointment, Johnson was a partner in the law firm of Holme Roberts & Owen LLP, where he litigated state and local tax disputes and advised clients on state and local tax issues, tax exemption issues and issues relating to tax exempt municipal financing. Before joining Holme Roberts, he was a trial attorney for the Tax Division of the U. S. Department of Justice.

Johnson graduated from the University of Utah with a degree in accounting, cum laude, and is a Certified Public Accountant. He received his law degree, magna cum laude, from Brigham Young University, where he was a J. Reuben Clark Scholar.

Johnson and his wife have been happily married for 36 years and have two children. They lived in the Washington, D.C. area and Denver, CO, but always return to their Utah roots. Johnson's second great grandfather came to Utah in 1847 and served several terms as Utah's territorial delegate to the U.S. Congress.

**From:** Traci Gundersen [mailto:tagunder@gmail.com]  
**Sent:** Thursday, October 02, 2014 9:55 AM  
**To:** John Lund; cabad@utahbar.org  
**Subject:** Re: Lifetime Service to the Bar and Professionalism Award Criteria

I may have missed the deadline to nominate someone for the professionalism award. I sent an email to the entire Admin section, and if it is not too late, the Admin Section would like to nominate R. Bruce Johnson, who is completing 16 years service on the Utah State Tax Commission, for the Professionalism Award.

One of the admin section members stated, "I believe that most practitioners in the world of administrative law will agree that Bruce is a paragon of truthfulness, reliability and honor."

If it is too late, I apologize. If it's not too late, please consider him.

Thanks,

Traci



## Christy Abad

---

**From:** Susan B. Motschiedler [SMotschiedler@parsonsbehle.com]  
**ent:** Tuesday, September 30, 2014 6:16 PM  
**To:** Christy Abad  
**Cc:** Heather Farnsworth  
**Subject:** WLU Nomination for Utah State Bar's Professionalism Award

**Attachments:** 2014 0930 L Scott Professionalism Award Nomination Letter (2).pdf



2014 0930 L Scott  
Professionalism...

Christy,

I have attached Women Lawyers of Utah's nomination for Laura Scott for the Bar's Professionalism Award. Please let me know if you need any further information regarding Ms. Scott.

Best,

Susan

Susan B. Motschiedler | Attorney at Law  
201 South Main Street, Suite 1800 | Salt Lake City, Utah 84111 Main 801.532.1234 | Direct  
801.536.6923 | Fax 801.536.6111 parsonsbehle.com

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## WOMEN LAWYERS of UTAH

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September 30, 2014

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Representative

### VIA EMAIL

Christy Abad  
Executive Secretary  
Utah State Bar  
cabad@utahbar.org

Re: Nomination of Laura S. Scott for the Professionalism Bar Award

Dear Christy:

On behalf of the Women Lawyers of Utah, I am pleased to nominate Laura S. Scott for the Utah State Bar's Professionalism Award. Over her entire career, Laura has always exhibited the highest standards of fairness, integrity and civility. Laura concentrates her very active litigation practice on real estate and banking litigation, and her cases often involve parties whose animosity towards one another is long standing. Laura's professionalism benefits both her own clients as well as opposing parties by helping the parties to reach an agreeable solution despite their differences. One opposing counsel said of Laura:

Laura is a delightful person and was great to work with on this case. It was a difficult matter because the clients clearly hated each other from the very beginning (and still do) but Laura was (as always) great to work with and very professional. With her help we were both able to pull the clients back from the brink of a nasty trial. This saved both clients a lot of time, money and aggravation. I was very happy working with her on the case, and I would love to have her as opposing counsel anytime in the future.

A fellow partner at Parsons Behle & Latimer, after working with Laura on a difficult case that culminated in a four-day trial, said of her experience with Laura:

Laura is not only articulate and civil but she possesses one of the most thoughtful minds I have seen in action and her comments and responses in trial were always three steps ahead of opposing counsel.

The opposing party in that case was so impressed with Laura's professionalism and skills that, at the end of that trial, he came over to shake Laura's hand and ask if he could hire her the next time he needed a lawyer.

In addition to exhibiting high levels of professionalism, Laura is also devoted to helping the legal community maintain high standards of professionalism and ethics. Laura has long been involved in the Utah Ethics and Disciplinary Committee. Laura is a past screening chair for the Utah Ethics and Disciplinary Committee, as appointed by the Utah Supreme Court. She is currently Vice Chair of the entire Committee—a thankless and difficult job in self-policing Bar Members that takes an enormous amount of time and discretion. She is also an active member and past President of the Salt Lake County Bar, where she not only coordinated significant CLE programs but also promoted and emphasized the very important congeniality of the Salt Lake Bar, which not only makes members enjoy and embrace their profession but also promotes civility, professionalism, and trust among colleagues.

Finally, in addition to being an outstanding example of professionalism, Laura is an invaluable mentor to others and is always available for consultation. I myself have sought Laura's counsel when in a particularly difficult situation involving opposing counsel and client expectations. Though clearly busy and always working on important bar and firm projects, Laura's door was open and she took the time to discuss at length my particular quandary and had excellent advice on how to both represent my client's interest and maintain my professionalism and ethical standards.

In support of Laura, Judge Dever has succinctly summed up why she is the perfect recipient of this award:

I have known Laura Scott for over 10 years. I have always found her to be the consummate professional. It is not that she does her job and does it well, that should be a given for all attorneys. What she does is to go above and beyond in offering help to others; aiding those younger attorneys in learning the ropes and helping organizations get the representation that is needed. She is a role model. I am pleased to add my voice to those that are recommending she be recognized for her professionalism.

Women Lawyers of Utah believes Laura's consistent and longstanding professional demeanor, as well as her devotion to helping the legal community maintain high standards of professionalism and ethical behavior, make Laura the ideal candidate for the Utah State Bar's Professionalism Award, and enthusiastically support her nomination. We

Christy Abad  
September 30, 2014  
Page 3

appreciate the Bar's consideration of Laura for this award.

Sincerely,

*/s/ Susan B. Motschiedler*

Susan B. Motschiedler  
President  
Women Lawyers of Utah



## Christy Abad

---

**From:** Danielle S. Davis [ddavis@Strongandhanni.com]  
**Sent:** Wednesday, September 03, 2014 11:28 AM  
**To:** Christy Abad  
**Cc:** Cathy Larson; Robyn Dotterer  
**Subject:** Professionalism Award  
**Attachments:** Professionalism Award- SHS.pdf

Hi Christy –

My firm nominated Stuart Schultz for the Lawyer of the Year Award and during that discussion, Jim suggested that Stuart would be a good candidate for the Professionalism Award as well. So, I am resubmitting for this award. Let me know if you need anything else from me on this.

Thanks!

Danielle S. Davis, CP  
Certified Paralegal  
STRONG & HANNI  
102 South 200 East, Suite 800  
Salt Lake City, UT 84111  
(801) 532-7080  
(801) 596-1508 Fax  
[ddavis@strongandhanni.com](mailto:ddavis@strongandhanni.com)  
[www.strongandhanni.com](http://www.strongandhanni.com)



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KENT M. BROWN<sup>4</sup>

PETER H. BARLOW<sup>4</sup>  
MICHAEL L. FORD<sup>3,4</sup>  
GRADEN P. JACKSON<sup>2</sup>  
H. SCOTT JACOBSON  
MICHAEL J. MILLER<sup>4</sup>  
ANDREW D. WRIGHT  
BYRON G. MARTIN<sup>9</sup>  
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SADÉ A. TURNER<sup>4</sup>  
CASEY W. JONES  
RYAN C. BULLOCK  
MICHAEL A. STAHLER<sup>5,7</sup>  
R. ROMAN GROESBECK  
CHET W. NELSON<sup>1</sup>  
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KATHRYN T. SMITH  
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1 ALSO MEMBER CALIFORNIA BAR  
2 ALSO MEMBER COLORADO BAR  
3 ALSO MEMBER DISTRICT OF COLUMBIA BAR  
4 ALSO MEMBER IDAHO BAR  
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6 ALSO MEMBER OREGON BAR  
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June 19, 2014

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

Re: Lawyer of the Year

Dear Commissioners:

Strong & Hanni Law Firm would like to nominate Stuart H. Schultz for Lawyer of the Year. As will be addressed below, Stuart is eminently qualified for this award.

Stuart is a phenomenal lawyer. He has the communication skills of an orator, the writing skills of a scholar and the ability to present a clear and compelling case to a judge in a bench trial, jury trial, mediation or arbitration. He is an excellent litigator. He has tried numerous cases in Utah's state and federal courts. He is skilled beyond description in his abilities and his preparation.

Stuart works primarily in the areas of insurance defense, with much of his work in the area of legal malpractice defense. These cases involve complex litigation. Not only must Stuart address the legal malpractice issues, he must first obtain a working knowledge and intimate understanding of the underlying case from which the legal malpractice claims arise. He has the ability and expertise to understand the entirety of a case of which he had no involvement. He then has the expertise to determine the standard which would apply for an attorney handling such complexities. Stuart is also heavily involved in defending claims of insurance bad faith. Such matters involve in depth legal issues, arguments and defenses. These cases are often discovery intensive, resulting in the filing of complex and lengthy dispositive motions and memoranda – many for summary judgment or dismissal. Stuart has had extraordinary success in having bad faith claims summarily dismissed.

Stuart is the consummate professional and exhibits the highest qualities of good character in all of his actions. His careful attention to the honesty in which he records his billing time is

*Commissioners- as a follow up to the  
discussion on the Lawyer of the Year Award, I  
would like to resubmit this nomination for  
consideration for the Professionalism Award.  
Thank you. Danielle Davis*

SALT LAKE OFFICE — 102 SOUTH 200 EAST, SUITE 800, SALT LAKE CITY, UTAH 84111

SANDY OFFICE — 9350 SOUTH 150 EAST, SUITE 820, SANDY, UTAH 84070

June 19, 2014

Page 2

used as an example in the whole firm. If any question arises as to time spent on a project, Stuart invariably errs on the side of his client's benefit rather than his own. Stuart is very careful to always do what he tells opposing counsel he will do and does not make excuses or prevaricate when he finds himself in a position of having to request an extension or admit to a mistake. His character is one of integrity, honesty and dependability. Strong and Hanni is very fortunate to have Stuart as one of their senior shareholders and litigators.

Stuart is unmatched in civility and professionalism in our community. Even under the most adversarial circumstances, Stuart never fails to remain calm and composed. He has always handled himself with the utmost courtesy, regardless of the behavior of opposing counsel. Even with court filings in which opposing counsel has attacked his character personally, he responds with legal argument and facts, rather than responding in kind. Stuart has always maintained the standards of civility that the courts have requested and he is a role model for all of his colleagues. One of Stuart's partners, Paul M. Belnap, states that over the last few years as the courts have placed an emphasis on civility, if there is anyone who is an example of that practice, it is Stuart. He goes on to state that Stuart has the ability to be a good lawyer and not give away any of his case while being courteous and civil. This is a quality befitting Lawyer of the Year.

Stuart's professionalism extends to his partners, associates, paralegals and staff that work with him. He makes it a point to thank them for their hard work and contributions on his cases. Despite his decades of practice, Stuart understands the issues surrounding young lawyers and counsels and mentors them regularly.

Stuart has become the in house expert on conflict of interest issues and standards of the Rules of Professional Conduct. He is the "go to" person for any such issues and despite his very busy practice, he is always happy to sit down and have an in depth conversation.

Stuart has a way about him that puts others at ease. His sense of humor is always available to lighten tensions in a stressful situation. He is able to work well with other lawyers and be friendly and cheerful in what could otherwise be very trying circumstances. He has the ability to laugh at himself and find humor in almost any situation. He is sometimes quiet, but when least expected, he will come up with a comment or remark to lighten a situation.

Stuart is a pleasure to work with, particularly on the complex and difficult cases. The paralegals at Strong and Hanni are always happy to be assigned to work with Stuart and look forward to the opportunity. One of the senior paralegals at Strong and Hanni, Robyn Dotterer, states that the opportunity to work with Stuart is one of the joys of working in the legal profession. "It does not seem to matter how difficult opposing counsel is being, Stuart is always able to lighten the tension and bring everything back into focus. He can keep his calm under the most difficult situation and then find something to joke about and turn it from serious to absurd. In a profession that can be very stressful, Stuart is a natural antidote. I love to work with him."

Even though Stuart has a large and very busy practice, he has always included Bar service in his work load. He is currently serving on the Fee Arbitration Committee and the

June 19, 2014  
Page 3

Supreme Court Advisory Committee on Rules of Professional Conduct. He has also served on the Jury Instruction Committee in the past and has been a mentor for new lawyers more than once.

Stuart loves to teach, within and outside of Strong & Hanni. In fact, he used his own time to prepare materials for and serve as the visiting professor in civil litigation at Dnipropetrovsk State University for Internal Affairs in Dnipropetrovsk, Ukraine, from October 10-21, 2012, through the Center for International Legal Studies. This was a phenomenal experience for him and for which he likely gave far more than he received.

The list of reported cases that Stuart has been involved in is lengthy and rather than include them in this letter, they are noted in the Curriculum Vitae that is attached.

Needless to say, every member of the Strong & Hanni law firm has the utmost respect, regard, admiration, and fondness for Stuart, both in his personal and professional capacity. He is a genuinely admirable person with qualities to which all attorneys should aspire. Stuart's legal abilities and personal character are revered and respected. He is truly an example to be followed. We are very proud to nominate Stuart Schultz as Lawyer of the Year.

Very truly yours,

STRONG & HANNI

*Electronically signed by CML on 6/19/2014*

By: \_\_\_\_\_  
Catherine M. Larson  
Managing Shareholder

CLM/jrd

**Christy Abad**

**From:** Brady Brammer [bbrammer@vancott.com]  
**Sent:** Wednesday, September 03, 2014 11:08 AM  
**To:** Christy Abad  
**Subject:** Nomination

Christy,

I would like to nominate John A. Snow for the Utah State Bar Professionalism award. He has been a positive influence and example for me and many others of the fairness, integrity and civility that all attorneys should show towards the practice of law and the participants in that practice.

Please contact me if there is any additional information I can provide.

Best regards,

**BRADY BRAMMER**  
ATTORNEY



**VAN COTT, BAGLEY, CORNWALL & MCCARTHY, P.C.**

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9/17/2014

## Christy Abad

---

**From:** Steve Christiansen [Steve@SKClawfirm.com]  
**Sent:** Wednesday, September 03, 2014 11:32 AM  
**To:** Christy Abad  
**Subject:** Nomination for Professionalism Award

**Attachments:** PastedGraphic-4.tiff



PastedGraphic-4.tiff (3 KB)

I nominate John Snow at Van Cott, who has been practicing the way law should be practiced since the early 1970s: <http://www.vancott.com/attorneys/john-a-snow>

[cid:5B490801-9633-43AA-AD04-C8A60B9B2E1F@Home]  
[www.skclawfirm.com](http://www.skclawfirm.com)<<http://www.skclawfirm.com>>

# Tab 4





# UTAH BAR COMMISSION MEETING

## AGENDA ITEM

**Title:** Community Member of the Year Award Selection

Item # 2.3

**Submitted by:** John Baldwin

Meeting Date: October 10, 2014

### ITEM/ISSUE:

To select the Community Member of the Year Award recipient.

### CRITERIA:

Presented to a community member to recognize outstanding service toward the creation of a better public understanding of the legal profession and the administration of justice, the judiciary or the legislative process. To recognize a community member who over a period of time have served or assisted the legal profession in a significant way - has offered outstanding contributions of their time and talents to bar activities.

### NOMINEES:

*None*

### PAST RECIPIENTS AND NOMINEES:

Past Recipients	Other Nominations That Year
2013 Robert Austin	Robert Austin, Steve Burt
2012 Mary Kay Griffin	Prof. Marianna Di Paolo Robert Austin
2011 Robert Myrick	Third Judicial Nominating Commission
2010 Linda Sappington	
2009 Karen Hale	
2008 Carma J. Harper	
2007 Daniel J. Becker	
2006 Donna K. W. Johnson	Dominique Meier
2005 Rev. Mr. France A. Davis	
2004 Peggi Lowden	
2003 Fraser Nelson	Bonnie Miller
2002 Sylvia Bennion	
2001 Jo Brandt	Sherrie Hayashi; Ethics Advisory Opinion Committee <i>Individual</i> Members
2000 Jennifer Yim	
1999 Ray O. Westergard	
1998 John Florez	
1997 Margaret R. Bird	
1996 Sherianne S. Cotterell	
1994 Ray O. Westergard	
1993 Lyle K. Campbell	
1992 Stanley B. Bonham	
1991 Norma W. Matheson	
1990 KSL	

**INFO ONLY:**

**DISCUSSION:**

**ACTION NEEDED: X**



# Tab 5



**UTAH BAR COMMISSION MEETING  
AGENDA ITEM**

**Title:** Outstanding Mentor Award Selection

**Item:** #2.4

**Submitted by:** John Baldwin

**Meeting Date:** October 3, 2014

**ITEM/ISSUE:**

To select the 2014 Outstanding Mentor Award recipient.

**CRITERIA:**

The award will go to a mentor who mentored a new lawyer in the NLTP and who excelled in providing guidance in acquiring the practical skills, judgment, professionalism, ethics, and civility to practice in a highly competent manner." The award recipient will have helped the new lawyer develop an understanding of how competent practice benefits clients and the profession as a whole.

**NOMINEES:** There will be one recipient from the January 2013 mentoring term and one from the July 2013 term.

**January 2013**

1. Chad Grunander
2. Bill Hansen
3. James Holbrook
4. Barbara Hjelle
5. Tim Larsen
6. Brennan Moss
7. Debra M. Nelson
8. Allen Turner

**July 2013**

1. Che Arguello
2. Richard Hill
3. Tim Larsen
4. Tupakk Renteria
5. Judge W. Brent West
6. Drew Yeates

**PAST RECIPIENTS AND NOMINEES:**

Past Recipients		Other Nominations That Year
2013	Brent Bartholomew Hugh Cawthorne	
2012	R. Josh Player Sharon A. Donovan David E. Leta Thomas R. Vaughn	

**INFO ONLY:**

**DISCUSSION:**

**ACTION NEEDED: X**



To: Board of Bar Commissioners  
From: Emily A. Sorensen, Esq. - NLTP Coordinator  
RE: Outstanding Mentor Selection  
Date: October 1, 2014

---

The Utah State Bar Committee on New Lawyer Training considered 14 nominations for the Outstanding Mentor Award to be given at the November 2014 Fall Forum. All of the nominees mentored a new lawyer in 2013. Eight nominations were for the January 2013 mentoring term and 6 were from the July 2013 mentoring term.

The Committee voted by email to choose an award recipient from each term. For the January 2013 term, **Debra Nelson** received 5 votes and James Holbrook received 3 votes. For the July 2013 term, **Tupakk Renteria** received 4 votes and Tim Larsen and Che Arguello tied with two votes each.

The Utah State Bar Committee on New Lawyer Training recommends that Debra Nelson and Tupakk Renteria receive the Outstanding Mentor Award.

Sincerely,

A handwritten signature in dark ink, appearing to read "ESorensen", with a large, stylized loop at the end.

Emily A. Sorensen





Utah State Bar Committee  
on New Lawyer Training

Recommendations



Nominee: Debra M. Nelson  
Nominator: Joshua C. Snow  
Term: January 2013

I am writing to nominate my New Lawyer Training Program mentor, Debra M. Nelson, for your consideration for the Outstanding Mentor Award.

From my second summer of law school working as an appellate clerk at the Salt Lake Legal Defender Association ("LDA"), Debra has excelled in providing the guidance necessary to allow me to acquire practical skills, judgment, professionalism, ethics, and civility so that I might practice law in a highly competent manner. The short examples I am including below are only a brief snapshot of the incredible example Debra has provided me as I enter the legal profession.

During my second summer, I was given several assignments to work with Debra and enjoyed the insight and knowledge she provided as we worked a handful of difficult appellate cases. At the conclusion of the summer I returned to law school in Washington, D.C. Knowing I had hopes to return and practice public defense at LDA, Debra made it a point to stay in contact with me during my third year. Recognizing my desire and potential, Debra stuck up for me and convinced the administration of LDA to offer me a position after I graduated from law school.

Upon returning to LDA and passing the bar, I scanned through the names of available mentors provided to me in the NLTP orientation materials. I was disheartened I did not see Debra's name on the list. I selected a few names and asked Debra if she could recommend any of the attorneys. She suggested a couple from my list, but then added her name, volunteering to attend whatever CLE's or trainings that were necessary to become a NLTP qualified mentor. I was impressed with her willingness to commit so readily to such a large commitment, without hesitation.

Once our official NLTP mentoring program began, Debra was ruthless in ensuring we covered as much of the program as possible. She cleared her schedule on many occasions to ensure we were able to meet monthly. She never let us conclude a meeting without setting a firm date for our next meeting. At many of our meetings Debra came prepared with printouts of rules or articles addressing our preplanned topics for that day's meeting. On a handful of occasions she brought examples of her prior work or colleagues' work to provide samples of what my work product should one day look like.

Most importantly, Debra's door was never closed to me. Whenever an issue came up with a client, a prosecutor, or judge, Debra was always willing to listen and provide valuable insight. For example, after inheriting a case from another attorney, I found an omission that had been made in a client's case by a previous attorney. I ran to Debra and explained my situation. Realizing my deadline to correct the error was quickly approaching, she set aside her pressing

deadlines in the Utah Supreme Court and the Court of Appeals, and took time to point me in the right direction. She quickly cited to several rules, statutes and case law from the top of her head that would help me handle the legal issues. She also clarified my ethical and professional responsibilities in this instance. I thanked her and returned to my office. Before I could sit back down at my desk, I received an email from Debra with several citations and suggested passages of case law with her own notes added that I could mold to fit into my work product. She followed up a couple days later with additional thoughts and suggestions for my motion. Thanks to Debra's quick and accurate work I was able to correct the error and ultimately prevail on the issue in contention.

This short letter is an inadequate synopsis for the incredible mentoring experience Debra provided and continues to provide as I begin my career. In fact, although we are no longer required to meet monthly, we have continued our habit of monthly meetings to discuss cases and issues. In speaking with other new lawyers who have recently completed the NLTP, it has become clear to me that Debra went above and beyond in her dedication to my mentorship. Accordingly, I respectfully request you consider her for the Outstanding Mentor Award.

Nominee: Tupakk Renteria

Nominator: Ivy Telles

Term: July 2013

Hands down, this award should go to Judge TUPAKK RENTERIA. He seriously was not a mentor, he is a dear friend and is absolutely the coolest guy I know.

When I first started my mentorship with Judge Renteria, he was still working as a Assistant District Attorney with the Salt Lake County District Attorney's Office. Judge Renteria really took me under his wing, introducing me to everyone at the DA's office. EVERYONE. Not just the attorneys, but staff and investigators and even the cleaning guys as well. It took like two hours. And it was awesome. He treated them all with incredible respect and showed me how crucial it is to have amazing relationships with everyone at your office. Everyone at that office was extremely happy when he received the judgeship and at the same time they were incredibly sad to see him go. He even invited me to his swearing-in ceremony, which he did not have to do. It was incredible to here about the kind of man he is and the good he would do in the Juvenile District Court. No one was better for that job than Judge Renteria. And though I'd never dare disrespect him, he made it clear that I was to call him Tupakk because we are friends. I still call him Judge Renteria though because he's deserving of that title.

Aside from showing me how an attorney is above no one else and to treat everyone with respect, Judge Renteria helped me understand the role of a prosecutor in our criminal justice system. He is the epitome of what a great prosecutor should be. He explained how victims need to be heard, how justice is not measured in the number of convictions you can get, and how every person deserves a second chance.

Judge Renteria was never too busy or out of reach. He not only helped me get through my mentoring plan, but also went above and beyond. He set up a meet-and-greet with Mr. Gill, which was not something he was required to do nor was it something I had asked of him. He took the initiative to get me in touch with people that could help me get a good start in my career, such as the head of SWAP and the Will for Heroes so that I could get involved. He was never inconvenienced by helping me out like that and was always so happy to be a connection for me in whatever capacity he could be.

Any time I had a question, not just about prosecuting or being an attorney but about life, he was always there to give me advice. Judge Renteria was extremely professional but at the same time, he is so casual and laid back. I especially appreciated this because he always made it feel like I was talking to a friend, and who doesn't want a friend who's a judge right?? :)

I don't think I have ever respected someone so profoundly as I respect Judge Renteria. I entered the mentoring program thinking that it was going to be a huge waste of my time. I was wrong. The mentoring plan was good, but in all honesty, the friendship that I was able to build with Judge Renteria was worth far more than I deserved. Our mentorship has been over for months, and Judge Renteria continues to periodically check in with me to see how

work and life is going. His mentoring and friendship were not a show he put on for the program, they came from a very real place and it has meant the world to me. I would be crushed if he did not receive this award because I know he is an exceptional person, not just as an attorney and judge, but as a person overall. And he does it all for no recognition. A man like that SHOULD be recognized. A man like that should be acknowledged in front of our profession as a radiant example of what we all should aspire to be as attorneys and as people in general. PLEASE GIVE HIM THIS AWARD!!!!!! :) :) :)

# Other Nominations





# January 2013 Term



Nominee: Chad Grunander

Nominator: Lance Bastian

Term: January 2013

My name is Lance Bastian, and it was my very great pleasure to have been mentored by Chad Grunander. We are both Deputy Utah County Attorneys, but at the time we began the mentorship, I was a law clerk with the County. Chad is not only a top flight attorney within our office, but really one of the great prosecutors in the state. Despite juggling his regular criminal calendar, as well as a very demanding murder trial in Martin MacNeill, Chad always had time to work with me and even include me in his work. In my first month with the County, Chad invited me to participate as second chair in a felony burglary case. The case went to trial shortly thereafter, and we split statements/arguments and witnesses right down the middle.

While Chad always made himself available and prepared himself to discuss the topics we had outlined in our monthly meetings, I appreciated even more the fact that he never balked at the countless other hours I spent in his office, picking his brain on topics ranging from substantive work issues to local sports and politics. Chad really took me under his wing, and I will always feel that the integrity and work ethic with which I approach my work throughout my career will be attributable, at least in part, to Chad's example and wise counsel.

Chad would be a well-deserving recipient of the Outstanding Mentor award, and it is without hesitation that I nominate and strongly recommend him for that honor.

Nominee: Bill Hansen  
Nominator: Dustin Matthews  
Term: January 2013

I would like to nominate my mentor, Bill Hansen for the Outstanding Mentor Award. When I initially called Bill and inquire as to his availability to mentor me, I was surprised at how friendly and willing he was to help me and spend time with me. Although he was a complete stranger at the time, I had felt as though I had won the mentor lottery.

Bill was diligent in helping me set a plan for the mentorship. We met at least once per month. We discussed cases individually and generally. I started as a sole practitioner, and Bill did more than just show me the ropes in Utah Personal Injury Litigation. He introduced me to many attorneys and paralegals who in turn could help me. If he didn't have the answer to a particular question, he would refer me to someone who did. Over the course of my mentorship, I met with Bill at least once a month, and usually more. I met with disability attorneys, ERISA attorneys, and Workers Compensation attorneys, all referred by Bill.

Near the end of our mentorship, Bill and I decided to work a case together as co-counsel. The experience has provided me with an invaluable wealth of knowledge. Today we work together on this one case. The experience has allowed me to participate in drafting pleadings and discovery requests with a very experienced attorney, and to participate in depositions, hearings, and more. Yesterday we deposed a defendant together. After the deposition we met and discussed how the deposition went, and the implications some of the Defendant's testimony could have on the case moving forward. Even though Bill is no longer my official mentor, he took time with me and we met with Dale Lambert and Phillip Ferguson. We discussed the same issues with them, and I was able to draw from the decades of experience. Bill Continues to treat me like his mentee even though he has no obligation to do so. I am very appreciative of all he has done and continues to do. Although I am a sole practitioner in Bountiful, Utah. Because of Bill, my almost two years of practice have been a success. He has answered my questions, and supported me more than mentor is expected to. And for that, I believe Bill Hansen should be the recipient of the Outstanding Mentor Award.

Thank you.

Nominee: Barbara Hjelle  
Nominator: Jodi Borgeson  
Term: January 2013

I nominate my mentor, Barbara Hjelle, for the Outstanding Mentor award to be given at the 2014 Fall Forum. Ms. Hjelle's mentoring proved fundamental to me in acquiring practical skills, judgment, professionalism, ethics, and civility so that I can practice in a highly competent manner.

The first way in which she did this was simply by generously providing me with her time. Instead of meeting once a month, Ms. Hjelle went the extra mile to ensure that we met at least twice a month. In this way she ensured that we kept up with and devoted ample time to the tasks in our mentoring plan.

Moreover, she made these tasks come alive with stories and examples from her many years of practice. This helped me understand the context in which they would arise and how important the competent performance of these tasks in the legal setting benefits clients and the profession as a whole. For instance, she sat down with me on more than one occasion to draft and explain pleadings that were part of my mentoring plan. She also provided me with countless forms for pleadings for which I am very grateful. With the discussion topics in the mentoring plan, she often counseled me on real work situations I needed advice on how to handle. As she was a mentor from outside my organization but had once worked for it, her counsel was particularly applicable while still being an objective outside voice.

Most importantly, Ms. Hjelle gave me (and continues to give me) informal mentoring that falls outside the constricts of the mentoring plan. I believe the formal mentoring plan gives the mentor and the person being mentored a place to start--a way to break the ice--but its true purpose is to foster an informal mentoring relationship that will benefit new attorneys throughout their careers. In this case, it certainly worked for me. I very much value Ms. Hjelle as a good friend and continuing mentor. She continues to help me navigate the difficulties of my job and also recognize and enjoy its rewarding aspects.

As Ms. Hjelle has truly been a model of what the mentoring program aspires to, please consider her for the Outstanding Mentor award.

Nominee: James Holbrook  
Nominator: Jane Lloyd  
Term: January 2013

When in the course of human events, it becomes necessary for a new lawyer to dissolve herself from the traditional career route intended by law school, a decent respect to the opinions of mankind requires that she should declare and describe her gratitude for the extremely compassionate mentor who helped impel her toward a different path. And, in spite of that saucy introduction, it is with all sincerity that I nominate Professor James "Jim" Holbrook for the 2014 Fall Forum Outstanding Mentor Award.

I first met Jim as a student in his Arbitration class at the University of Utah's S.J. Quinney College of Law. As those who have met him can attest, Jim possesses the unique ability to command a room with a whisper, and enforce adherence with a smile. After completing two courses with Jim, and attending an informal career counseling session with him, in which he helped me sort through an array of career options (and the accompanying resume tweaks for each), I asked Jim if he would serve as my mentor. He accepted.

Throughout the course of the training program, Jim and I regularly met for lunch, and, after fighting to pay the check, worked through the sections of my mentoring plan methodically. Jim shared practical, personal advice about lawyering skills as we worked. We talked about how to counsel clients; how to keep track of schedules; when to bill for postage, copies, phone calls, and paper clips; and what to do when you feel like you want to punch your client in the face. Each piece of business advice was coupled with a moral component; like the injunction to practice good interpersonal skills as a tool to: (1) secure clients, and (2) behave like a decent human being instead of an utter jerk.

My career track changed abruptly halfway through the program when my husband accepted employment that would make it impossible for me to follow a typical legal route. Jim continued to work with me to complete my mentoring plan, and began assisting me as I adjusted my trajectory toward other areas of interest. He encouraged me as I looked into editing, writing, contractual legal work, my burgeoning career as a swimming instructor, teaching kindergarteners, teaching adults, teaching kindergarteners and adults in ESL, and countless other paths. As I explored other fields, he continued to instruct and guide me through the practicalities of the legal field. My mentoring experience was peppered with legal work; legal, and non-legal, reading and writing assignments; personal anecdotes; and Dalai Lama quotes.

Jim completed his official mentorship, banked the CLEs, and, true to form, continues to serve as my mentor. He continues to work with me, meet with me, and guide me toward becoming a better human being. Jim's mentorship has provided me with the invaluable tools I need, whether I'm working as a lawyer, writer, wife, swimming instructor, or a career-exploring-extraordinaire. We regularly exchange emails with encouragement and support, and I look forward to his advice and philosophy. Jim's distinctive attitude of compassion and ethics is a disposition to which I attain, and his outstanding mentorship has been critically important to me as I embark on my life as a young professional.

Nominee: Brennan Moss

Nominator: Sara Payne

Term: January 2013

I approached the New Lawyer Training Program as a necessary hurdle in becoming a lawyer. I could not find an available mentor who matched my interests or practice areas. After contacting the bar about my dilemma they made a last minute suggestion that I ask a partner at my firm. While I did not want to stay in-house, it really was my last available option. So I was stuck with Brennan Moss.

Our first meeting took place in a quaint, Italian restaurant. I came prepared with my packet and a schedule of when to "check off" certain requirements. He came with an attitude of helping me succeed in the legal profession. Brennan explained to me a little bit about his background and what *he* thought was beneficial to learn the first year of practice. From there, we scheduled CLEs we would attend together, important legal topics to discuss, and different people he wanted me to meet. We did not at all follow the schedule or the recommendations on the list.

He talked to me about the future of legal writing and how to make my writing more concise and clear, even though he had nothing to gain from it—I had not done any projects for him at the time. He even gave me one of his books about legal writing to study. We went together to meet Constitutional scholar Erwin Chemerinsky and talked about the impact each of the most recent Supreme Court cases would have on some of the projects at the firm. He introduced me to other lawyers in the community and taught me how to network at bar events. And every Monday morning, we would discuss the actions of Saul Goodman, a fictional lawyer on the show *Breaking Bad* and the ethics rules he violated.

In a legal community completely dominated by men, a woman can easily feel excluded from professional and social activities. But Brennan made sure that not only was I learning what I needed to learn through the CLEs we visited and the projects I assisted on, but that I was also included in fun social outings. We even planned a *Breaking Bad* finale party as a send-off to our favorite fictional lawyer.

Tragedy struck our firm that year, which greatly impacted him, me, and other lawyers at the firm. Brennan was instrumental in helping navigate that dark time. We lost a friend and an incredibly smart colleague, and in that moment I was thankful to have a mentor at the firm who understood the situation.

By the end of the program, I was scrambling to complete all the required activities because although we had a lot of fun and learned a little bit, I didn't think we had check off many activities. To my surprise, many of our experiences were applicable to experiences required for the New Lawyer Training Program. He was the perfect mentor without really even trying. And he taught me some of the most important things about the legal profession: skills, ethics, networking, and conflict resolution, using the actual circumstances around us instead of just checking off a to-do list.

Brennan Moss was the most outstanding mentor, and I recommend him for this award, but mostly I recommend him to other new lawyers.

-Sara Payne



Nominee: Allen Turner  
Nominator: Andrew Hufford  
Term: January 2013

I would like to nominate Allen Turner.

Allen was a great mentor, who always took us to lunch and was concerned about our progress in the firm as well as how we were doing personally.

He was willing to share both general information about firm survival and more technical advice about how to practice in this area of law.

Allen is demanding of his associates and doesn't suffer ethical lapses or shortcuts well. That is better for us as mentees in the long run.

He also was concerned that we get integrated into the legal community and represent the profession well.

I'm sure I would not be as capable or secure as a lawyer if not for his guidance.

Nominee: Tim Larsen  
Nominator: Zachary Holbrook  
Term: JULY 2012

Tim Larsen was my mentor for the NLTP in 2012. Being visually impaired I could not have asked for an individual that was a better mentor than Tim. There is not a more deserving person for Mentor of the Year than Tim.

I first had the opportunity to meet Tim through one of his cousins that attended law school with me. Tim's cousin informed me that Tim was looking for an attorney to assist his firm with bankruptcy clients in Northern Utah. When I first met Tim to discuss assisting his firm with bankruptcy it was like I had known him for years because of his friendly and outgoing demeanor. Being visually impaired and a solo practitioner I expressed my concerns and how nervous I was to Tim in practicing law. Tim always assured me that I would do well in any area of law I choose to practice. After agreeing to assist Tim and his firm in bankruptcy I knew I would have an ally on my side at all times. After several training meetings with Tim, I realized I did not have a mentor as a first year lawyer. I contacted Tim after he referred me my first bankruptcy client asking him to become my mentor for the NLTP. The first words out of his mouth were, "I would love too." proceeded by, "I don't know what the hell I am suppose to do but we will figure it out."

Tim has always been responsive and prompt to my questions I have in regards to bankruptcy even if he is on one of his too damn many vacations. Also, Tim has attended and assisted me with many hearings I have attended through my practice of bankruptcy.

The best honor I received from Tim was when he invited me to attend a "Question and Answer" session on bankruptcy at the local radio station, KBear. I will always remember when Tim referred a question over the air for me to answer. Afterwards, when we were walking out of the radio station I informed him that I felt like the biggest Jackass answering that question. Tim said that I did better than others, who had attended those sessions with him, which made me, feel confident.

Finally, I talk to Tim on a weekly basis and plan to do so even when the day comes Tim or I do not practice law because he is not only my mentor but is also my friend. Tim is #1.



## WOMEN LAWYERS of UTAH

September 5, 2014

### VIA EMAIL

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Sarah Starkey  
Community Outreach  
Committee Chair

Kimberly Neville  
Life/Work Balance  
Committee Chair

Jaelynn Jenkins  
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Committee Chair

Angelina Tsu  
Katy Strand  
Regional Chapters Co-Chairs

Hon. Michelle Christiansen  
Judicial Representative

Andrey Phillips  
UMBA YLD Representative

Patricia Christiansen  
Senior Bar Member  
Representative

Emily Sorensen  
mentoring@utahbar.org

Re: Outstanding Mentor Nomination

Dear Ms. Sorensen:

Women Lawyers of Utah writes in support of Holly Halpin's nomination of Tim Larsen for the NLTP Outstanding Mentor of the Year. This nomination is also supported by Zach Holbrook, Tim's 2012-2013 NLTP mentee. Holly and Zach have both submitted separate letters nominating Tim.

In drafting this nomination we asked ourselves, what is the difference between a good mentor and an outstanding one? A good mentor timely guides his mentee through the checklist items. He provides guidance in acquiring practical skills, judgment, professionalism, ethics, civility, and instruction on how these virtues benefit clients and the profession as a whole. Tim has excelled in every aspect of being a good mentor. But what makes him outstanding is the fact that he has gone above and beyond these requirements to help his mentees find their strengths and establish practices that they truly love.

#### Zach Holbrook

Tim's 2012-2013 mentee, Zach Holbrook, was having a hard time finding a mentor. As a new lawyer and solo practitioner, he didn't know many practicing attorneys. The fact that he was living and practicing in Ogden made the task more difficult. And the fact that he is blind further complicated matters.

Zach made numerous phone calls trying to find a mentor. Finally, he called Tim. Tim is a bankruptcy lawyer at a small firm. He wasn't signed up to be a mentor with the New Lawyer Training Program and he had already earned all the CLE credits he needed for the year. But he wanted to help, so he signed up for the program and became Zach's mentor.

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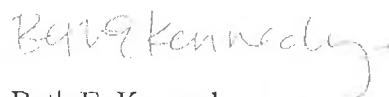
Zach wasn't sure which practice area he would excel in, but he realized that his unique circumstances may limit his options. Tim worked with Zach to identify his strengths and weaknesses, and together they determined that bankruptcy would be the best fit for Zach. Tim helped Zach to staff Zach's new office. Tim shared his bankruptcy software and provided referrals. Even though Tim's term as Zach's mentor ended over a year ago (and Tim now has a new mentee), Tim still appears via teleconference in all of Zach's new (bankruptcy client meetings. Tim also involves Zach in his networking and marketing efforts. In fact, Tim hosts a radio segment where people can call in with legal questions, and he still has Zach accompany him to host many of these segments. And Tim continues to help Zach build his practice through constant referrals.

### **Holly Halpin**

Holly's experience with Tim was quite different. She reached out to Tim because she was interested in practicing bankruptcy law. But through the course of the year, it became clear to her that bankruptcy was not a good fit for her. Tim helped her to transition into an in house counsel position that is a much better fit. He even took over all of her open matters so she could have a fresh start at her new position. She loves her new position and is doing well.

Tim is an outstanding mentor who provides guidance in acquiring practical skills, judgment, professionalism, ethics, and civility. He also provides instruction on how these virtues benefit clients and the profession as a whole. But more than that, Tim has helped his mentees to find what it is that they excel in and he has ensured that they will continue to acquire practical skills, judgment, professionalism, ethics, and civility because they are practicing in areas of law that they love.

Sincerely,



Beth E. Kennedy  
Career Advancement Committee Chair  
Women Lawyers of Utah

July 2013  
Term



Nominee: Che Arguello  
Nominator: Nicholas Mills  
Term: July 2013

It is with great pleasure that I write to nominate my mentor, Che Arguello, for the Outstanding Mentor Award. I selected Che to be my mentor after I had worked as a law clerk for him in the Attorney General's office. He had the reputation there of being a hard-working and intelligent prosecutor. After Che was my mentor for a year, my opinion of his legal, ethical, and personal skills was only enhanced beyond the already high regard that I held him in. I would like to explain some reasons why I think Che is deserving of the Outstanding Mentor Award.

On our first meeting, Che told me that the most important thing I could ever do as an attorney was to maintain my integrity. This was not a one-and-done, check it off the list piece of advice. This was a mantra for Che. I asked Che many legal questions throughout my mentorship. His answers would often stress the importance and value of a lawyer's ethics. On many occasions, Che would tell me things like, "it might not make everyone happy, but you always have to do what's right." In all my interactions with Che, I could tell that his integrity and his ethics were of foundational importance to him.

Che's understanding of rules, case law, and trial advocacy was second to none. I asked Che hundreds of questions during our meetings. Never once did Che not have a useful legally supported answer for me. He is amazing. I have watched some of the best attorneys in the state argue cases. I cannot think of an attorney that I thought was more impressive than Che. I recall asking him about getting evidence in. Not only did he explain how I could get that evidence in he also explained some possible objections and how I could respond to those objections. After every meeting, Che would encourage me to call or email him if I had any questions or problems come up in my cases. He was outstanding.

Che was the perfect mentor-blend of friend and authority. He always made me feel like an equal but always taught me how I could improve. Frankly, I was not very excited about the NLTP. I worried that it would be a waste of time and not very useful. Thanks to Che, I have to eat a lot of crow. I cannot imagine a better mentoring experience. I went into the NLTP hoping to check it off my list. I left with a trusted friend and source of advice and assistance. I can wholeheartedly say that Che made my NLTP experience a success. Because of him, I am now happy to endorse the program and feel that it is a real value to young attorneys.

As I hope you can tell, Che Arguello was an outstanding mentor. I honestly could not have found a better mentor. Che is more than deserving of the award and it is my hope that he receives it. If you have any questions please don't hesitate to ask. Thank you.

Nominee: Richard Hill  
Nominator: Adam Gerulat  
Term: July 2013

I would like to nominate my mentor, Richard Hill, for the Outstanding Mentor Award. Rich has helped me immensely before my first year, during my first year, and continues to provide guidance to me going forward. He was always accessible to me and provided me with any knowledge I sought both through the recommended mentoring activities and beyond. In addition to frequently meeting with me, he also arranged for me to meet with other attorneys in his firm and work with them on multiple occasions in their particular fields of expertise. After such activities, he would then meet with me and provide any additional insight. He took me on client visits and negotiations and I always knew he was concerned with my learning and progression. I know there is not a better mentor than Rich. I never felt like I was burdening him with my constant questions and meetings, and he always made the time to ensure I was understanding every concept.

What amazes me most is that he provided me with so much of his time and counsel even though he was extremely busy with his own work and even his health. Seven years ago he was diagnosed with Stage 4 Non-hodgkin's Lymphoma. Against all odds and after years of chemotherapy, radiation, and two bone marrow transplants he was able to survive the cancer. However, it has left his body extremely weakened and ridden with scleroderma, a rare disease that hardens skin and connective tissues severely limiting his mobility and causes body cramps and discomfort all day long. In addition to his work, he has to attend his medical appointments every week, which includes trips to Huntsman Cancer Center and physical therapy. In talking with him about his cancer, he explained to me that many clients, some at the encouragement of other lawyers, left him fearing that he would either die or the cancer would leave his mind unfit to practice law. Now, he has survived cancer, his mind is still sharp and he is determined to continue faithfully representing his current clients, while trying to replace those clients that left him. Through all of his stresses of health and work, he always made time for me and I never once felt like anything would ever get in the way of his determination to see me progress.

Please strongly consider Rich Hill for the Outstanding Mentor Award.



Nominee: Tim Larsen  
Nominator: Holly Halpin  
Term: July 2013

I was fortunate to have Tim Larsen as my mentor for the 2013 NLTP mentor term and really cannot gush enough on how fortunate I was to have Tim. He was accessible, responsive and knowledgeable-- all great mentor traits. Beyond that, however, was the fact that I had started my own legal practice focusing on bankruptcy. I had no idea how in over my head I was. There were multiple instances where Tim took late-night panicked calls as I tried to sort out some nuance of the law. There were multiple meetings with him in his office where he walked me through best practice, great tips, introducing me to great contacts, and even helped print and mail notices. Tim has his own busy practice but took so much time to help me with mine. I called him so many times (too many times!) but he never acted hurried or annoyed. He was so patient and took the time-- everytime-- to make sure my questions (and follow-up questions and follow-up to follow-up questions) were addressed.

During the course of the year, I had a case that was especially challenging. I was way over my head and completely terrified. You know the new attorney-- lying awake at night, terrified they've somehow committed malpractice? That was me. Tim walked me through every step of the process. At every point, he was available to answer questions and provide peace of mind. When I accepted a position in-house, Tim was able to take those clients on and provide an amazing service to them.

Starting a practice is terrifying. There is a whole universe of things you don't know you don't until you get out there. Having someone I felt like I could call at anytime was the most comforting thing. Tim provided that with kindness and aplomb!

Tim went above and beyond the duties of a mentor and deserves to be this year's outstanding mentor!

Nominee: Judge W. Brent West

Nominator: Lacey Cherrington

Term: July 2013

This mentoring experience has been one of the most beneficial things that could have happened to me during my first year of practice. When I learned that I was going to be "required" to have a mentor, I thought it would all just be practice, busy work and no practical application. But, when you have a great mentor like Judge West, you learn quickly to make your time with him count. When I was referred to Judge West I was nervous, I was afraid I would not know enough about the practice of law to ask good questions. That is the great thing about having an outstanding mentor... you can ask ANY question and they make sure you do not feel silly, stupid or uneducated. Although we have followed our mentoring plan and are getting close to crossing off all the requirements, my favorite conversations have been the ones that go outside of our "plan" and are inquiries on cases I am actually working on. Specifically, recently I had a case where I was frustrated with how a judge from another district was handling one of my cases. His professionalism in inquiring about the reasons for my frustrations were so delicate without being disrespectful to one of his own. He held my hand and guided me through the situation and made me feel comfortable and ok with being frustrated, but still maintained a professional approach to how he addressed my questions about the judge.

Judge West has always been just a phone call or email away when I needed him. One of my favorite comments he made to me was when he thanked ME for allowing him to be my mentor. Really? I was humbled by this comment and commend him for helping me so much over the past year. As busy as he is as the presiding judge in the Ogden District Court, he always makes time for me and helps me through my inquiries. I am sad that our mentor period is ending, it has been so comforting to know that he was just a phone call or email away when I need him. Lawyers like Judge West make our profession a better one, mentors like Judge West make lawyers like me want to carry on that same type of professional application. He is extremely deserving of receiving this award and I hope the Board of Bar Commissioners selects him as the Outstanding Mentor for the July 2013 term.

Please call me with any additional questions or more specifics regarding this amazing relationship with Judge West at 801-437-4995, he is such a great example of professionalism and civility. Wow, one great man in our profession.

Nominee: Drew Yeates  
Nominator: Jeff Adams  
Term: July 2013

I have often wondered why Drew, my New Lawyer Training Program ("NLTP") mentor, is so generous in sharing his time and knowledge to help me. Moreover, Drew does not only assist me; Drew makes time to help every intern, extern, recent law school graduate, clerk, and young-attorney that comes to him for advice. Is it because Drew had a tremendous mentor early in his career and he feels obligated to return the favor? If so, Drew never acts as though he helps others out of obligation. Is it because Drew loves the practice of law so much that he wants to see others succeed in it? Perhaps, but that does not make his actions any less generous.

I am nominating Drew Yeates, an Assistant United States Attorney with the United States Attorney's Office ("USAO") for the District of Utah, for recognition as an Outstanding Mentor for the NLTP because: (1) Drew quietly and effectively helps every young attorney who seeks him out for guidance; and (2) Drew personifies what it means to provide "guidance in acquiring the practical skills, judgment, professionalism, ethics, and civility to practice in a highly competent manner" (Utah State Bar, *Summary of the New Lawyer Training Program*, September 4, 2014, [http://www.utahbar.org/members/mentor-program/nltp\\_summary/](http://www.utahbar.org/members/mentor-program/nltp_summary/)).

Drew became my NLTP mentor in 2013, but that was a mere formality of a mentor/mentee relationship I was already lucky to have established with Drew. I met Drew in 2009 while externing at the USAO as a law student. Drew immediately took me under his wing. He allowed me to work on memorandums to judges, perform legal research, and attend hearings with him. Notably, when I left the USAO to return to law school, Drew kept in touch. Drew didn't need to do that – but it meant the world to me to know that an assistant United States attorney cared about me.

When I was hired by the USAO in 2012, Drew again helped me out every step of the way. The USAO provides an amazing environment in which young attorneys may develop, but Drew's mentorship went above and beyond even the USAO's lofty standards. Drew didn't just answer the questions suggested by the NLTP; he answered every question I posed to him on issues ranging from procedure in the courtroom to specific legal analysis. Drew didn't just take me to see hearings; he provided cases for me so that I could argue in hearings of my own. Drew didn't just talk to me about trials; he asked me to second-chair a trial with him so that I could gain real trial experience. In short, Drew didn't just answer questions over lunch, the suggested mentoring method of the NLTP; Drew provided legitimate, career-changing legal experiences for me.

It is not an exaggeration for me to say that Drew has walked every step of my legal career with me as a mentor and friend. Notably, I have seen him take on the same role with other young attorneys. I know for certain there is a group of able, young attorneys in Utah right now who owe their success in large part to Drew's unselfish guiding influence and example.

Drew is a credit to the legal community in Utah. He is not only a talented prosecutor, but he is exactly the type of mentor every young lawyer should be fortunate to have, and the type of mentor the Utah Bar is lucky to have as a volunteer in the NLTP. I hope Drew is recognized by the NLTP for his efforts. It would be a recognition that is richly deserved.



# Tab 6



**UTAH BAR COMMISSION MEETING  
AGENDA ITEM**

**Title:** Heart and Hands Award

Item # 2.5

**Submitted by:** John Baldwin

Meeting Date: October 10, 2014

**ITEM/ISSUE:**

To select the Heart and Hands Award recipient.

**CRITERIA:**

To acknowledge a Bar member who has made significant contributions to his/her cause through his/her philanthropic service.

**NOMINEES:**

1. Jenifer L. Tomchak

**PAST RECIPIENTS AND NOMINEES:**

Past Recipients	Other Nominations That Year
2013. Erin M. Stone	Prof. Jensie L. Anderson, Sarah Spencer
2012 Brent Johnson	
2011 Danny Quintana	
2010 Jay Kessler	
2009 Leonard Burningham	
2008 Troy Booher	

**INFO ONLY:**

**DISCUSSION:**

**ACTION NEEDED: X**





**PARR BROWN  
GEE & LOVELESS**  
ATTORNEYS AT LAW



**Jenifer L. Tomchak**  
Shareholder

**Direct** 801-257-7985  
**Fax** 801-532-7750  
**Email** jtomchak@parrbrown.com



Jenifer Tomchak focuses her practice on employment litigation, commercial banking issues, employment-based immigration issues, legal malpractice defense, and complex commercial litigation. She has achieved extraordinary results for clients and is quickly becoming well recognized and admired by other Utah lawyers for the quality of her work. She is an excellent writer and an accomplished oral advocate, having handled hearings in both Federal and State Court. Clients appreciate her dedication to their cases and trust her to provide sound advice on how to resolve their legal issues.

A graduate of Utah State University, Ms. Tomchak received her B.A. in Political Science, *magna cum laude*, a minor in Spanish, and a Certificate in International Relations. She interned in Washington, DC for U.S. Senator Mike Crapo, and then earned both her M.B.A. and J.D. in 2004 from the University of Utah, *Order of the Coif*. Prior to joining Parr Brown, she clerked for Utah Supreme Court Justice Matthew Durrant.

Ms. Tomchak makes significant contributions to her profession and community. She is the President-elect for the Utah Federal Bar Association, and has previously served on that board as the Pro Bono Director for three years and as the Treasurer. She is a Past President of the Utah Young Lawyers Division and continues to serve on that board as the Chair of the Green Utah committee. She has also previously chaired Young Lawyers Division's Community Service Committee. She also serves on the board of the Litigation Section, where she chairs its Aiding the Judiciary Subcommittee. She is an active member of the Women Lawyers of Utah's and has served on a number of committees for that organization. She is an organizing member of the Books from Barristers Program for the Utah State Bar. She continues to work on diversity issues, having served a Fellowship with the MultiCultural Legal Center and as a current member of the Utah Minority Bar Association.

In 2008-2014, Ms. Tomchak was recognized in Mountain States *Super Lawyers* as a 'Rising Star.' In April of 2009, she was recognized by *Utah Business* magazine as one of "Utah's 30 Women to Watch." She was also listed in the 2010-2014 editions of *Utah Business* magazine as one of Utah's Legal Elite in business litigation.

**"Jenifer Tomchak Recognized as one of Utah's 30 Women To Watch"**



#### Practice Areas

- Commercial Litigation
  - Appeals
  - Contract Disputes
  - Employment Litigation
  - ERISA Litigation
  - Insurance Bad Faith
  - Securities Litigation

#### Education

- 2004, J.D., University of Utah, Order of the Coif, Utah Law Review
- 2004, M.B.A., University of Utah
- 2000, B.A., Utah State University, magna cum laude, Political Science and certificate in International Relations

#### Bar Admissions

- 2004, Utah

#### Professional Activities

- American Bar Association
- Central Utah Bar
- MultiCultural Legal Center
- Salt Lake County Bar
- U.S. District Court of Utah
- Utah Federal Bar Association, President-elect, past Pro Bono Director, and past Treasurer
- Utah Minority Bar Association
- Utah State Bar, Books from Barristers
- Utah Young Lawyers Division, Board Member, Green Utah Committee Board, Litigation Section, Judiciary Subcommittee, past President, past Chair Community Service Committee
- Women Lawyers of Utah

#### Languages

- Spanish

#### Clerkships



Tab 7



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.





MEMORANDUM

**Date:** July 21, 2014

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**To:** Robert O. Rice  
**From:** Brit Merrill  
**cc:** Beth J. Ranschau, Kimberly A. Blackburn  
**Re:** Rule 6.5 Pro Bono Conflict of Interest Analysis

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RESEARCH QUESTION

This memorandum analyzes whether Rule 6.5 of the Utah Rules of Professional Conduct applies to large firm lawyers who provide pro bono legal services to individuals who desire limited representation in connection with a court-sponsored pro bono program.

SHORT ANSWER

Rule 6.5 applies to any lawyer who provides short-term limited representation in a court-sponsored pro bono program. Rule 6.5 eliminates the need to systematically check for conflicts of interest unless the lawyer has *actual knowledge* that the representation of the client involves a conflict of interest for that lawyer or another lawyer in that lawyer's firm.

ANALYSIS

**I. Background on Rule 6.5**

The ABA added Rule 6.5 to the Model Rules of Professional Conduct in February 2002 out of "concern that a strict application of the conflict-of-interest rules may be deterring lawyers from serving as volunteers in programs in which clients are provided short-term limited legal services under the auspices of a nonprofit organization or a court-annexed program."<sup>1</sup>

The Utah Supreme Court approved the adoption of Rule 6.5 to the Utah Rules of Professional Conduct in September of 2005.<sup>2</sup> The new rule went into effect on November 1, 2005.<sup>3</sup>

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<sup>1</sup> American Bar Association, *A Legislative History: The Development of the ABA Model Rules of Professional Conduct, 1982-2005*, 691-92 (2006).

<sup>2</sup> Letter from Supreme Court of Utah to Utah State Bar (Sept. 21, 2005), available at [utcourts.gov/committees/civproc/unbundling.pdf](http://utcourts.gov/committees/civproc/unbundling.pdf).



## II. Applicable Rules

Rule 6.5 states:

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(a)(1) is subject to Rule 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(a)(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

Rule 1.7 states:

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(a)(1) The representation of one client will be directly adverse to another client; or

(a)(2) There is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(b)(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(b)(2) the representation is not prohibited by law;

(b)(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(b)(4) each affected client gives informed consent, confirmed in writing.

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<sup>3</sup> Utah Rules of Prof'l Conduct R. 6.5.

Rule 1.9(a) states:

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

Rule 1.10 states:

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

(b) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless:

(b)(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(b)(2) any lawyer remaining in the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter.

(c) When a lawyer becomes associated with a firm, no lawyer associated in the firm shall knowingly represent a person in a matter in which that lawyer is disqualified under Rule 1.9 unless:

(c)(1) the personally disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom, and

(c)(2) written notice is promptly given to any affected former client.

(d) A disqualification prescribed by this Rule may be waived by the affected client under the conditions stated in Rule 1.7.

(e) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule 1.11.

(f) An office of government lawyers who serve as counsel to a governmental entity such as the office of the Utah Attorney General, the

United States Attorney, or a district, county, or city attorney does not constitute a “firm” for purposes of Rule 1.10 conflict imputation.

### **III. Applicable Terminology**

Firm or law firm (Rule 1.0(d)):

Denotes a lawyer or lawyers in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.

Knowingly, know, or knows (Rule 1.0(g)):

Denotes actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances.

### **IV. Case Law on Rule 6.5**

To date there is no case law on Rule 6.5.

### **V. Ethics Advisory Opinions on Rule 6.5**

To date there are six ethics opinions that discuss Rule 6.5—two in North Carolina, two in Pennsylvania, and two in Utah.<sup>4</sup> The following lists three relevant opinions, in chronological order beginning with the most recent decision, and provides an overview of the issue in question and the committee’s conclusion regarding Rule 6.5.

#### **A. Utah State Bar Ethics Advisory Comm., Op. 08-01 (2008)**

##### *i. Issue*

Whether a lawyer may assist a pro se litigant appearing before a tribunal without disclosing his participation or ensuring that the litigant discloses his assistance.

##### *ii. Discussion of Rule 6.5*

A lawyer may assist a pro se litigant appearing before a tribunal without disclosing his participation or ensuring that the litigant discloses his assistance. “If

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<sup>4</sup> See N.C. State Bar, Formal Op. 3 (2009); N.C. State Bar, Formal Op. 2 (2002); Pa. Bar Association Comm. On Legal Ethics & Prof’l Responsibility, Informal Op. 2006-04 (2006); Pa. Bar Association Comm. On Legal Ethics & Prof’s Responsibility, Informal Op. 2004-120 (2004); Utah State Bar Ethics Advisory Comm., Op. 08-01 (2008); Utah State Bar Ethics Advisory Comm., Op. 06-05 (2006).

the drafters of the Rules had wanted to prohibit ‘substantial professional assistance’ that was not disclosed, Rule 6.5 would have been a likely place to include such a provision.” Utah State Bar Ethics Advisory Comm., Op. 08-01, p. 2 (2008). Furthermore, the committee notes “as a practical matter, when attorneys at court-annexed legal clinics provide advice and drafting assistance under Rule 6.5, it may be impossible for the attorney to insure that the client ultimately provides notices of that assistance to the court on the final draft papers the client eventually files.” *Id.* p. 4.

B. Utah State Bar Ethics Advisory Comm., Op. 06-05 (2006)

*i. Issue*

Whether a lawyer participating in an ad hoc legal advisory group to a private, nonprofit, public interest group is precluded from that participation if the persons served by the legal organization have interests adverse to the interests of a client of the lawyer or the lawyer’s law firm.

*ii. Discussion of Rule 6.5*

The lawyer participating in the ad hoc legal advisory group is not subject to the protections of Rule 6.5 because their participation on the board does not constitute short-term limited legal services under the auspices of a program sponsored by a nonprofit or court.

C. Pa. Bar Association Comm. On Legal Ethics & Prof’s Responsibility, Informal Op. 2004-120 (2004)

*i. Issue*

Whether referring a person to a web resource or telephone “help line” constitutes unlimited representation.

*ii. Discussion of Rule 6.5*

Referring a person to a web resource or telephone help line does not constitute the undertaking of an unlimited representation. Rule 6.5 allows a lawyer providing pro bono services to limit that representation “as long as the lawyer obtains the client’s informed consent to the limited scope of the representation.” Pa. Bar Association Comm. On Legal Ethics & Prof’s Responsibility, Informal Op. 2004-120 p. 1 (2004).

D. N.C. State Bar, Formal Op. 2 (2002)

*i. Issue*

Whether Attorney A, a lawyer in Law Firm C, may represent a defendant in a lawsuit filed by County D, when Attorney B, also a lawyer in Law Firm C, is serving on the Board of County Commissioners of County D.

*ii. Discussion of Rule 6.5*

Attorney A, a lawyer in Law Firm C, may represent a defendant in a lawsuit filed by County D when Attorney B, also a lawyer in Law Firm C, is serving on the Board of County Commissioners of County D, subject to certain conditions. First, “[t]o avoid the appearance of impropriety or undue influence, a lawyer who is elected or appointed to a public body must be screened in his law firm from participation in an action brought by another lawyer in the firm against the public body or any subsidiary of that public body.” N.C. State Bar, Formal Op. 2, p. 1 (2002). Second, the law firm must adopt reasonable procedures to “isolate the lawyer from participation in the discussion of the matter with other members of the firm and from exposure to any confidential information relative to the matter.” *Id.* Third, the law firm should adopt reasonable procedures to “withhold[] the lawyer’s share in the profit (after overhead) from the legal fee earned from the representation” since sharing of the legal fee generated by the representation, “while not specifically prohibited, is discouraged.” *Id.*

And finally, the lawyer serving on the public body “must also make full disclosure to the body on which he serves and be screened from participation in the public body’s deliberations on the matter.” *Id.* p. 2. The lawyer must: (1) disclose in writing or at an open meeting to the governing body his relationship to the matter involved; (2) refrain from expressing opinion on the matter; (3) be absent from any discussion of the matter by the governing body; and (4) withdraw from voting on any issue relating to the matter.

**VI. Analysis**

Rule 6.5, in concert with Rules 1.7, 1.9(a), and 1.10, enables a lawyer to provide short-term limited legal representation in a court-sponsored setting without undergoing a systematic conflict of interest check. Instead, a lawyer is subject to conflict of interest Rules 1.7, 1.9(a), and 1.10, only if the lawyer has actual knowledge that the representation of the client in the court-sponsored venue involves a conflict of interest for that lawyer or another lawyer in that lawyer’s firm.

Comment 1 to Rule 6.5 explains that “a client-lawyer relationship is established” in this court-sponsored setting; however, “[s]uch programs are normally operated under circumstances in which it is not feasible for a lawyer to

systematically screen for conflicts of interest as is generally required before undertaking a representation.”<sup>5</sup>

### CONCLUSION

In short, a lawyer who provides short-term limited representation in a court-sponsored program is subject to conflict of interest rules *only if the lawyer has actual knowledge* that the representation of the client involves a conflict of interest for that lawyer or another lawyer in that lawyer’s firm.

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<sup>5</sup> Utah Rules of Prof’l Conduct R. 6.5 cmt.





# Tab 8



## 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

state, we realize there is economic and emotional impact. We regularly review Utah-based properties and are open to the idea that they could become sufficient to satisfy our goals. We have simply concluded that there are no properties of the size or type or relative distance which could provide us with the type of experience we hope to create.





1. How was your overall Convention experience

		Response Percent	Response Count
Excellent		58.8%	60
Good		36.3%	37
Fair		4.9%	5
Poor		0.0%	0
answered question			102
skipped question			1



2. Please rate Thursday's keynote program: Laughing Your Way through Life David Dugan

		Response Percent	Response Count
Excellent		2.0%	2
Good		29.6%	29
Fair		34.7%	34
Poor		33.7%	33
Comments			42
answered question			98
skipped question			5




3. Please rate Thursdays Lunch Program: Same-Sex Marriage Litigation after United States v. Windsor Prof. Clifford J. Rosky

		Response Percent	Response Count
Excellent		58.8%	47
Good		32.5%	26
Fair		7.5%	6
Poor		1.3%	1
answered question			80
skipped question			23

4. Was the addition of an extra hour of CLE at lunch beneficial?

		Response Percent	Response Count
Yes		92.0%	81
No		8.0%	7
Comments			7
answered question			88
skipped question			15

5. Please rate Friday's keynote program: Law and Neuroscience: Surveying the Territory  
Prof. Hank Greely





		Response Percent	Response Count
Excellent		67.0%	59
Good		23.9%	21
Fair		9.1%	8
Poor		0.0%	0

Comments 12

answered question 88

skipped question 15

6. Please rate the Friday Lunch Program: 100th Anniversary of the Joe Hill Trial Kenneth D. Lougee





		Response Percent	Response Count
Excellent		31.0%	22
Good		46.5%	33
Fair		15.5%	11
Poor		7.0%	5

Comments 15

answered question 71

skipped question 32

7. Please rate Saturday's keynote program: The Lawyer as Actor – The Courtroom/Boardroom as my Stage Dr. Jerry Gardner

		Response Percent	Response Count
Excellent		13.9%	11
Good		46.8%	37
Fair		31.6%	25
Poor		7.6%	6
	Comments		20
	answered question		79
	skipped question		24



**8. Please rate or comment on the keynote speakers and breakouts that either were useful or interesting to you.**

	Excellent	Good	Fair	Poor	Rating Count
Marshaling the Evidence on Appeal	78.6% (22)	21.4% (6)	0.0% (0)	0.0% (0)	28
The Impact of the New LLC Act on Closely-Held Member Litigation	57.1% (12)	42.9% (9)	0.0% (0)	0.0% (0)	21
The Practicalities of the Utah Attorney Work-Product Doctrine	42.1% (8)	42.1% (8)	15.8% (3)	0.0% (0)	19
Immamentizing the Eschaton (On proposed Rules of Professional Conduct 1.19, 407, and Planning the end from the Beginning)	7.7% (1)	76.9% (10)	7.7% (1)	7.7% (1)	13
Competency Required: Courtroom Presentation Technology	32.3% (10)	58.1% (18)	9.7% (3)	0.0% (0)	31
What Goes on Behind Closed Doors in Mediation	23.3% (7)	56.7% (17)	16.7% (5)	3.3% (1)	30
Contracting and Litigation Issues that Arise from Termination for Convenience Provisions in Standard Construction Contracts	40.0% (4)	60.0% (6)	0.0% (0)	0.0% (0)	10
Corporate Compliance Programs	37.5% (3)	62.5% (5)	0.0% (0)	0.0% (0)	8
Guantanamo and the Rule of Law: The Strange Mix of Military Commissions, Lawyers, and Terrorists	63.2% (12)	31.6% (6)	5.3% (1)	0.0% (0)	19
Defending / Prosecuting Crimes Using Social Media, Surveillance & Background Investigation	42.9% (6)	50.0% (7)	7.1% (1)	0.0% (0)	14
Law and Neuroscience: Surveying the Territory, Cont.	61.1% (22)	30.6% (11)	8.3% (3)	0.0% (0)	36
Trade Secrets and Trade Dress: A Practical Guide to Protecting Your Clients' Intellectual Property	37.5% (6)	37.5% (6)	25.0% (4)	0.0% (0)	16
State and Local Initiative and Referendum Law	44.4% (4)	33.3% (3)	11.1% (1)	11.1% (1)	9

Trying Family Law Cases Around Utah: Tips from a Panel of District Court Judges	56.3% (9)	37.5% (6)	6.3% (1)	0.0% (0)	16
Advanced Online Legal Research	72.7% (8)	18.2% (2)	9.1% (1)	0.0% (0)	11
Jury Behavior	53.8% (14)	42.3% (11)	3.8% (1)	0.0% (0)	26
Payment for and Extinguishment of Easements: Special Issues	23.1% (3)	46.2% (6)	15.4% (2)	15.4% (2)	13
What the American Taxpayer Relief Act of 2012 Means to Utah Estate Planners	40.0% (2)	60.0% (3)	0.0% (0)	0.0% (0)	5
How to Build a Firm Culture that Handles Conflict Constructively	50.0% (7)	28.6% (4)	0.0% (0)	21.4% (3)	14
Inviting Scrutiny: How Digital Age Innovations are Eroding the Attorney – Client Privilege	30.0% (6)	55.0% (11)	15.0% (3)	0.0% (0)	20
Economic Loss Doctrine	66.7% (28)	28.6% (12)	4.8% (2)	0.0% (0)	42
A Business Startup That Wants to Raise Outside Capital	27.3% (3)	54.5% (6)	18.2% (2)	0.0% (0)	11
The Lawyer as Actor – The Courtroom / Boardroom as My Stage, Cont.	13.3% (2)	53.3% (8)	26.7% (4)	6.7% (1)	15
An Overview of the Tax Parameters of Retirement Plans	20.0% (1)	40.0% (2)	40.0% (2)	0.0% (0)	5
What's in Your Pocket? Mobile Technology	62.5% (5)	37.5% (3)	0.0% (0)	0.0% (0)	8
Best Practices of Oral Advocacy: A Judicial Perspective	51.9% (14)	48.1% (13)	0.0% (0)	0.0% (0)	27
Lender Liability Claims Before, During and After Bankruptcy	58.3% (7)	41.7% (5)	0.0% (0)	0.0% (0)	12
Taking Control of Health Care Reform	33.3% (1)	66.7% (2)	0.0% (0)	0.0% (0)	3
Trauma is Tearing Our Families Apart: Viewing Our Children & Families Through a Trauma Lens	12.5% (1)	87.5% (7)	0.0% (0)	0.0% (0)	8

White Collar Fraud / Crime

58.3% (7)

33.3% (4)

8.3% (1)

0.0% (0)

12

Comments

11

answered question

97

skipped question

6

9. Please list session topics you would like to see at future Utah State Bar Conventions

Response  
Count

26

answered question

26

skipped question

77

10. Please list any keynote speakers you would be interested in seeing at future Utah Bar events.

Response  
Count

17

answered question

17

skipped question

86

11. What type of subject matter would you like at a keynote presentation?

Response  
Count

15









answered question

15

skipped question

88





12. Did you take advantage of any of the following activities available in Snowmass:

		Response Percent	Response Count
Rafting		15.2%	12
Hiking		75.9%	60
Biking		19.0%	15
Golfing		12.7%	10
Tennis		3.8%	3
Day care (Treehouse of other)		5.1%	4
Concert(s)		60.8%	48
Aspen/Snowmass free shuttle		38.0%	30
Other (please specify)			12

answered question 79

skipped question 24

13. How did you hear about these activities?

		Response Percent	Response Count
Email		23.6%	17
Letter		5.6%	4
Website		61.1%	44
At Convention		63.9%	46
Other (please specify)			9

answered question 72

skipped question 31



14. Are there other ways we can keep you informed on available activities?

Response  
Count

9

answered question

9

skipped question

94

15. Where did you stay?

Response  
Percent      Response  
Count

Condo



44.1%

41

Viceroy



14.0%

13

Westin



41.9%

39

Other (please specify)

7





answered question

93

skipped question




10

#### 16. How would you rate your accommodations?

		Response Percent	Response Count
Excellent		65.7%	65
Good		28.3%	28
Fair		4.0%	4
Poor		2.0%	2
Comments			8

answered question	99
skipped question	4




#### 17. The overall cost of lodging, food, and activities

		Response Percent	Response Count
was lower than expected.		23.5%	23
was as expected.		66.3%	65
was higher than expected.		10.2%	10
answered question			98
skipped question			5

#### 18. What was your most memorable experience from this year's convention?

	Response Count
	36
answered question	36
skipped question	67





19. Would you return to Snowmass if the Summer Convention were to be held there again?

		Response Percent	Response Count
Yes		62.7%	64
No		8.8%	9
Maybe		28.4%	29
	Comments		34

answered question 102

skipped question 1

20. The 2015 Utah State Bar Summer Convention will be held in Sun Valley, Idaho from July 29th through August 1st. What is the likelihood of your attendance?

		Response Percent	Response Count
Very likely		56.9%	58
Somewhat likely		24.5%	25
Somewhat unlikely		13.7%	14
Very unlikely		4.9%	5
	Comment		17

answered question 102

skipped question 1



Page 2, Q2. Please rate Thursday's keynote program: Laughing Your Way through Life  
David Dugan

1	Perhaps it was the wrong time of the day for this presenter. Early morning with a crowd like this would be difficult at best.	Aug 4, 2014 11:22 AM
2	He was not prepared and not funny. His idea of comedy is to talk to audience members. Get a routine already, dude! He could at least recycle something from his Arsenio Hall days from 20 years ago. He made some sexist jokes, too, that were not cool.	Aug 1, 2014 11:42 AM
3	I'm not sure why this qualified for CLE	Jul 30, 2014 5:06 PM
4	Totally useless.	Jul 28, 2014 2:34 PM
5	Funny but generated a feeling of awkwardness for some reason	Jul 25, 2014 10:52 PM
6	A comedian doing his routine at 9:00 a.m. in front of a bunch of lawyers - Really?	Jul 25, 2014 4:19 PM
7	Comedian's nightmare 1. Lawyers, 2. 8:00 am, 3. sober.	Jul 25, 2014 3:43 PM
8	His comments were neither tailored to the audience nor particularly funny	Jul 25, 2014 9:03 AM
9	Poor guy had an impossible task—doing comedy at 9 in the morning for lawyers!!!	Jul 24, 2014 7:20 PM
10	He was terrible.	Jul 24, 2014 9:58 AM
11	Didn't seem to apply to a bar convention. If there was more substance to the presentation (i.e. how does having a sense of humor help in life or legal practice?).	Jul 23, 2014 12:09 PM
12	Unfair to schedule a comic so early in the morning. I would not bother in the future.	Jul 23, 2014 9:29 AM
13	Seemed a pretty painful experience for Mr. Dugan, who did his best with an early-morning slot, a big room and a breakfasting audience. Impressive effort, but not very useful.	Jul 23, 2014 9:09 AM
14	a train wreck	Jul 23, 2014 8:51 AM
15	funny, but too early	Jul 23, 2014 8:36 AM
16	It seemed more entertainment than substantive CLE, so maybe more appropriate for lunch than keynote.	Jul 23, 2014 8:33 AM
17	I think it was a bit too early for a Comedian.	Jul 23, 2014 8:24 AM
18	Really?	Jul 23, 2014 8:15 AM
19	I general would have preferred a law related speaker instead, although I really like David Dugan's jokes.	Jul 23, 2014 1:12 AM
20	It was the wrong time of day; perhaps even the wrong audience	Jul 22, 2014 8:13 PM
21	While I appreciate what appeared to be an attempt to start off the convention	Jul 22, 2014 6:08 PM



Page 2, Q2. Please rate Thursday's keynote program: Laughing Your Way through Life  
David Dugan

	with a laugh, Mr. Dugan's stand-up is best received when coupled with drinks of an alcoholic nature, not caffeine.	
22	Not funny or useful.	Jul 22, 2014 5:48 PM
23	Really? A comedian? For CLE?	Jul 22, 2014 5:47 PM
24	Need better opening speakers	Jul 22, 2014 5:38 PM
25	Mistake to have the comedian come to the Leadership lunch the day before. Tough audience dynamic for him.	Jul 22, 2014 5:20 PM
26	tough crowd he had to address t a tough time of day. However it was enjoyable.	Jul 22, 2014 5:13 PM
27	I liked the concept, but asked myself if an interesting speaker addressing a current legal issue wouldn't have been more beneficial.	Jul 22, 2014 5:12 PM
28	Bad Idea at 9 a.m. - I really felt bad for this guy; like watching a fish flop around on the bank of a river.	Jul 22, 2014 5:08 PM
29	He did a pretty good job.	Jul 22, 2014 5:03 PM
30	I appreciate the Effort to open the convention on a humorous note; however, given the prior day's news of the arrest of Shurtleff and Swallow, it was difficult to focus on much else. Our Bar and all it represents was under scrutiny. Perhaps a chance to air the issue would have been a better, albeit extemporaneous, choice. In fact, any law related subject, even if humorously presented would have been better.	Jul 22, 2014 4:59 PM
31	Total and absolute waste of time.	Jul 22, 2014 4:49 PM
32	Having a comedian didn't seem like a good use of time. I would rather do something to earn CLE given the cost of the convention.	Jul 22, 2014 4:49 PM
33	This was the main thing that was just a waste of time, both because it had nothing to do with the law and because Dugan was not funny and lacked delivery skills.	Jul 22, 2014 4:46 PM
34	Please no more.	Jul 22, 2014 4:42 PM
35	Irrelevant and painful to wait through.	Jul 22, 2014 4:35 PM
36	Entertainment is fine, but it ought to bear some arguable connection to law practice.	Jul 22, 2014 4:32 PM
37	Very funny, but I would have liked more than just a stand up routine.	Jul 22, 2014 4:30 PM
38	It had little if anything to do with the law. It was just a stand-up routine.	Jul 22, 2014 4:29 PM
39	Awful, boring, and irrelevant. And not funny.	Jul 22, 2014 4:28 PM
40	he was ok, but I think a comedian first thing was awkward. everyone was tired, everyone was confused as to why we were having a comedian, and his jokes	Jul 22, 2014 4:24 PM

Page 2, Q2. Please rate Thursday's keynote program: Laughing Your Way through Life  
David Dugan

were moderate.

- |    |   |                      |
|----|---|----------------------|
| 41 | I don't think I can get CLE credit for this in other jurisdictions where I am licensed. | Jul 22, 2014 4:23 PM |
| 42 | Very sad about this one.  | Jul 22, 2014 4:21 PM |

Page 2, Q4. Was the addition of an extra hour of CLE at lunch beneficial?

- |   |  |                       |
|---|--|-----------------------|
| 1 | Loved it! Very informative and engaging.   | Aug 1, 2014 11:42 AM  |
| 2 | Any addition of CLE time is a good thing. I was not personally able to attend the lunch presentation.  | Jul 24, 2014 7:20 PM  |
| 3 | This was the best presentation on this difficult issue I've seen. Very balanced and informative about the issues and the arguments by two people showing a great deal of civility. | Jul 23, 2014 9:09 AM  |
| 4 | Both presenters were excellent and well-informed on the topic. Extremely timely.   | Jul 22, 2014 10:14 PM |
| 5 | The Bar should NOT require separate registration for the lunch and should be able to accommodate those who paid for the entire event and wished to attend.                         | Jul 22, 2014 5:13 PM  |
| 6 | It was beneficial to get CLE for this and the topic was interesting. It was not good in the sense that I did not hear anything that would be applicable to my practice.            | Jul 22, 2014 4:46 PM  |
| 7 | I really enjoyed the lunch CLEs. They are a nice addition to the conference.   | Jul 22, 2014 4:29 PM  |

Page 2, Q5. Please rate Friday's keynote program: Law and Neuroscience: Surveying the Territory  
Prof. Hank Greely

1	Very insightful, very alarming.	Aug 4, 2014 11:22 AM
2	The best overall presenter I have seen in 30 years of Bar Conventions.	Jul 28, 2014 2:34 PM
3	Very interesting. Gave inspiration that we lawyers maybe need to think outside the box from time to time.	Jul 23, 2014 12:09 PM
4	Though kinda touchy-feely.	Jul 22, 2014 10:14 PM
5	Best hour of the convention. Thought provoking and entertaining.	Jul 22, 2014 6:08 PM
6	Somewhat interesting, but way too theoretical to be of any help to any practicing attorney.	Jul 22, 2014 5:47 PM
7	He was fascinating. This was probably my favorite lecture/presentation.	Jul 22, 2014 5:20 PM
8	Very interesting.	Jul 22, 2014 5:13 PM
9	It was really interesting and gave a good perspective.	Jul 22, 2014 5:03 PM
10	I have already used Prof. Greely's information in my practice.	Jul 22, 2014 4:46 PM
11	Amazing. Interesting.	Jul 22, 2014 4:42 PM
12	He was fantastic.	Jul 22, 2014 4:30 PM

Page 2, Q6. Please rate the Friday Lunch Program: 100th Anniversary of the Joe Hill Trial  
Kenneth D. Lougee

1	I could not attend that lunch.	Aug 1, 2014 11:42 AM
2	Very good presentation of court decision history	Jul 28, 2014 4:43 PM
3	A less than engaging lecturer.	Jul 28, 2014 2:34 PM
4	Did not attend	Jul 25, 2014 2:47 PM
5	Sorry, couldn't attend.	Jul 24, 2014 7:20 PM
6	I did not go.	Jul 23, 2014 12:09 PM
7	I was honestly bored throughout this entire presentation.	Jul 23, 2014 8:24 AM
8	Knew about Joe Hill, but really zero about the case, and it's shocking.	Jul 22, 2014 10:14 PM
9	Quirky and interesting. I had never heard of Joe Hill. The story and the analysis were interesting.	Jul 22, 2014 5:20 PM
10	Interesting topic although the presenter was not very engaging.	Jul 22, 2014 5:13 PM
11	It was a little boring, the speaker was monotone, which makes for difficulty with attention.	Jul 22, 2014 5:03 PM
12	Great presentation -- a bit long on the minutiae.	Jul 22, 2014 4:59 PM
13	Good in the sense the subject matter is interesting and well presented. Bad in the sense I will likely never use this information in my practice.	Jul 22, 2014 4:46 PM
14	The material was really interesting, but I would have loved a broader view of the story.	Jul 22, 2014 4:30 PM
15	I did not attend this lunch program.	Jul 22, 2014 4:23 PM



Page 2, Q7. Please rate Saturday's keynote program: The Lawyer as Actor – The Courtroom/Boardroom as my Stage  
Dr. Jerry Gardner

1	Total waste of time	Jul 28, 2014 4:43 PM
2	So many things he could have taught us about stagecraft in the court room, and he spent the time on breathing and "being in the room."	Jul 28, 2014 2:34 PM
3	Sorry, couldn't attend.	Jul 24, 2014 7:20 PM
4	I am an actor/performer so I did enjoy it. But, I'm not sure many of the lawyers in the room could identify with it.	Jul 24, 2014 9:58 AM
5	Not particularly helpful.	Jul 23, 2014 9:29 AM
6	a double train wreck	Jul 23, 2014 8:51 AM
7	Again, I general would have preferred a law related speaker instead, although I really like Dr. Jerry Gardner's presentation.	Jul 23, 2014 1:12 AM
8	mildly interesting, but irrelevant.	Jul 22, 2014 8:13 PM
9	Dr. Gardner was engaging as a speaker and, hopefully, useful as an instructor.	Jul 22, 2014 6:08 PM
10	Wow—excellent presentation and very unique approach. I wish we had him earlier in the week.	Jul 22, 2014 5:13 PM
11	i am not sure we got to where the program title intended to take us.	Jul 22, 2014 5:13 PM
12	This had potential as well but was much less memorable than the Scalia and O'Connor presentations from past years.	Jul 22, 2014 5:12 PM
13	He was engaging	Jul 22, 2014 5:08 PM
14	With due respect, Dr. Gardner's presentation needed an introduction — here's what I'm going to talk to you about and why. With that context, it would have been more helpful. But— given the subject matter of his talk, the constant interruption of breakfast goers coming into the room was distracting and inappropriate. Please stop serving breakfast when the meetings convene.	Jul 22, 2014 4:59 PM
15	I really thought this was pretty boring. I have had this type of presentation before where the presenter understood how to make this information applicable to actual trial work. Dr. Gardner tried hard, but he did not understand what lawyers need enough to make the nexus between the layer and the layer's audience.	Jul 22, 2014 4:46 PM
16	Good principles. Just not sure that you can do much in the limited time available.	Jul 22, 2014 4:42 PM
17	A little too touchy-feely for my taste.	Jul 22, 2014 4:32 PM
18	It was a different type of presentation, and that was nice.	Jul 22, 2014 4:30 PM
19	Dr. Gardner had some interesting things to say, but I felt like he could have said a lot more if he had been better prepared.	Jul 22, 2014 4:29 PM
20	Interesting, but not particularly relevant.	Jul 22, 2014 4:28 PM

Page 2, Q8. Please rate or comment on the keynote speakers and breakouts that either were useful or interesting to you.

1	I thought the break sessions were very good this year. Heard a lot of positive feedback on the same.	Aug 4, 2014 11:22 AM
2	Good range of subjects.	Jul 24, 2014 11:14 PM
3	the Wen. night reception was very nice	Jul 23, 2014 3:43 PM
4	It would be helpful if the Saturday afternoon Securities section presentation materials were posted on the web page. Also, it would be helpful to have the 2013 Fall Forum still posted on the web	Jul 23, 2014 1:12 AM
5	Very good breakouts overall.	Jul 22, 2014 5:13 PM
6	So nice to have the judges in the conference presenting and attending. First time for me in Snowmass and we loved it. We didn't think anything could replace Sun Valley but this was great and better.	Jul 22, 2014 5:13 PM
7	I find the most beneficial CLE's to be those that provide timely, hands-on, practical advice. For example, the discussion of courtroom technology was helpful, but it would have been more beneficial to have some demonstrations of how to make use of the technology.	Jul 22, 2014 5:12 PM
8	I did not rate the programs I did not attend. I wasn't sure if Dr. Gardner's line was as a keynote speaker or as a breakout. I did not attend his breakout session.	Jul 22, 2014 4:46 PM
9	The moderator for the jury behavior panel needed to actually moderate. The intros were too long, and she needed to keep the speakers on time so that there was time for questions at the end. I also think it was unfortunate to cut Judge Christiansen off in the middle of a sentence and not allow her to at least finish her comment. Otherwise, the content from the judges was great.	Jul 22, 2014 4:41 PM
10	Too many of what I thought were the really good breakouts were all set at the same time right off the bat on Thursday	Jul 22, 2014 4:29 PM
11	I enjoyed all of my breakout sessions. I felt like the White Collar breakout would have been better if someone representing the defense bar had been included.	Jul 22, 2014 4:29 PM

Page 2, Q9. Please list session topics you would like to see at future Utah State Bar Conventions

1	I think subjects on Court room skill enhancement, training and current legal topics are always popular. I would like to see more breakouts about what the future of law is going to be and issues we should be prepared for in the coming decade.	Aug 4, 2014 11:22 AM
2	Tax litigation	Jul 28, 2014 4:43 PM
3	I practice in juvenile court. Virtually nothing for the juvenile court practitioner was available.	Jul 25, 2014 4:19 PM
4	Evidence Updates	Jul 25, 2014 10:21 AM
5	Collections Mechanic's Liens Commercial landlord/tenant issues	Jul 25, 2014 9:03 AM
6	Would like to see more on electronic evidence discovery and presentation.	Jul 24, 2014 11:14 PM
7	Reviews of Supreme Court Decisions.	Jul 24, 2014 1:47 PM
8	Cloud Technology and Ethics Law Firm Administration How-Tos	Jul 24, 2014 1:32 PM
9	I would like to see something more helpful for estate planning. They've basically had the same session 2 years in a row.	Jul 24, 2014 9:58 AM
10	Anything on the Rules of Evidence, including the state of the admission of expert testimony in Utah	Jul 23, 2014 12:09 PM
11	More insurance law issues	Jul 23, 2014 6:59 AM
12	This year's topics seemed to be a good mix. I thought the economic loss panel was exceptional, because it's a confusing topic.	Jul 22, 2014 10:14 PM
13	Practice Management Civil Rights / Privacy	Jul 22, 2014 8:17 PM
14	More sections on evidence.	Jul 22, 2014 7:37 PM
15	Courtroom conduct, conflict with other attorneys, Rule 26 and Rule 26.1.	Jul 22, 2014 6:08 PM
16	Topics related to representing small companies; more corporate-related sessions; topics related to firm management and time management.	Jul 22, 2014 5:47 PM
17	Economic Loss Rule, trial practice, discovery techniques.	Jul 22, 2014 5:13 PM
18	Evidence 4th Amendment issues	Jul 22, 2014 5:13 PM
19	More CLE on issues arising in the personal injury and general commercial litigation areas.	Jul 22, 2014 5:12 PM
20	Rule of Evidence, Rule 702; How to Teach the Bench without Burning Bridges with the Judge; How to Get Rid of the Amendments to Rule 26; How to Persuade the Bench to force Parties to Actually Answer Discovery without Being a Whiner;	Jul 22, 2014 4:46 PM
21	Panel discussion with Utah Supreme Court (whole court if possible) discussing new procedural rules where there is give and take and comments from audience	Jul 22, 2014 4:44 PM



Page 2, Q9. Please list session topics you would like to see at future Utah State Bar Conventions

	Ins and outs of taking out of state depositions for cases that are in state.	
22	It would be great to see more CLEs with a practical emphasis. The presentation on the economic loss doctrine was a great example. I loved the state and local initiative and referendum presentation, but the topics were more about legislative and judicial trends than about any practical knowledge that would help a practitioner in day-to-day legal work. Don't get me wrong—I enjoy going to the theoretical and interesting lectures too, but it's great to attend a presentation that is well researched and helpful in my day-to-day practice.	Jul 22, 2014 4:42 PM
23	More criminal or public law.	Jul 22, 2014 4:30 PM
24	Criminal law Evidence Appellate practice	Jul 22, 2014 4:29 PM
25	Ethics - civility	Jul 22, 2014 4:28 PM
26	Please continue to have panels with judges. It is interesting to hear their perspectives.	Jul 22, 2014 4:23 PM



Page 2, Q10. Please list any keynote speakers you would be interested in seeing at future Utah Bar events.

1	Any of the high court Justices. Chief Justice Roberts would be nice. Notable legal authors would also be fun.	Aug 4, 2014 11:22 AM
2	Sean Carter	Aug 1, 2014 11:42 AM
3	Maxwell Miller	Jul 28, 2014 4:43 PM
4	Legal writing-Bryan Garner	Jul 23, 2014 9:09 AM
5	Bryan Garner	Jul 23, 2014 8:33 AM
6	US Supreme Court review - Dean Chemerinsky	Jul 23, 2014 6:59 AM
7	Justice John Paul Stevens	Jul 22, 2014 10:14 PM
8	Presiding Judge from the 10th Circuit. The attorneys from both sides of Kitchen v. Herbert	Jul 22, 2014 8:17 PM
9	Any Supreme Court justice, any judge from a same sex marriage case.	Jul 22, 2014 6:08 PM
10	Regulatory agency people; law professors; judges	Jul 22, 2014 5:47 PM
11	Jerry Seinfeld	Jul 22, 2014 5:20 PM
12	Jerry Gardner	Jul 22, 2014 5:13 PM
13	Other Supreme Court justices	Jul 22, 2014 5:12 PM
14	Former US Supreme Court Justice Stevens	Jul 22, 2014 5:08 PM
15	Alina Fong, Ph.D (Neuropsychologist); Tom Vesper (attorney from New Jersey (I think)) on leveling the field in discovery disputes; Congressman Matt Cartwright (Penn.) on Making our Highways Saver	Jul 22, 2014 4:46 PM
16	Chief Justice Roberts. Brian Doyle. Ronnell Anderson Jones (BYU)	Jul 22, 2014 4:42 PM
17	Hank Greely was excellent. I would like more presenters like him. I also enjoyed the speaker who spoke about German courts during WWII a year or two ago.	Jul 22, 2014 4:29 PM

Page 2, Q11. What type of subject matter would you like at a keynote presentation?

1	I enjoy hearing about break-throughs in law, science and etc.	Aug 4, 2014 11:22 AM
2	Current/controversial events on a state or national level	Aug 1, 2014 11:42 AM
3	U.S. Supreme Court decisions	Jul 28, 2014 4:43 PM
4	I really liked the update on the same sex marriage. If those cases are still progressing, I'd like to see an update again.	Jul 24, 2014 9:58 AM
5	I like speakers who can inspire me not just to try to be a better lawyer, but to appreciate the vital role that lawyers can play in making a more just society. More than any other profession, lawyers can expand a just society or destroy it. We should be about more than just John Doe v. Richard Roe.	Jul 22, 2014 10:14 PM
6	Hot button issues, current supreme court cases, local legal issues	Jul 22, 2014 6:08 PM
7	Current topics in legal affairs; legal issues receiving significant media attention.	Jul 22, 2014 5:47 PM
8	lighter fare.	Jul 22, 2014 5:20 PM
9	Conflict resolution, advocacy, motivational speakers	Jul 22, 2014 5:13 PM
10	interesting contemporary topics	Jul 22, 2014 5:13 PM
11	How the US Constitution should be amended to improve our system of government	Jul 22, 2014 5:08 PM
12	I prefer keynotes that are substantive and deal with timely legal issues.	Jul 22, 2014 4:41 PM
13	More hot topics like same sex marriage, especially those related to Utah (i.e. Medicaid or immigration reform).	Jul 22, 2014 4:30 PM
14	Historical lectures. Lectures about innovations in science or other areas that impact the law.	Jul 22, 2014 4:29 PM
15	Something law related.	Jul 22, 2014 4:23 PM

Page 2, Q12. Did you take advantage of any of the following activities available in Snowmass:

1	The activities were fantastic's. The hiking was superb. Better than SunValley.	Aug 4, 2014 11:22 AM
2	Lakes & maroon Bell mountains. Visiting and eating in Aspen.	Jul 25, 2014 10:52 PM
3	Snowmass Club	Jul 23, 2014 8:24 AM
4	Fly fishing	Jul 23, 2014 8:20 AM
5	fishing	Jul 22, 2014 5:50 PM
6	Swimming	Jul 22, 2014 5:38 PM
7	Gondola Rides at Aspen, Maroon Bells.	Jul 22, 2014 5:13 PM
8	Ashcroft Ghost town visit, Maroon Bells hike, visit to Aspen and Aspen gondola, swimming	Jul 22, 2014 5:12 PM
9	Fly fishing	Jul 22, 2014 4:49 PM
10	horsebackriding	Jul 22, 2014 4:46 PM
11	swimming	Jul 22, 2014 4:44 PM
12	Amazing food	Jul 22, 2014 4:42 PM

Page 2, Q13. How did you hear about these activities?

1	We learned alot about these activities last year when we were there.	Aug 4, 2014 11:22 AM
2	Prior attendees	Aug 1, 2014 11:42 AM
3	knew from previous snowmass conventions	Jul 28, 2014 4:43 PM
4	Locals	Jul 25, 2014 10:52 PM
5	literature at snowmass	Jul 22, 2014 7:04 PM
6	Word of mouth	Jul 22, 2014 5:13 PM
7	And word of mouth	Jul 22, 2014 5:12 PM
8	Travel Literature	Jul 22, 2014 5:08 PM
9	Went last year.	Jul 22, 2014 4:27 PM

Page 2, Q14. Are there other ways we can keep you informed on available activities?

1	Mailings are my preferred media. If I miss it, then my family always sees it and reminds me.	Aug 4, 2014 11:22 AM
2	The website is good.	Aug 1, 2014 11:42 AM
3	I liked having the schedule emailed to me each morning	Jul 24, 2014 1:32 PM
4	Thanks for the daily notices. Very helpful.	Jul 23, 2014 5:41 PM
5	Text messages	Jul 23, 2014 8:24 AM
6	The day to day emails were great.	Jul 22, 2014 8:17 PM
7	Text message	Jul 22, 2014 6:08 PM
8	I liked the email updates with links to information about the convention and Snowmass.	Jul 22, 2014 4:41 PM
9	Sending an email during the convention was helpful.	Jul 22, 2014 4:23 PM



Page 2, Q15. Where did you stay?

1	Excellent. Close to the convention, shops, and events. Great accomodations.	Aug 4, 2014 11:22 AM
2	I could not afford the \$100+ hotel night. I slept at a campground 2 nights. The third night could not find a place to sleep, so slept off the side of the road in back of my vehicle.	Jul 24, 2014 10:02 PM
3	Capital Peak	Jul 24, 2014 9:58 AM
4	Chalet	Jul 23, 2014 9:09 AM
5	Snowmass Mountain Chalet	Jul 22, 2014 5:50 PM
6	Woodrun condos-fantastic lodging. We stayed in the Aspenwood condos last year and were not pleased with the accomodations.	Jul 22, 2014 5:12 PM
7	VRBO type house.	Jul 22, 2014 4:21 PM

Page 2, Q16. How would you rate your accommodations?

1	They were well priced, very clean and pleasant to stay in.	Aug 4, 2014 11:22 AM
2	No air conditioning was a bummer but not too bad	Aug 1, 2014 11:42 AM
3	Walked long distances to room.	Jul 25, 2014 10:52 PM
4	No parking available at times.	Jul 25, 2014 4:19 PM
5	policy requiring use of bellmen was annoying and inconvenient.	Jul 22, 2014 8:13 PM
6	Westin is old and not laid out well; just OK rooms	Jul 22, 2014 5:20 PM
7	Westin was fine, but not the Westin the reputation expects. I would stay at a Condo next time.	Jul 22, 2014 5:13 PM
8	They were fantastic.	Jul 22, 2014 4:30 PM

Page 2, Q18. What was your most memorable experience from this year's convention?

1	I thought the entire experience was great. Thank you to those in charge and bar leadership for an excellent convention. I hope we can return again in the future. I enjoyed SunValley, but I think Snowmass is my new favorite. Much better and more enjoyable for my family and myself.	Aug 4, 2014 11:22 AM
2	The whole thing was really fun and enjoyable! The rafting was probably the most fun, and I liked the keynote speakers. The food and especially the variety and quality of hot and cold drinks available throughout the meetings was awesome! Please keep that on all future conventions.	Aug 1, 2014 11:42 AM
3	association with colleagues	Jul 28, 2014 4:43 PM
4	Hank Greely's presentations.	Jul 28, 2014 2:34 PM
5	Beauty and scenery. Program was valuable and timely as usual. Disappointed with the ice cream social but for the many children at movie it looked fine and they seemed to enjoy it.	Jul 25, 2014 10:52 PM
6	The great environment. The cooler temperatures. Wonderful food, music, and activities.	Jul 24, 2014 1:47 PM
7	Dinner with everyone there from my firm.	Jul 24, 2014 9:58 AM
8	Biking	Jul 23, 2014 3:43 PM
9	Great CLE.	Jul 23, 2014 9:18 AM
10	Hiking with family, receptions with judges and others	Jul 23, 2014 9:09 AM
11	I appreciated the bar and bench mixer.	Jul 23, 2014 8:33 AM
12	The BYU Law School Reception, being with a few of my classmates, and meeting new people.	Jul 23, 2014 8:24 AM
13	The opportunity to mingle at the various receptions was wonderful.	Jul 23, 2014 8:15 AM
14	Interaction with judges	Jul 22, 2014 10:14 PM
15	Hitting the conference in the morning, rafting after, then a short hike, then a great dinner in Aspen, and a concert back at Snowmass.	Jul 22, 2014 8:17 PM
16	Hearing that it was moving back to Sun Valley next year.	Jul 22, 2014 7:04 PM
17	The family bbq was great, once again.	Jul 22, 2014 6:08 PM
18	Associating with members of the bar.	Jul 22, 2014 5:48 PM
19	several bike rides through gorgeous territory	Jul 22, 2014 5:20 PM
20	The family carnival.	Jul 22, 2014 5:13 PM
21	interaction with lawyers and judges.	Jul 22, 2014 5:13 PM
22	Family picnic	Jul 22, 2014 5:12 PM

Page 2, Q18. What was your most memorable experience from this year's convention?

23	Networking and social activities	Jul 22, 2014 5:09 PM
24	Hike from Aspen to Crested Butte.	Jul 22, 2014 5:08 PM
25	The break out session on How to Build a Firm Culture that Handles Conflict Constructively was a great session. I walked away feeling like I could apply many things in our office.	Jul 22, 2014 5:03 PM
26	Kitchen v. Herbert presentation was excellent.	Jul 22, 2014 4:59 PM
27	Spending time with my husband enjoying Snowmass and the surrounding areas was the best part. I didn't expect a truly incredible vacation on top of the convention activities.	Jul 22, 2014 4:49 PM
28	Justice Lee's Breakout Session on Marshaling Evidence on Appeal	Jul 22, 2014 4:46 PM
29	The great music at the opening reception, the good lectures, the live music on the hill on Thursday, and hiking in the one of the most beautiful places in the world.	Jul 22, 2014 4:42 PM
30	Maroon Bells	Jul 22, 2014 4:39 PM
31	All of the family oriented activities were particularly memorable.	Jul 22, 2014 4:30 PM
32	Hank Greely's lecture.	Jul 22, 2014 4:29 PM
33	CLE on bankruptcy issues with Judge Thurman and company	Jul 22, 2014 4:28 PM
34	Getting ready to give the ***** Joe Hill Speech	Jul 22, 2014 4:24 PM
35	Rafting with friends.	Jul 22, 2014 4:23 PM
36	Beautiful setting.	Jul 22, 2014 4:21 PM



Page 2, Q19. Would you return to Snowmass if the Summer Convention were to be held there again?

1	I definitely would return. I don't think I will go to Sun Valley--Snowmass is better.	Aug 4, 2014 11:22 AM
2	Too far away.	Jul 25, 2014 4:19 PM
3	This is a great location. I like Sun Valley, but the accommodations are more expensive and the quality is less predictable. Snowmass/Aspen is great and should remain as a site. Perhaps alternating between Snowmass and Sun Valley would work.	Jul 25, 2014 2:06 PM
4	Great program. The overall costs were much lower than other out of state venues I have attended.	Jul 24, 2014 11:14 PM
5	The lodging was expensive and limited. There was no lower priced accommodations.	Jul 24, 2014 10:02 PM
6	I like Sun Valley better.	Jul 24, 2014 7:20 PM
7	It is a shame that we are running back to Sun Valley. The resort is boring, expensive, and lacks any entertainment value.	Jul 24, 2014 1:47 PM
8	I am sorry I did not go to the first one at Snowmass. I hope the bar will consider a return to this location. Despite some of the whining I heard, the drive out was beautiful.	Jul 24, 2014 1:32 PM
9	The accommodations are quite expensive.	Jul 24, 2014 9:58 AM
10	I don't think Snowmass works well as a site for the Bar Convention. Unlike Sun Valley, there is no common area where you run into other members. Perhaps the problem is also that Snowmass is too vertical.	Jul 23, 2014 9:29 AM
11	Very nice venue.	Jul 23, 2014 9:09 AM
12	I absolutely loved Snowmass! I had never been before but will hope to be going back there soon for a weekend vacation.	Jul 23, 2014 8:24 AM
13	The drive is WAY too long, and Sun Valley offers much more entertainment opportunity.	Jul 22, 2014 10:14 PM
14	Snowmass was a breath of fresh air. I hope to see the bar return there in the near future. Complaints or warnings about the 'longer' drive were overblown. Great job at a new location.	Jul 22, 2014 8:17 PM
15	Beautiful surroundings, but restaurants, and hotel amenities were unreasonably expensive.	Jul 22, 2014 8:13 PM
16	Absolutely. I enjoy Snowmass more than Sun Valley, not only because it costs much less than Sun Valley, but because Sun Valley seems so...old...and not in a good way. Colorado has better restaurants, golf courses, sights, activities and such.	Jul 22, 2014 6:08 PM
17	It's a nice place, but it's a very long drive.	Jul 22, 2014 5:47 PM
18	prefer Sun Valley	Jul 22, 2014 5:20 PM



Page 2, Q19. Would you return to Snowmass if the Summer Convention were to be held there again?

19	Very impressed with location and amenities. Liked being able to stay in one place and have good accommodations/activities without drive.	Jul 22, 2014 5:13 PM
20	Most definitely.	Jul 22, 2014 5:13 PM
21	In some ways, we prefer Snowmass to Sun Valley: cheaper accommodations, much larger inventory of lodging, cheaper food and activities, and wider variety of activities. We love Sun Valley too, but would return again to Snowmass, in spite of the longer drive.	Jul 22, 2014 5:12 PM
22	Very long drive that basically requires two extra days of travel to attend the conference; topography is difficult with the facilities located on a very steep hill. Not very conducive to pedestrian travel	Jul 22, 2014 5:08 PM
23	The weather was perfect, the activities were great. It was an overall great experience!	Jul 22, 2014 5:03 PM
24	Incredibly long drive	Jul 22, 2014 4:59 PM
25	I absolutely fell in love with Snowmass and would definitely attend in the future.	Jul 22, 2014 4:49 PM
26	I feel a duty to go to the Annual Convention to support the Utah State Bar. Snowmass in the least favorite for me and for my family, out of Sun Valley, San Diego and St. George.	Jul 22, 2014 4:46 PM
27	Please consider holding the conference in Snowmass again. Please! I will go to Sun Valley, since that is apparently what most attorneys prefer, but Snowmass is incredible. I hope we return.	Jul 22, 2014 4:42 PM
28	I think Snowmass is an outstanding venue, and hope that we return – or at least continue to try venues other than Sun Valley.	Jul 22, 2014 4:41 PM
29	The drive is much further than Sun Valley and the train was extremely slow.	Jul 22, 2014 4:32 PM
30	I love Sun Valley and Snowmass, but I prefer Snowmass because it is less expensive and offers more to do.	Jul 22, 2014 4:29 PM
31	The drive is long, but I like the cheaper condo rentals compared to Sun Valley. Once every five years?	Jul 22, 2014 4:28 PM
32	Too far away and too expensive	Jul 22, 2014 4:28 PM
33	Only complaint, the long drive.	Jul 22, 2014 4:27 PM
34	It's a long drive to be in a place that feels like a green Park City.	Jul 22, 2014 4:23 PM

Page 2, Q20. The 2015 Utah State Bar Summer Convention will be held in Sun Valley, Idaho from July 29th through August 1st. What is the likelihood of your attendance?

1	Bad time of the year and once you have been there there is not much more to see or do. Snowmass has something new every year.	Aug 4, 2014 11:22 AM
2	It depends on what else is going on next summer and whether I have a role at the Convention and/or need the CLE	Aug 1, 2014 11:42 AM
3	Sun Valley is too expensive and the accomodations are hit and miss.	Jul 25, 2014 2:06 PM
4	Depends if there is affordable lodging, less than \$100.	Jul 24, 2014 10:02 PM
5	Sun Valley is my favorite venue for the annual convention.	Jul 24, 2014 7:20 PM
6	I will hold out for San Diego, Newport, or a return to Snowmass.	Jul 24, 2014 1:47 PM
7	Unless Sun Valley provides some competitive pricing I will not make the trip.	Jul 24, 2014 1:32 PM
8	Sun Valley is just a superior convention experience.	Jul 22, 2014 10:14 PM
9	Sun Valley is too expensive and offers too little for the price.	Jul 22, 2014 8:17 PM
10	Will seek accommodations away from resort.	Jul 22, 2014 8:13 PM
11	we LOVE Sun Valley. it is much better than Snowmass.	Jul 22, 2014 7:04 PM
12	I think Sun Valley is a better destination	Jul 22, 2014 5:20 PM
13	Please do it in Snowmass again.	Jul 22, 2014 5:13 PM
14	No comparison with Snowmass for quality and value	Jul 22, 2014 5:09 PM
15	But prefer Snowmass	Jul 22, 2014 4:44 PM
16	If my work will send me again, I'll be there.	Jul 22, 2014 4:30 PM
17	Not enough sessions on topics of interest to transactional lawyers.	Jul 22, 2014 4:28 PM

## PRESIDENT'S MESSAGE



### Benefits of the Annual Meeting

*By Hans Q. Chamberlain*

In approximately 1974 or 1975 (long before I became very active in the Bar Association), mostly out of curiosity and the need to get away from the office grind with family, my wife and I decided to pile our children in our yellow and white Suburban (that the neighborhood children commonly referred to as the "school bus"—referred to by me as my "BMW—Big Mormon Wagon"), and traveled from Cedar City to Sun Valley for our first Annual Meeting. Frankly, we did not know what to expect, knew very little about Sun Valley and the surrounding area, so in that sense, it was somewhat of an adventure for us.

Much to our surprise, everything went well, our lodging was more than satisfactory, and the CLE Program very worthwhile. Our children fell in love with Sun Valley and now look forward to each Annual Meeting as a new adventure.

At my first Annual Meeting, two or three of the older members put their arm around me, welcomed me to this annual affair, and I think the President back then even went out of his way to make me feel welcome, which I sincerely appreciated.

I am sure you realize by now that I became a believer in regular attendance at Annual Meetings of the Bar, and simply have no regrets from my fairly regular attendance at the Annual Meeting over the 15 years. I sincerely believe that the events I attended at each Annual Meeting have made me a better lawyer and, hopefully, a better person. I know my wife and children better understand what lawyering is all about by reason of their attendance

and participation at the Annual Meetings that we have always attended as a family.

Because the Annual Meeting this year is being held at Beaver Creek, Colorado, I see this as a chance for a new adventure, improving my skills as a lawyer, socializing with people I like and respect, and a chance to be with my family. I have never been to Beaver Creek, Colorado, but its alpine village setting, its reasonable room rates, a Robert Trent Jones Golf Course and summer sun sound rather enticing as I wind down my year.

By now, you will have received information on the Annual Meeting, and I simply want to encourage you to attend this annual event from June 27, 1990, through July 1, 1990. The Annual Meeting Committee, chaired by Carolyn Nichols, has gone to a great deal of work in planning this event, and CLE events have been scheduled to allow as much free time for relaxation as possible. I have very much appreciated Carolyn and her committee's efforts in undertaking this project. Every time we decide to hold our Annual Meeting at a different place, a substantial amount of effort is required, and I want to personally thank Carolyn and her committee members for going the extra mile.

By attending, you can obtain 13 hours of MCLE credit while enjoying the beautiful Colorado Rockies. You will be able to hear from speakers including New York City Comptroller and former U.S. Representative Elizabeth Holtzman, the Hon. Robert R. Merhige Jr., U.S. District Judge, Eastern

District of Virginia, and the Hon. Jim R. Carrigan, U.S. District Judge, Colorado.

When the Bar Commission selected Beaver Creek, we intentionally tried to select a site that was within driving distance for most Bar members to minimize expense and provide an opportunity for a family outing. From almost any point in Utah, you can drive to Beaver Creek in one day, and as I understand it, the drive is really quite beautiful.

Many lawyers ask why we hold our Annual Meetings and most of our Mid-Year Meetings out of the Wasatch Front area. The answer is simple. Lawyers don't attend them if they are within an hour's driving distance from their office. For example, our Mid-Year Meeting held in Salt Lake this past January drew approximately one-half of the number that attended the Mid-Year Meeting a year ago in St. George. The last time we held an Annual Meeting near Salt Lake in Park City, we had less than 100 lawyers sign up, about 50 percent of those attended the events, and the Bar lost money. When we held the Annual Meeting in San Diego a couple of years ago, we drew the largest number in the history of the Bar, even larger than the number in attendance at the Sun Valley meeting last summer.

If you haven't taken time to read the brochure on the Annual Meeting, please take time to do so. More importantly, take it home, review it with your spouse and family, and make a commitment early on to visit the Rockies this summer.

I hope to see you there.



	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	L. Park	Little Am	Little Am	Salt Pal	Salt Pal	Marion	L. Am	L. Am	L. Am	L. Am
5	TOTAL REG.									488	270	508	530	588	535	666	507	553	475	368
6																				
7	SPRING CNV																			
8	LOCATION	ST. G.																		
9	TOTAL REG.	429	461	501	501	509	471	513	454	434	487	419	420	436	460	424	426	438	379	362
10																				
11	SUMMER CNV																			
12	LOCATION	CALIF.	IDAHO	IDAHO	IDAHO	IDAHO	CALIF.	IDAHO	IDAHO	IDAHO	IDAHO	IDAHO	NWINT	IDAHO	IDAHO	IDAHO	IDAHO	HYATT	IDAHO	COLO.
13	TOTAL REG.	455	526	527	541	568	479	542	329	496	350	438	367	450	413	424	351	354	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)
Total Membership	11,118	4,066	16,208	227,941	17,500	7,500	5,806	4,749	10,538	7,900	2,420	18,000	3,097	33,969	2,894
Annual Budget	\$5.5 Million	\$2.8 Million	\$14.2 Million	\$137 Million	\$5 Million	\$1.9 Million	\$2.7 Million	\$1.4 Million	\$6.3 Million	\$3.5 Million	\$1 Million	\$18.2 Million	\$1.4 Million	\$20.3 Million	\$1.3 Million
Bar Governance	1. 15 Board members; 3-year terms. 2. Board meets 10 times per year. 3. Electronic ballot used for officer election by membership.	1. 12 Board members; 3-year terms. 2. Board meets 4 times per year. 2. Electronic ballot used for officer election by membership.	1. 30 Board members; 3-year terms. 2. Board meets 9-11 times per year. 3. Officers elected by governing body.	1. 17 Board members; 3-year terms. 2. Board meets 6 times per year. 3. Officers elected by governing body.	1. 149 Board members; varied terms. 2. Board meets 2 times per year.	1. 21 Board members; 2-year terms. 2. Board meets 12 times per year. 3. Electronic and Mail-In ballot used for officer election by membership.	1. 5 Board members; 3-year terms. 2. Board meets 9 times per year. 3. Mail-In ballot used for officer election by membership.	1. 20 Board members; 2-year terms. 2. Board meets 4 times per year. 3. Mail-In ballot used for officer election by membership.	1. 15 Board members; 2-year terms. 2. Board meets 6 times per year. 3. Officers elected by governing body.	1. 22 Board members; 3-year terms. 2. Board meets 5 times per year. 3. Officers elected by governing body.	1. 14 Board members; 2-year terms. 2. Board meets 6 times per year. 3. Mail-In ballot used for officer election by membership.	1. 16 Board members; 4-year terms. 2. Board meets 5 times per year. 3. Officers elected by governing body.	1. 13 Board members; 3-year terms. 2. Board meets 4 times per year. 3. Mail-In ballot used for officer election by membership.	1. 17 Board members; 3-year terms. 2. Board meets 7 times per year. 3. Officers elected by governing body.	1. 13 Board members; 3-year terms. 2. Board meets 4 times per year. 3. Officers elected by governing body.
Highest Dues Level	\$445	\$660	\$460	\$410	\$225	\$504	\$445	\$385	\$450	\$400	\$380	\$522	\$415	\$355	\$305
Date of Last Dues Increase	2-4 years ago (21% incr.)	2-4 years ago (9% incr.)	Over 7 years ago	5-7 years ago	Last year (8% incr.)	5-7 years ago	Last year (12.5% incr.)	5-7 years ago	5-7 years ago	2-4 years ago (5% incr.)	Over 7 years ago	Over 7 years ago	5-7 years ago	2-4 years ago (8% incr.)	2-4 years ago (20% incr.)
Staff No.	38	20	104	576	35	13	20	15	46	30	6	90	4	145	7
Mental Health Coverage Program	1. Peer assistance program. 2. Referral to professional counseling program paid by Bar.	1. Peer assistance program. 2. Referral to professional counseling program paid by lawyer.	1. Peer assistance program. 2. Referral to professional counseling program paid by lawyer.	1. Peer assistance program. 2. Referral to professional counseling program paid by Bar.	1. Peer assistance program. 2. Referral to professional counseling program paid by lawyer.	1. Peer assistance program. 2. Referral to professional counseling program paid by lawyer.	1. Peer assistance program. 2. Limited counseling services paid by Bar. 3. Referral to professional counseling program paid by lawyer.	1. Peer assistance program. 2. Referral to professional counseling program paid by lawyer.	1. Peer assistance program. 2. Professional counseling program paid by Bar.	1. Peer assistance program. 2. Referral to professional counseling program paid by lawyer.	1. Peer assistance program. 2. Referral to professional counseling program paid by lawyer.	1. Peer assistance program. 2. Referral to professional counseling program paid by lawyer.	1. Referral to professional counseling program paid by Bar, if needed.	1. Referral to professional counseling program paid by lawyer.	1. Peer assistance program. 2. Referral to professional counseling program paid by lawyer.
Mandatory NLTP Program	Yes	Yes	Yes	No	No	Yes	No	No	No	No	No	No	No	No	Yes
Modest Means Program	Yes	No; referral to Legal Services.	Bar lists attorneys willing to work "moderate income" cases vetted by Legal Services.	Yes	No; A self study course is available to set up a "Moderate Income clientele."	Bar lists attorneys willing to work "moderate income" cases vetted by Legal Services.	No; referral to Legal Services.	No; referral to Legal Services.	Bar lists "Emeritus status" attorneys willing to work pro bono and "moderate income" cases vetted by Legal Services.	No; referral to Legal Services.	No; referral to Legal Services.	Yes	Yes	Yes	Bar lists "Emeritus status" attorneys willing to work pro bono and "moderate income" cases vetted by Legal Services.





	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 has developed aspirational goals for the number of pro bono hours attorneys should provide annually (40)	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 (30)	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 (30)	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 (30)	1. No formal pro bono program. 2. Bar has developed aspirational goals for the number of pro bono hours attorneys should provide annually (50)
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. 10 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 9



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

**AUGUST 22, 2014**

**PARK CITY, UTAH**

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

**Minutes:**

**1. President's Report:**

- 1.1. Jim Gilson reported on the National Conference of Bar President's Meetings held in Boston in August.
- 1.2. Jim Gilson reported on the Magna Carta Exhibit which he saw in Boston and which will be displayed in Utah in April 2015. The Utah State Bar is sponsoring the Magna Carta exhibit and will have activities in conjunction with the exhibit.

**1.3. Executive and Judicial Compensation Committee Report**

The Commission discussed the fact that the Judicial Compensation Committee recommended a pay increase for judges. Everybody agreed that the Bar supports a salary increase to attract qualified judicial applicants and maintain a strong judiciary.

**1.4. Lifetime Service to the Bar Award**

**1.5. Professionalism Award**

Both of the above awards will be given at the Fall Forum in November 2014. In order to make the awards meaningful, the Commission would like all Commissioners to suggest nominees and seek nominees from the sections and committees for which they are

liaisons. Information about nominees should include background and qualifications so the Commission can adequately and meaningfully consider the nominees. Everybody agreed that nominations for the awards should be well published in the President's Message and on the Bar's website.

### **1.6. Blomquist Hale**

Bar pays \$75,000 per year for the benefit. Commission agreed it is a great benefit but that it is underutilized. Commission discussed ways to make sure members know about the counseling.

## **2. Program Discussions:**

**2.1. Access to Justice Programs.** Rob Rice reported on the Pro Bono Commission and how successful the pro bono program has been doing since its launch 2 years ago. Next step is to focus on how to take the pro bono program to the next level in terms of keeping momentum going, acquiring a new database for case management, how to best utilize volunteer lawyers and how to involve more bar staff. Commission discussed the large demand for family law legal services and ways to encourage more lawyers from all practice areas to take on pro bono family law cases.

John Lund reported on the Modest Means Program. John Lund emphasized the need to distinguish between the Modest Means Program and the Pro Bono Program. Modest Means is different because it will change how the public perceives lawyers by demonstrating that legal services are affordable for all people. Future goal for Modest Means is to better advertise the program to the public and get business leaders on the Modest Means Committee.

**2.2 NLTP.** Elizabeth Wright reported on the status of the NLTP. Emily Sørensen is the new NLTP Coordinator as of July 14, 2014. The Utah State Bar NLTP Committee has taken over mentor approval from the Supreme Court's Professionalism Committee. The NLTP Committee established policies and procedures for mentor approval and the approval process is going well.

**2.3 Program Performance Review:** Jim Gilson announced that the Commission will form committees to conduct performance reviews of the OPC, CLE Department, the NLTP and the Bar budget.

## **3. Open Mic Time:**

Each Commissioner present described his or her goals for the next year and ideas for having those goals implemented.

## **HANDOUTS DISTRIBUTED AT MEETING:**

1. 2014 NABE NCBP NCBF Annual Meeting Program
2. Information about Magna Carta exhibition



3. Agenda for the August 11, 2014 meeting of the Utah Elected Official and Judicial Compensation Commission
4. Information and history about the Utah State bar Lifetime Service Award
5. List of past winners of the Professionalism Award
6. Information and statistics on Blomquist Hale
7. Bar Commissioner position description and handouts regarding duties and responsibilities of a board member.
8. August 22, 2014 Commission Meeting Minutes
9. Copy of Rule 14-101 and 14-102 of the Rules Governing the Utah State bar
10. Information about the Modest means Program
11. Information about the NLTP

**ADJOURNED:** 5:20 p.m.

**CONSENT AGENDA:**

1. Approved July 16, 2014 Commission Meeting Minutes
2. Reappoint Nate Alder as ABA Delegate 2014-2016

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

**AUGUST 23, 2014**

**PARK CITY, UTAH**

**In Attendance:** President James D. Gilson; President-elect Angelina Tsu. Commissioners: H. Dickson Burton, Kenyon Dove, Heather Farnsworth, Mary Kay Griffin, Hon. Michael Leavitt, John Lund, Janise Macanas, Rob Rice and Tom Seiler.

**Ex-Officio Members:** Nate Alder, Heather Allen, Curtis Jensen, Katherine Judd, Aida Neimarlija, Jesse Nix, Dean Robert Alder and Dean James Rasband, Executive Director John C. Baldwin, General Counsel Elizabeth A. Wright, Supreme Court Liaison Tim Shea.

**Not in Attendance:** Commissioners: Steven Burt, Susanne Gustin, Herm Olsen, Ex-Officio Members: Margaret Plane, Lawrence Stevens, Assistant Executive Director Richard Dibblee.

**Also in Attendance:** Sean Toomey, Utah State Bar Communications Director. Charlotte Miller

**Minutes:**

1. Charlotte Miller conducted strategic thinking exercises for the Commission.

2. Commission discussed the future of the Summer Convention and the need to reach decisions about the Convention in light of the convention's historical and cultural importance to the bar and the changing demographics of the bar membership and ways in which CLE is obtained by members. Angelia Tsu has asked Aida Neimarlija to chair the 2016 Summer Convention. Aida will present her recommendation for the location of that convention at the October 10, 2014 Commission meeting.

**ADJOURNED:** 1:00 p.m.

## JULY 2014 BAR EXAMINATION RESULTS

Total Number: 290

Total Pass: 236

Total Fail: 54

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**Pass Rate: 81%**

### Retakes

Total Retakes: 29  
Total Pass: 8  
Pass Rate: 28%

### First Time

First Time Applicants: 261  
First Time Passers: 228  
Pass Rate: 87%

### Attorneys

Attorney Applicants: 41  
Attorney Passers: 37  
Pass Rate: 90%

### Essay Scores

50 Points Possible  
Varied from 14 to 43  
Average Score: 29.3

### Multistate Scores (MBE)

200 Possible  
Varied from 101.9 to 175.7  
Utah Average: 145.2  
National Average: 141.5  
(51,005 tested)

### Combined Scores

Highest Exam Score: 352  
Lowest Exam Score: 217  
Mean Score: 290  
Median Score: 291.5  
Passing Score: 270

## SUMMARY OF PAST RESULTS

February 2014	77%	July 2014	81%
February 2013	77%	July 2013	84%
February 2012	72%	July 2012	80%
February 2011	81%	July 2011	86%
February 2010	69%	July 2010	86%
February 2009	73%	July 2009	86%
February 2008	76%	July 2008	87%
February 2007	77%	July 2007	83%
February 2006	80%	July 2006	84%
February 2005	85%	July 2005	88%



John C. Baldwin (Bar No. 0186)  
Utah State Bar  
645 South 200 East  
Salt Lake City, Utah 84111-3834  
(801) 531-9077

BEFORE THE SUPREME COURT OF THE STATE OF UTAH

In the Matter of Utah State Bar  
October 2014  
Applicants for Admission

**MOTION FOR ADMISSION  
TO THE UTAH STATE BAR AND THE  
UTAH SUPREME COURT**

The Board of Commissioners of the Utah State Bar (“Board”) hereby respectfully moves for admission of the following individuals to the Utah State Bar and the Utah Supreme Court. These individuals have been approved for admission by the Board, and the Board certifies to this Court that these persons possess the necessary qualifications of learning, ability, and character prerequisite to the privilege of engaging in the practice of law. The Board further represents that these individuals have fulfilled all requirements for admission to the Bar as provided for in the Rules Governing Admission to the Utah State Bar.

Dated this 16<sup>th</sup> Day of October, 2014.

---

John C. Baldwin  
Utah State Bar



**October 2014 Admittees**  
**Utah Supreme Court**

CHASE A. ADAMS  
JORDIN J. ALBERS  
KIRSTEN R. ALLEN  
TERA K. ANDREWS AMES

ERIC D. BABYCH  
CHERISE M. BACALSKI  
TIMOTHY M. BAGSHAW  
AUSTIN S. BAIRD  
MEGAN K. BAKER  
MICHAEL T. BALSER  
STEVEN TODD BANKS  
CHRISTOPHER K. BECKSTROM  
GARRETT G. BEESTON  
AARON R. BENSON  
KATHERINE B. BENSON  
CHRISTOPHER A. BEUS  
JOSHUA C. BISHOP  
DANIEL R. BLACK  
STEVEN MICHAEL BLACK  
GRAHAM PAGE BACKER BOSWELL  
LYNDON R. BRADSHAW  
REBEKAH M. BRADWAY  
DANNON LEE BRANIGAN  
CLINTON R. BRIMHALL  
ABBY BRINKERHOFF  
ALEX W. BROCKMAN  
VICTORIA BUNCH  
GREGORY B. BUTTERS

ELIZABETH A. CALL  
CONNOR LEE CANTRELL  
TREVOR H. CASPERSON  
J. BRETT CHAMBERS  
STEPHANIE H. CHIPLEY  
MICHAEL F. CHRISTENSEN  
LOGAN B. CHRISTENSON  
JEREMY MAX CHRISTIANSEN  
TYLER L. COBABE  
GAVIN V. COLLIER  
CORY B. COTTAM  
RYAN T. COYNE  
TREVOR M. CROWLEY  
MICHAEL E. CURTIS  
CAMERON J. CUTLER

MARK F. DAHLE  
LOGAN K. DANIELS  
AARON V. DAVIS  
JACOB R. DAVIS  
JORDAN M. DEHAAN

JAMES C. DEVEREAUX  
LAUREN N. DEVOE  
STEPHEN R. DICKS  
JONATHAN D. DITTO  
MARY A. DITTO  
TAYLOR M. DIX  
LYNETTE N. DOWNS  
CALEB J. DUNCAN  
JOHN E. DURKIN

JEFFREY S. EBERT  
CHERYLYN M. EGNER  
DALE E. ELLSWORTH  
AMY L. ERICKSON  
BRET R. EVANS  
STEPHEN DOUGLAS EVANS

MARIANNE FARR BOYER  
PATRICK TREVOR FEIGLESON  
MICHAEL E. FOLEY  
JACOB L. FORDHAM  
NICKLOS TANNER FREI  
KEVIN R. FUNKHOUSER

DAVID T. GARBETT  
NATHANIEL J. GARRABRANDT  
JORGE A. GAVILANES  
BRIANNA M. GAYLER  
ROBERT R. GEMPELER  
MANDEEP S. GILL  
MARCUS L. GILSON  
JONATHAN W. GOLD  
JONATHAN GOOD  
NICOLE L. GOODELL  
JACOB A. GREEN  
JANSEN ORVILLE GUNTHER

MATTHEW C. HAILEY  
SCOTT M. HANCOCK  
CHASE T. HANSEN  
JEREMIAH J. HANSEN  
JUSTEN D. HANSEN  
DARREN C. HARDEN  
CHRISTOPHER J. HARDY  
BLAKE G. HARRISON  
JORDAN D. HAYCOCK  
PILAR B. HAYS  
FRANK D. HEGNER  
ASHLEY L. HENDRICK  
MICHAEL K. HEPWORTH  
CAMERON D. HERRINGTON

KIMBERLEE HIATT  
LYLE L. HIGGINSON  
CHRISTOPHER P. HIGLEY  
MICHAEL V. HINCKLEY  
ROBBEN D. HIXSON  
JONATHAN H. HOAGLAND  
CARL R. HOLLAN  
HUNTER H. HOLMAN  
BRIAN J. HOLMES  
JONATHAN RICHARD HORNOK

BRIAN K. JACKSON  
JUSTIN L. JAMES  
KATHERINE F. JAMES  
MICHELLE A. JEFFS  
KATHRYN J. JENSEN  
TODD W. JENSEN  
ERIC O. JEPPSEN  
ARIEL CLARK JOHNSON  
BLAKE W. JOHNSON  
JOSEPH M. JOHNSON  
LIZA M. JONES  
RUSSELL JONES  
REBECCA ANN JOSLIN

KRISTEN CLARKE KELLEMS  
WENDY M. KENT  
LIAM M. KEOGH  
DAVID A. KERR  
SPENCER K. KIRTON  
JUSTIN F. KNELL  
JAMES ADAM KNORR  
JONATHAN G. KOEHLE  
WHITNEY HULET KROGUE

SHONEE DEAN LANGFORD  
DANNY C. LEAVITT  
LIESEL LECATES  
DAVID E. LEE  
TYLER A. LEFEVRE  
KATHRYN D. LENHART  
ALICIA M. LEWIS  
ROBERT W. LIN  
JASON S. LLOYD  
BRACKEN H. LONGHURST

ADAM DANIEL VON MAACK  
SANDRA R. MARGULIES  
MELISSA L. MARKEY  
KIGAN I. MARTINEAU  
EUGENE I. MASTERS  
DANIELLE L. MASTIN  
TRENT T. MAXWELL  
ALEXANDRA S. MCCALLUM  
MOLLY E. MCCARTHEY  
JAMES P. MCGARVEY

MARCUS F. MCKINDRA  
MICHELLE ESPLIN MCPHERSON  
BRYAN J. MEMMOTT  
MICHAEL A. MENLOVE  
TRACEY L. MIHELIC  
BRODY N. MILES  
ROBERT N. MILLER II  
MARY K. MILNER  
MAUREEN MINSON  
JORDAN C. MOODY  
ALLISON J. MOON  
DAVID E. MORIN  
BRIAN R. MORRIS  
TAYLOR L. MOSOLF  
ZACHARY C. MYERS

DOUGLAS C. NAFTZ  
STEPHANIE A. NATE  
SETH D. NEEDS  
THUY T. NGUYEN  
A. CHASE NIELSEN  
NATHAN J. NIELSON  
BRANDON J. NILSSON

BEAU J. OLSEN  
KRISTEN E. OLSEN  
EPHRAIM C. OLSON  
MICHAEL A. ORTON

JOHN W. PALMER  
THOMAS D. PARKIN  
SPENCER H. PAUL  
KEVIN M. PAULSEN  
HILLARY A. PAVIA  
PHYLLIS E. PEARSON  
MICHAEL A. PEERS  
JOHN STEPHEN PENNINGTON  
KYLE G. PETERSEN  
BRIEANN PETERSON  
AMY M. POMEROY  
BLAKE T. PORTER  
JONATHAN D. PORTER  
PETER R. PRATT  
CLAYTON H. PREECE  
JOSEPH T. PRETE  
MATTHEW B. PURCELL  
DANIEL H. PURDIE

IAN L. QUIEL

TRENT A. RALEIGH  
ALEXANDER E. RAMOS  
ANDREW S. RAWLINGS  
TYLER J. RAYMOND  
ALEXANDER A. REDMON  
RUBY S. REDSHAW



ROBERT B. REES  
RYAN J. REES  
PETER REICHMAN  
BLAKE F. RICHARDS  
MELISSA RICHARDS  
SCOTT D. RICHARDS  
BRADLEY S. RICHARDSON  
ADAM G. RICKS  
BROOKE LYN ROBINSON  
JOHN ROBINSON  
CHRISTOPHER J. ROGERS  
DARA R. ROSEN COHEN  
BRIAN M. ROTHSCHILD  
CHRISTINA G. ROTHSCHILD

ANDRES A. SANCHEZ ARTIGA  
JAKOB N. SCHERER  
WILLIAM MATTHEW SCHIFFGEN  
EMILY CHURCH SCHILLING  
TENLEY H. SCHOFIELD  
BAHAR SHARIFAN  
KRISTEN R. SHILL  
AARON B. SHUMWAY  
THOMAS L. SKINNER  
STEPHANIE SMART  
BRADY MINOW SMITH  
SHAWN M. SMITH  
STEPHEN W. SMITHSON  
STEVEN ANDREW SPAINHOWER  
JENNIFER SPRINGER  
ERIN H. ST. JOHN  
STACIE A. STEWART  
MELISSA G. STIRBA  
STANLEY S. STROUD  
MICHELLE L. SULLIVAN  
NATHAN R. SUMBOT  
LARRY J. SUMRALL

LAURA ANNE TAYLOR  
JEFFREY S. TOLLEY  
LANCE A. TOPHAM

MATTHEW K. TOYN  
JACK ROBERT TRIPP

BRIGHAM LARSON UDALL

BERT F. VAN UITERT  
CHARLES P. VAN VRANKEN  
DANIEL A. VAZQUEZ  
SIMON P. VISMANTAS  
BETSY TYLER VOTER  
MARGARET B. A. VU

CHRISTOPHER D. WADE  
JOSEPH G. WALKER  
RYAN T. WALLACE  
STEPHEN P. WALTER  
GRIFFIN T. WEAVER  
DANIEL R. WEBERT  
JOHN K. WEST  
KEVIN C. WESTWOOD  
JOSHUA JOHN WHITE  
SAMANTHA E. WILCOX  
ROBERT W. WILKINSON  
KYLE E. WITHERSPOON  
ANDREW T. WOJCIECHOWSKI  
CRYSTAL S. WONG  
LANE R. WOOD  
RANDALL S. WOOD  
KYLE M. WOODHOUSE  
MICHAEL TERENCE WORLEY  
AARON M. WORTHEN

DEBRA A. YOUNG

STEPHANIE R. ZEHREN-THOMAS  
JASON M. ZUNDEL

HOUSE COUNSEL  
NEIL R. FELLOWS  
REBECCA OLDROYD



# Tab 10



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09/30/14

-ual Basis

# Utah State Bar

## Balance Sheet

As of August 31, 2014

	Aug 31, 14	Jul 31, 14	Aug 31, 13
<b>ASSETS</b>			
Current Assets			
Checking/Savings			
1010 · Petty Cash	625	625	625
1011 · Cash in Bank	209,134	153,187	168,552
1060 · ILM Invested Funds Market Value	5,762,862	5,900,143	6,069,965
Total Checking/Savings	5,972,621	6,053,955	6,239,142
Accounts Receivable			
1071 · Accounts receivable	400	24,311	17,177
Total Accounts Receivable	400	24,311	17,177
Other Current Assets			
1070a · Other Accounts Receivable	6,380	6,514	103
1089 · Unbilled tenant costs	20,457	24,070	39
1100 · Prepaid Expense	76,410	81,629	77,773
1919 · Section ILM net earn rcvble	5,427	5,313	4,283
1920 · A/R - Section Funds	132,988	129,277	8,288
Total Other Current Assets	241,663	246,803	90,485
Total Current Assets	6,214,684	6,325,068	6,346,803
Fixed Assets			
1500 · Property & Equipment	4,401,884	4,383,040	3,568,261
1550 · Accumulated Depreciation	(3,208,861)	(3,194,142)	(3,056,822)
1600 · Land	633,142	633,142	633,142
Total Fixed Assets	1,826,165	1,822,040	1,144,581
<b>TOTAL ASSETS</b>	<b>8,040,848</b>	<b>8,147,108</b>	<b>7,491,384</b>
<b>LIABILITIES &amp; EQUITY</b>			
Liabilities			
Current Liabilities			
Accounts Payable			
2001 · A/P - Trade		12,420	250
Total Accounts Payable		12,420	250
Other Current Liabilities			
2010 · Other Accounts Payable	327,851	305,977	303,956
2100 · Accrued Payables	345,920	337,593	340,711
2350 · Capital Lease Obligations-ST	3,069	3,069	2,710
2920 · A/P - Section Funds	290,447	277,647	248,580
Total Other Current Liabilities	967,287	924,287	895,957
Total Current Liabilities	967,287	936,707	896,207
Long Term Liabilities			
2400 · Capital lease obligations	6,378	6,378	9,446
Total Long Term Liabilities	6,378	6,378	9,446
Total Liabilities	973,665	943,084	905,654
Equity			
3500 · Unrestricted Net Assets (R/E)	4,063,712	4,063,712	3,698,625
Net Income	3,003,471	3,140,312	2,887,105
Total Equity	7,067,183	7,204,024	6,585,731
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>8,040,848</b>	<b>8,147,108</b>	<b>7,491,384</b>

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

	Year to Date			2014/15
	Actual	Budget	Variance Fav/(Unfav)	Total Budget
<b><u>Revenue</u></b>				
Licensing	\$ 3,808,195	\$ 3,706,743	\$ 101,452	\$3,998,400
Admissions	16,940	17,979	(1,039)	454,900
NLTP	17,100	15,689	1,411	85,300
Mgt - Service	10,213	214	9,999	12,000
In Kind Revenue	311	397	(86)	2,600
Mgt - Interest & Gain	5,781	2,850	2,931	17,100
Property Mgt	28,673	33,883	(5,210)	312,952
OPC	50	452	(402)	11,600
CMIS/Internet	70	334	(264)	500
CLE	44,938	48,471	(3,533)	405,200
Summer Convention	98,825	150,090	(51,265)	150,600
Fall Forum	1,950	-	1,950	88,200
Spring Convention	-	890	(890)	145,900
Bar Journal	23,033	20,656	2,377	139,600
Committees	-	-	-	1,000
Member Benefits	(38)	9,372	(9,410)	11,900
Section Support	-	-	-	92,281
Access to Justice	2,845	1,148	1,697	10,200
Commission/Sp Proj	-	-	-	7,300
Young Lawyers Division	-	100	(100)	100
<b>Total Revenue</b>	<b>\$ 4,058,886</b>	<b>\$ 4,009,268</b>	<b>\$ 49,618</b>	<b>\$5,947,633</b>
<b><u>Expenses</u></b>			(Fav)/Unfav	
Licensing	56,452	47,862	8,590	187,045
Admissions	96,528	79,044	17,484	474,411
NLTP	8,298	12,703	(4,405)	81,074
Bar Mgt	113,541	125,826	(12,285)	685,117
Property Mgt	67,237	104,616	(37,379)	537,392
OPC	207,087	201,609	5,478	1,204,272
General Counsel	33,745	34,448	(703)	259,529
Computer/MIS/Internet	31,587	32,610	(1,023)	176,437
CLE	43,601	36,884	6,717	372,144
Summer Convention	198,721	158,128	40,593	186,979
Fall Forum	10,734	22,446	(11,712)	97,963
Spring Convention	2,392	2,884	(492)	123,598
Bar Journal	25,196	31,339	(6,143)	185,181
Committees	5,531	5,422	109	110,903
Member Benefits	23,980	19,611	4,369	149,320
Section Support	12,703	18,328	(5,625)	92,281
Consumer Assistance	11,990	12,586	(596)	68,879
Access to Justice	27,859	30,887	(3,028)	184,705
Tuesday Night Bar	6,618	5,405	1,213	40,765
Legislative	-	50	(50)	71,642
Commission/Sp. Proj	50,310	66,777	(16,467)	177,475
Public Education	18,789	25,594	(6,805)	165,365
Young Laywers Division	2,514	1,569	945	56,100
<b>Total Expenses</b>	<b>\$ 1,055,413</b>	<b>\$ 1,076,628</b>	<b>\$ (21,215)</b>	<b>\$5,688,577</b>
<b>Net Revenue/(Expense)</b>	<b>\$ 3,003,473</b>	<b>\$ 2,932,640</b>	<b>\$ 70,833</b>	<b>\$ 259,056</b>
<b>Add: Depreciation</b>	<b>29,439</b>	<b>24,224</b>	<b>5,215</b>	<b>165,458</b>
<b>Cash Increase/(Decrease) from Operations</b>	<b>\$ 3,032,912</b>	<b>\$ 2,956,864</b>	<b>\$ 76,048</b>	<b>\$ 424,514</b>
<b>Other Uses of Cash</b>				
Change in Assets/Liabilities	39,051	39,051	-	
Capital Expenditures	29,970	125,000	(95,030)	125,000
<b>Net Change in Cash</b>	<b>\$ 3,041,993</b>	<b>\$ 2,870,915</b>	<b>\$ 171,078</b>	<b>\$ 299,514</b>



# UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2014

2540 Washington Blvd., Suite 703  
Ogden, Utah 84401  
Telephone: (801) 626-3369  
Facsimile: (801) 626-3390  
www.jcc.utah.gov

## Creation and Authority of the Judicial Conduct Commission

Although it existed previously as a legislatively created body, Utah's Judicial Conduct Commission (JCC) was constitutionally established in 1984. Constitution of Utah, Article VIII, Section 13. The constitution authorizes the Legislature to statutorily establish the composition and procedures of the JCC. Those provisions are found in Utah Code Ann., Title 78A, Chapter 11.

The JCC is empowered to investigate and conduct confidential hearings regarding complaints against state, county and municipal judges throughout the state. The JCC may recommend the reprimand, censure, suspension, removal, or involuntary retirement of a judge for any of the following reasons:

- action which constitutes willful misconduct in office;
- final conviction of a crime punishable as a felony under state or federal law;
- willful and persistent failure to perform judicial duties;
- disability that seriously interferes with the performance of judicial duties; or
- conduct prejudicial to the administration of justice which brings a judicial office into disrepute.

Prior to the implementation of any such JCC recommendation, the Utah Supreme Court reviews the JCC's proceedings as to both law and fact. The Supreme Court then issues an order implementing, rejecting, or modifying the JCC's recommendation.

## Number of Complaints Received in FY 2014

Of the 74 complaints received in FY 2014, 67 have been resolved and 7 are still pending.

Complaints Received in FY 2014			
Judge Type	Number of Judges	Number of Complaints Received	Number of Judges Named in Complaints
Supreme Court	5	1	5
Court of Appeals	7	1	1
District	72	42	32
Juvenile	30	9	8
Justice Court	98	20	17
Pro Tempore	63	1	1
Active Senior	35	0	0
<b>Total</b>	<b>310</b>	<b>74</b>	<b>64</b>

## Confidentiality of JCC Records and Proceedings

Except in certain limited circumstances specified by statute, all complaints, papers and testimony received or maintained by the JCC, and the record of any confidential hearings conducted by the JCC, are confidential, and cannot be disclosed.

## Sanctions and Other Resolutions

### Sanctions Implemented by the Utah Supreme Court

**Censure.** On October 11, 2013, the Utah Supreme Court censured former Salt Lake City Justice Court Judge Virginia Ward. Judge Ward had pleaded guilty to possession of a controlled substance with intent to distribute, a second degree felony. She resigned her judicial office before entering her plea. As provided in Constitution of Utah, Article VIII, Section 13, final conviction of a felony is grounds for judicial discipline.

**Reprimand.** On April 22, 2014, the Utah Supreme Court reprimanded Second District Juvenile Court Judge J. Mark Andrus. During an adoption hearing, Judge Andrus became frustrated. He repeatedly raised his voice and interrupted the child's grandfather. The judge's actions violated Code of Judicial Conduct Rule 2.8(B), which requires judges to be patient, dignified and courteous to persons with whom they deal in an official capacity.

### Dismissals with Warnings Issued by the Judicial Conduct Commission

**Dismissal with a Warning.** On November 5, 2013, the JCC dismissed a complaint filed against a district court judge who included comments in the certification of a motion to disqualify. The JCC found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

**Dismissals with Warnings.** In March 2012, the JCC issued two dismissals with warnings, both arising from the same complaint, to a justice court judge who had engaged in ex parte communications. The JCC found that the misconducts were troubling but relatively minor misbehavior for which no public sanction was warranted. The complainant requested that the investigations be re-opened, and the JCC granted that request. After a criminal trial against the judge resulted in acquittal, and after additional investigation and consideration, the JCC determined that the original dismissals with warnings were appropriate.



## Administrative Affairs

### Meetings

The JCC meets as needed on the third Tuesday of each month at the Utah Law & Justice Center in Salt Lake City. The JCC met 11 times during FY 2014.

### Administrative Rules

The JCC's administrative rules are available online at [www.rules.utah.gov](http://www.rules.utah.gov).

### JCC Commissioners

Robert Behunin  
Elaine Englehardt, Chair  
Hon. Deno Himonas  
James Jardine  
Rep. Brian King, Vice-Chair  
Sen. Karen Mayne  
Rep. Kraig Powell  
Lois Richins  
Hon. Stephen Roth  
Sen. Stephen Urquhart  
Terry Welch

In April 2014, Hon. Stephen Roth was appointed to fill a vacancy created by Hon. Carolyn McHugh's confirmation to the Tenth Circuit Court of Appeals.

### JCC Staff

Colin Winchester, Executive Director  
Susan Hunt, Investigative Counsel  
Madison Howard, Office Technician

### Website

The JCC's website, [www.jcc.utah.gov](http://www.jcc.utah.gov), contains in-depth information, links to related sites, annual reports, copies of public discipline documents, and downloadable complaint forms.

### JCC Statutes

The statutes governing the JCC are located in Utah Code Ann., Title 78A, Chapter 11.

### Budget

Most of the JCC's budget is appropriated annually by the Legislature. For FY 2014, the legislative appropriation was \$240,400. The JCC contributed \$200 in savings from FY 2013, and the Legislature authorized an additional \$300 to cover the cost of increased 401(k) contributions. JCC expenses for FY 2014 were \$242,992 (an over-expenditure of \$2,092).

UTAH JUDICIAL CONDUCT COMMISSION – COMPLAINT RESOLUTION PROCESS				
INITIAL SCREENING	PRELIMINARY INVESTIGATION	FULL INVESTIGATION	FORMAL PROCEEDINGS	SUPREME COURT
<p>Executive Director reviews each "complaint" to determine whether it is a complaint within the JCC's jurisdiction.</p> <p>Staff returns non-JCC complaints (i.e., complaints against bar members or court employees) to complainant with appropriate instructions.</p> <p>For JCC complaints, staff prepares electronic and hard-copy files, sends acknowledgment letter to complainant, and returns hard-copy file to Executive Director.</p> <p>Executive Director assigns investigator.</p> <p><i>Note: Information received in any form other than a written complaint is submitted directly to JCC members, who review and discuss the information and vote to either take no action or to have staff conduct a preliminary investigation.</i></p>	<p>Investigator conducts preliminary investigation, writes preliminary investigation report, and recommends whether to dismiss or to proceed to full investigation as to some or all allegations.</p> <p>Executive Director reviews preliminary investigation report and may revise either.</p> <p>Staff distributes preliminary investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses preliminary investigation report and recommendation, and votes to dismiss, to have staff conduct additional preliminary investigation, or to proceed to full investigation as to some or all allegations.</p>	<p>Staff provides judge with pertinent materials and asks judge to respond in writing to identified allegations.</p> <p>Investigator conducts additional investigation, if necessary, as to issues raised in judge's response. Investigator may write supplemental investigation report and may make recommendation whether to dismiss or to proceed to formal proceedings.</p> <p>Staff distributes judge's response and any supplemental investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses judge's response and any supplemental investigation report and votes to dismiss, to have staff conduct additional investigation, or to proceed to formal proceedings as to some or all allegations.</p>	<p>Staff prepares formal complaint and serves same upon judge via certified mail.</p> <p>Judge may file written response.</p> <p>Matter may be resolved by dismissal, stipulated resolution or confidential hearing.</p> <p>A stipulated resolution may recommend: Reprimand Censure Suspension Removal from Office Involuntary Retirement</p> <p>After a confidential hearing, the JCC may dismiss the matter or may recommend: Reprimand Censure Suspension Removal from Office Involuntary Retirement</p>	<p>Staff files JCC's recommendation and statutorily required materials with Supreme Court.</p> <p>JCC's recommendation becomes public upon filing. All other materials become public only upon Supreme Court order.</p> <p>Supreme Court reviews JCC's proceedings as to both law and fact, and implements, modifies or rejects JCC's recommendation.</p> <p><i>Note: JCC dismissals are not reviewed by the Supreme Court.</i></p>

Tab 11



**Utah State Bar**  
**Ethics Advisory Opinion Committee**

**Opinion Number 14-04**

**Issued August 22, 2014**

**ISSUE**

1. What are the ethical limits to participating in attorney rating systems, especially those that identify “the Best Lawyer” or “Super Lawyer”?

**OPINION**

2. Rule 7.1 of the Utah Rules of Professional Conduct prohibits false or misleading communications concerning a lawyer’s services. An unsubstantiated comparison of lawyers is false or misleading if it would lead a reasonable person to conclude that the comparison can be substantiated. Advertisement of a rating provided by a rating system is permissible where the rating system actually inquires about the lawyer, the lawyer does not pay for the rating, and the rating system’s methodology or process used to determine the rating is available to the public.
3. Rule 7.2 of the Utah Rules of Professional Conduct prohibits giving “anything of value to a person for recommending the lawyer’s services; except that a lawyer may: . . . pay the reasonable costs of advertisements or communications permitted by this Rule.” Paying a website or other service to list one as the “best lawyer” in the area is giving something of value to another to recommend the lawyer’s services. It is not paying the reasonable costs of advertising. Paying any entity to be listed as “the best lawyer” or to otherwise be compared favorably to others is a violation of Rule 7.2. Similarly, trading votes with another in a survey to determine “the best” is giving something of value for the other person to recommend your services and also



violated Rule 7.2. Further, “anything of value” would also include undisclosed monies paid to “celebrity non-lawyers” who endorse a lawyer as “Celebrity Approved.”

### **BACKGROUND**

4. Certain web sites, advertisers and companies offer services in which they list attorneys as the “best” in a particular locale, practice area, city, etc. Sometimes these services determine who they will list as the “best” simply by listing whoever signs up (and pays them) first. This is also true of local consumer advocacy television celebrities who for a fee endorse a single law firm as being “investigated and approved.” Other times the companies will run on-line voting contests where the “best” attorney is determined based on the number of votes cast, an approach that can be easily manipulated by attorneys with large staffs or multiple email addresses. Other services purport to have a more scientific or valid method of identifying outstanding lawyers. The Committee has been asked to opine as to when these arrangements violate the Rules of Professional Conduct.

### **ANALYSIS**

5. Both Rules 7.1 and 7.2 of the Utah Rules of Professional Conduct are relevant to the analysis of rating systems. Rule 7.1 prohibits “false or misleading communication” about a lawyer or a lawyer’s services. Rule 7.2 prohibits giving “anything of value to a person for recommending the lawyer’s services.” Rule 7.2 (b)

6. This committee has twice stated that “[t]he U.S. Supreme Court has made it clear that public communication concerning a lawyer’s services (including any form of advertising) is commercial speech, enjoys First Amendment protection, and can be regulated only to further substantial state interests, and then only in the least restrictive manner possible. The cardinal rule concerning all public communication about a lawyer and her services is that the communication





not be false or misleading.” Ethics Advisory Opinion No. 00-02 (quoted in Ethics Advisory Opinion No. 09-01). Deceptive advertising in the legal profession poses a particular risk because “the public lacks sophistication concerning legal services, [and therefore] misstatements that might be overlooked or deemed unimportant in other advertising may be found quite inappropriate in legal advertising.” *Bates v. State of Arizona*, 433 US 350, 383 (1977). As an example, the Court indicated that “advertising claims as to the quality of services . . . not susceptible [to] measurement or verification . . . may be so likely to be misleading as to warrant restriction.” *Id.* at 383-84. Similarly, the Utah Supreme Court has found that “[t]he state obviously has a substantial and compelling interest in protecting the public from false, deceptive, or misleading advertising.” *In re Utah State Bar Petition*, 647 P.2d 991, 993 (Utah 1982).

7. Rule 7.1 of the Utah Rules of Professional Conduct Rule states that “[a] lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.” Thus, an advertisement that has either: (1) “a substantial likelihood [to] lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer’s services for which there is no reasonable factual foundation,” or (2) “an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other lawyers . . . presented with such specificity as would lead a reasonable person to conclude that the comparison can be substantiated” would be considered misleading and therefore prohibited. Rule 7.1, Comments 2 and 3.

8. This Committee analyzed the current version of Rule 7.1 and issued several interpretive guidelines instructing lawyers how to avoid false or misleading statements in advertising.<sup>1</sup> Ethics

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<sup>1</sup> We again note that Utah’s Truth in Advertising Statute, Utah Code Ann. §13-11a-1 et seq. and Utah’s Consumer Sales Practices Act §13-11-1 et seq should be consulted as well.



Advisory Opinion 09-01 ¶¶ 6-12. Of specific relevance to the present issue, this Committee cited Connecticut Informal Ethics Opinion 01-07 (2001) which states that “comparative statements would require factual substantiation to avoid being misleading. . . . Because it is almost impossible to substantiate certain comparisons (“best attorney in town”) the wiser course is to advertise qualities that can be substantiated.” *Id.* at ¶ 9 (citing Geoffrey Hazard, W. William Hodes, and Peter Jarvis, *THE LAW OF LAWYERING* (3rd) § 55.4.) This does not foreclose the possibility of advertising as a “best lawyer” but does require that the attorney using the comparative language be able to factually substantiate the claim.

9. Commentators Hazard, Hodes and Jarvis have also addressed the use of rating systems such as “Super Lawyers” and “Best Lawyers in America” publications:

Publications such as “Super Lawyers” and “Best Lawyers in America” use a variety of peer review and research procedures to generate lists of highly qualified lawyers in various fields of practice in most states. Because of the precautions taken to avoid ‘vote trading’ or ‘ballot stuffing’ and because advertisements in these publications cannot be purchased until *after* the separate selection process has been completed, most states have recognized these rating to be bona fide ratings that have real informational value; thus not being misleading, they are permissible. *Id.* § 55.4. p. 55-14, (2014 Supplement)

10. The issue of how an attorney may factually substantiate the claim to be “the best” was thoroughly considered in New Jersey. In, *In re Opinion 39 of Committee on Attorney Advertising*, 197 N.J. 66, the New Jersey Supreme Court was presented with the question of whether attorneys could use the designation of “Best Lawyer,” or “Super Lawyer,” or Martindale-Hubble rankings in their advertisements. The Committee on Attorney Advertising concluded that comparative titles violated the N.J. Rules of Professional Conduct, and announced this decision in Opinion 39. The companies who provided the designations (Key Professional Media, Inc., d/b/a “Super Lawyers,” Woodward White, Inc. - publisher of “Best Lawyers in America,” and New Jersey Monthly, LLC) appealed the opinion and the New Jersey



Supreme Court referred the matter to a Special Master who researched the issue and compiled a report. In his report, which garnered the support of the Court, the special master recommended "twelve regulatory components extracted from the advertising decisions of other states to provide some guidance to the Court:

1. The advertising representation must be true;
2. The advertisement must state the year of inclusion in the listing as well as the specialty for which the lawyer was listed;
3. The basis for the implied comparison must be verifiable by accurate and adequate disclosure in the advertisement of the rating or certifying methodology utilized for compiling the listing or inclusion that provides a basis upon which a consumer can reasonably determine how much value to place in the listing or certification; as a minimum, the specific empirical data regarding the selection process should be included (e.g., in a peer-review methodology, the number of ballots sent and the percentage of the ballots returned....);
4. The rating or certifying methodology must have included inquiry into the lawyer's qualifications and considered those qualifications in selecting the lawyer for inclusion;
5. The rating or certification cannot have been issued for a price or fee, nor can it have been conditioned on the purchase of a product, and the evaluation process must be completed prior to the solicitation of any advertising, such as for a special advertising supplement in a magazine or other publication;
6. Where superlatives are contained in the title of the list itself, such as here, the advertising must state and emphasize only one's inclusion in the Super Lawyers or The Best Lawyers in America list, and must not describe the attorney as being a "Super Lawyer" or the "Best Lawyer;"
7. Likewise, claims that the list contains "the best" lawyers or, e.g., "the top 5% of attorneys in the state," or similar phrases are misleading, are usually factually inaccurate and should be prohibited;
8. The peer-review or certification methodology must contain proper usage guidelines that embody these requirements and must be adhered to in the advertisement;
9. The advertising must be done in a manner that does not impute the credentials bestowed upon individual attorneys to the entire firm;
10. The peer-review or certification methodology must be open to all members of the Bar;



11. The peer-review rating methodology must contain standards for inclusion in the lists that are clear and consistently applied; and

12. The advertisement must include a disclaimer making it clear that inclusion of a lawyer in a Super Lawyers or The Best Lawyers in America list, or the rating of an attorney by any other organization based on a peer-review ranking is not a designation or recognized certification by the Supreme Court of New Jersey or the American Bar Association.”

*Id.* at 76-77 (citations and quotations omitted).

After receiving these recommendations, Rule 7.1 of the N.J. Rules of Professional Conduct was amended as follows: “[a] communication is false or misleading if it . . . compares the lawyer's services with other lawyers' services, unless (i) the name of the comparing organization is stated, (ii) the basis for the comparison can be substantiated, and (iii) the communication” disclaims approval by the Supreme Court of New Jersey. N.J. Court Rules, RPC 7.1(a)(3). The official comment from the New Jersey Supreme Court following this rule describes the requirements for a comparison to be truthful.

“A truthful communication that the lawyer has received an honor or accolade is not misleading or impermissibly comparative for purposes of this Rule if: (1) the conferrer has made inquiry into the attorney's fitness; (2) the conferrer does not issue such an honor or accolade for a price; and (3) a truthful, plain language description of the standard or methodology upon which the honor or accolade is based is available for inspection either as part of the communication itself or by reference to a convenient, publicly available source.”

11. We consider the New Jersey Magistrate’s analysis to provide useful guidance. While Utah rule 7.1 has not been redrafted (as the New Jersey Rule has), we find the comments to the New Jersey rule also provide useful guidance. We conclude that an attorney’s participation in any rating system and use of that rating in the attorney’s advertising is permissible where 1) the rating system has made inquiry about the attorney, 2) the rating system is not issuing the rating





for a price, and 3) a plain language description of the methodology or process used to determine the rating is available to the public.<sup>2</sup>

12. Rating systems may also implicate Rule 7.2 which prohibits giving anything of value to another to recommend the lawyer's services. If an attorney pays a fee to be listed as among "the best" lawyers, the lawyer violates this rule. This is true whether or not the lawyer thereafter advertises this rating him or herself. Paying a local consumer advocate celebrity or similar such paid media personality to "investigate and approve" an individual law firm is "giving anything of value" for the endorsement. ("A communication is false or misleading if it . . . omits a fact necessary to make the statement considered as a whole not materially misleading. Rule 7.1.<sup>3</sup>)

13. Some rating systems rely upon unsolicited "votes" (often submitted by email) in order to designate the "best" lawyers. It is doubtful that such a system, which invites ballot stuffing, could pass muster under Rule 7.1. Nevertheless, lawyers are not prohibited from participating in such surveys. However, if one lawyer or firm trades votes with other lawyers or other firms, this will violate Rule 7.2. This Committee established in Opinion 13-02 that reciprocal referral arrangements violate Rule 7.2. "If a lawyer refers a client to another lawyer or other professional pursuant to a reciprocal referral agreement<sup>4</sup>, then the first lawyer is giving 'something of value' in exchange for a past or future recommendation from the other professional." Hazard, Hodes and Jarvis §56.5 at p. 56-9. Likewise, if one lawyer votes for her friend with the understanding

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<sup>2</sup> The same criteria would be applied to celebrity endorsements which imply an investigation. There is no rating system if the endorser "investigates" only the law firm that hires the endorser. The advertisement would be prohibited as the endorser received an undisclosed fee. The public has no basis for evaluating an investigation and endorsement of a lawyer by a non-lawyer. The public would have no means of knowing how any other law firm treats its clients.

<sup>3</sup> See Rule 7.1 Comment 2. "A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading."

<sup>4</sup> We note that in the Model Rules of Professional Conduct Rule 7.2 permits reciprocal referral agreements if they are "not exclusive" and if "the client is informed of the existence and nature of the agreement." Rule 7.2 (b)(4). Utah has not adopted this provision; thus any reciprocal referral agreement in Utah violates Rule 7.2.



that her friend will vote for her, this is “giving something of value” for a recommendation and violates Rule 7.2 in the same way.

14. Paying consideration to a consumer advocate celebrity or similar such paid media personality for what purports to be an endorsement after an investigation violates Rule 7.1. It is false and misleading where the celebrity “investigates and endorses” but one law firm because such an advertisement implies that there is a rating system and that one law firm rose to the top of the profession.<sup>5</sup> Where there is no rating system, this is false and misleading. The non-disclosure of payment for the endorsement is also false and misleading in that the public would reasonably believe that an “approved” rating would be based upon objective criteria. Where the endorser is not a lawyer it suggests that there is no discernable basis for picking one law firm over another other than the payment of money.

4823-5623-7598, v. 1

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<sup>5</sup> For example, see the new Florida Rule 4-7.13(b)(3) “Comparisons of lawyers or statements, words or phrases that characterize a lawyer’s or law firm’s skill, experience, reputation or record unless such characterization is objectively verifiable.”



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September 12, 2014

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

RE: Motion to Stay the Effect of Ethics Opinion 14-04 Pending Appeal

Dear Commissioners:

Pursuant to Rule VI(d) of the Utah State Bar Rules Governing the Ethics Advisory Opinion Committee, the undersigned, who has filed a Petition for Review to Modify Ethics Opinion 14-04, moves the Board to issue a Stay pending the resolution of the said Appeal.

This Stay is requested not only to stay the effect of the Opinion, but also to stay its publication while the review is pending.



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LPH/sb



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September 12, 2014

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

RE: Petition for Review – Ethics Opinion 14-04

Dear Commissioners:

Pursuant to Rule VI of the Utah State Bar Rules Governing the Ethics Advisory Opinion Committee, the undersigned, a member of the Utah State Bar in good standing, petitions the Board for review of Ethics Advisory Opinion 14-04, issued August 22, 2014, by filing this written request for modification of that Ethics Opinion.

## INTRODUCTION

### Contract with Bill Gephardt.

The firm of Robert J. DeBry and Associates contracts with Bill Gephardt for some of its advertising. Ethics Advisory Opinion 14-04 appears to condemn this as contrary to the Utah Rules of Professional Conduct. Robert J. DeBry and Associates continually endeavors to comply with these Rules. It does not believe it has been unethical in contracting with Bill Gephardt.

Gephardt has set criteria in order to evaluate various businesses. Those criteria include:

1. Whether the business is ethical.
2. Whether the business operates within the law.
3. Whether the business acts fairly.

Gephardt investigates businesses by checking business licensing, court records, public sanctions, and/or internet complaints, etc. A business need not be the first or only business of its kind to get a Gephardt investigation and approval. For example, there are at least two Salt Lake area personal injury law firms currently approved by Bill Gephardt.





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**Issue in Opinion 14-04.**

By its terms, Opinion 14-04 addresses the following issue:

What are the ethical limits to participating in attorney ratings systems, especially those that identify “the Best Lawyer” or “Super Lawyer”?

A term such as “Best Lawyer” or “Super Lawyer” implies a comparison or rating system based on legal expertise. This appeal does not address or comment on the parts of the Opinion addressing that issue.

However, parts of the Opinion deal with a whole different issue, namely, whether a firm can be “Celebrity Approved.” That term implies there are fixed criteria that any firm may meet. It does not imply a measure and comparison of matters such as the legal expertise of each attorney in the firm.

**SECTION I.**  
**Reasons for Modifications**

Ethics Opinion 14-04 unnecessarily impacts and may preclude the use of Gephardt and other spokespersons in lawyer advertising. The concerning language of 14-04 includes:

1. The last sentence of paragraph 3:  
Further, “anything of value” would also include undisclosed monies paid to “celebrity non-lawyers” who endorse a lawyer as “Celebrity Approved.”
2. The third sentence of paragraph 4:  
This is also true of local consumer advocacy television celebrities who for a fee endorse a single law firm as being “investigated and approved.”
3. Footnote 2:  
The same criteria would be applied to celebrity endorsements which imply an investigation. There is no rating system if the endorser “investigates” only the law firm that hires the endorser. The advertisement would be prohibited as the endorser received an undisclosed fee. The public has no basis for evaluating an investigation and endorsement of a lawyer by a non-lawyer. The public would have no means of knowing how any other law firm treats its clients.
4. The fourth sentence of paragraph 12.  
Paying a local consumer advocate celebrity or similar such paid media personality to “investigate and approve” an individual law firm is “giving anything of value” for the endorsement.



5. Paragraph 14.

Paying consideration to a consumer advocate celebrity or similar such paid media personality for what purports to be an endorsement after an investigation violates Rule 7.1. It is false and misleading where the celebrity “investigates and endorses: but one law firm because such an advertisement implies that there is a rating system and that one law firm rose to the top of the profession. Where there is no rating system, this is false and misleading. The non-disclosure of payment for the endorsement is also false and misleading in that the public would reasonably believe that an “approved” rating would be based upon objective criteria. Where the endorser is not a lawyer it suggests that there is no discernable basis for picking one law firm over another other than the payment of money.

**A. Gephardt’s evaluation of the DeBry law firm is not misleading.**

The Opinion states in paragraph 14:

It is false and misleading where the celebrity “investigates and endorses” but one law firm because such an advertisement implies that there is a rating system and that one law firm rose to the top of the profession.

This statement appears to address advertisements involving Bill Gephardt. However, there is no factual investigation recited in support of this statement. Thus, it must be a legal conclusion that someone listening to an advertiser recite characteristics of a firm or company would believe that the advertiser surely checked out all of the competitors. There is nothing in the advertisement that refers to any exhaustive survey.

There is no need for additional disclosures. It is readily apparent to the public that someone who is advertising a firm is getting paid to do so. Likewise, the public does not assume that a consumer advocate is trained in every profession or trade he investigates.

The only way an advertisement involving Gephardt might be misleading is giving the impression that Gephardt will only endorse the firm that gets to him first. In actuality, he is willing to investigate any firm. He can and does approve firms that compete with each other. As stated above, there are at least two Salt Lake area personal injury law firms currently approved by Bill Gephardt.

**B. Rule 7.2 permits endorsements.**

The last sentence of paragraph 3 of the Opinion states that if “celebrity non-lawyers” receive money and endorse a lawyer as “Celebrity Approved,” there is a violation of Rule 7.2 of the Utah Rules of Professional Conduct.

Rule 7.2 is partially quoted in that same paragraph 3:



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Rule 7.2 of the Utah Rules of Professional Conduct prohibits giving “anything of value to a person for recommending the lawyer’s services; except that a lawyer may: ... pay the reasonable costs of advertisements or communications permitted by this Rule.” (Emphasis added.)

The Opinion makes the assumption that the “celebrity non-lawyers” are being paid something more than the reasonable costs of advertisements or communications permitted by this Rule. That assumption is unwarranted and untrue.

First of all, some advertisers will be paid more than others, depending on their reputations, charisma, etc. For example, an item or company may be more appealing if it is advertised by Grant and Amanda. That does not mean that an advertisement by Grant and Amanda will cost more than the reasonable cost of an advertisement.

Second, if a consumer advocate investigates a firm or company, compensation for the investigation does not mean that the resulting advertisement will cost more than the reasonable cost of an advertisement.

In sum, the Opinion inaccurately interprets Rule 7.2 to inevitably prohibit advertisements by “celebrity non-lawyers” endorsing a lawyer as “Celebrity Approved.” That is not what the Rule says. Rule 7.2 allows for an endorsement if the reasonable cost of an advertisement is not exceeded. Ethics Advisory Opinion 14-04 does not allow for such an endorsement. Rather, it essentially precludes the use of a spokesperson saying anything positive about a firm.

**C. Ethics Opinion 14-04 violates the principles of Bates v. Arizona.**

The Opinion appropriately refers in paragraph 6 to the United States Supreme Court’s decision of Bates v. Arizona, 433 U.S. 350 (1977). However, the concerning parts of the Opinion (listed above) limit free speech contrary to the Bates opinion.

The Bates case pointed out that advertising “serves individual and societal interests in assuring informed and reliable decisionmaking.” Id. at 364. It went on to state:

[I]t has been suggested that the failure of lawyers to advertise creates public disillusionment with the profession.

The absence of advertising may be seen to reflect the profession’s failure to reach out and serve the community: Studies reveal that many persons do not obtain counsel even when they perceive a need because of the feared price of services or because of an inability to locate a competent attorney.

Id. at 370.



Just as the “failure of lawyers to advertise creates public disillusionment with the profession,” the effect of Opinion 14-04 may also create public disillusionment. A consumer advocate may investigate other products and services and publicize his findings. Public disillusionment may well result if attorneys fail to allow similar investigation and publication.

The Bates case also addressed the arguments that advertising of legal services would inevitably be misleading. One such argument was that an advertisement could not describe the quality of legal services so as to enable an informed comparison. The Bates Court found that there may be some merit to such arguments, but they did not warrant stopping the flow of information:

The third component is not without merit: Advertising does not provide a complete foundation on which to select an attorney. But it seems peculiar to deny the consumer, on the ground that the information is incomplete, at least some of the relevant information needed to reach an informed decision.

Id. at 374.

Opinion 14-04 will effectively “deny the consumer, on the ground that the information is incomplete, at least some of the relevant information needed to reach an informed decision.” The Opinion provides, in essence, that if a consumer advocate cannot investigate every firm and report his or her conclusions, it can provide no information to the public on any firm. That indeed “seems peculiar.”

Gephardt investigates matters such as how a law firm treats its clients. This information is helpful to a person choosing a lawyer. It should not be prohibited because it “does not provide a complete foundation on which to select an attorney.”

An advertisement is not misleading because it cannot cover everything. Nothing in the Gephardt advertisement represents that the advertiser has employed lawyers to measure the level of legal expertise of each attorney in the firm. Rather, the investigation is based on things such as licensing, censuring, and client complaints.

**D. The overriding issue of Rule 7.2 is to not mislead members of the public.**

As indicated above, Gephardt does business in a manner that does not mislead the public. It may be that other consumer advocates will act as spokespersons in a different manner. It may be that they will do business or make statements in such a way as to mislead the public.

Ethics Opinion 14-04 should not make the assumptions that all consumer advocates must necessarily be misleading the public. If need be, it could be modified to require adequate disclosure regarding matters that would otherwise be misleading.





If a consumer advocate will only investigate and approve one law firm in a given specialty, disclosure of that fact may be required. If the investigation consists merely of determining whether the firm's check clears, that should be disclosed. But it is wrong to conclude that an advertisement is misleading based on unsubstantiated assumptions.

## **SECTION II**

### **Recommended Omissions**

Ethics Opinion 14-04 should be modified to omit the following sentences and paragraphs, each based on the corresponding rationale:

1. The last sentence of paragraph 3:

Further, "anything of value" would also include undisclosed monies paid to "celebrity non-lawyers" who endorse a lawyer as "Celebrity Approved."

The prohibition in Rule 7.2 against giving "anything of value" for an endorsement specifically excludes paying the reasonable cost of an advertisement. The cost of an advertisement which uses a celebrity spokesperson who has investigated the firm being advertised is not automatically unreasonable.

2. The third sentence of paragraph 4:

This is also true of local consumer advocacy television celebrities who for a fee endorse a single law firm as being "investigated and approved."

This sentence refers to the sentence preceding it, "Sometimes these services determine who they will list as the "best" simply by listing whoever signs up (and pays them) first." It is not true that being "investigated and approved" is equivalent to being named the "best." Furthermore, it cannot be assumed that only a "single law firm" may be "investigated and approved."

A prominent example is Gephardt, who is willing to investigate and, if appropriate, approve more than one firm. For example, Robert J. DeBry & Associates and William R. Rawlings & Associates are both personal injury firms approved by Gephardt.

3. Footnote 2:

(Sentence 1)The same criteria would be applied to celebrity endorsements which imply an investigation.

Using the example of Gephardt, there is not merely an implied investigation, but an actual investigation.



(Sentence 2) There is no rating system if the endorser “investigates” only the law firm that hires the endorser.

It is not just one law firm that is or can be investigated. On the other hand, there is no purported system rating all law firms.

(Sentence 3) The advertisement would be prohibited as the endorser received an undisclosed fee.

All advertisements come with a reasonable cost, but all such costs are not disclosed, nor should they be.

(Sentence 4) The public has no basis for evaluating an investigation and endorsement of a lawyer by a non-lawyer.

The public commonly relies on non-lawyers (friends, neighbors, co-workers) in choosing an attorney.

(Sentence 5) The public would have no means of knowing how any other law firm treats its clients.

There was no requirement or representation that Good Housekeeping investigated all products. That did not mean that the Good Housekeeping seal of approval could not help consumers make informed decisions.

4. The fourth sentence of paragraph 12.

Paying a local consumer advocate celebrity or similar such paid media personality to “investigate and approve” an individual law firm is “giving anything of value” for the endorsement.

The prohibition in Rule 7.2 against giving “anything of value” for an endorsement specifically excludes paying the reasonable cost of an advertisement. The cost of an advertisement which uses a celebrity spokesperson who has investigated the firm being advertised is not necessarily unreasonable.

5. Paragraph 14.

(Sentences 1 and 2) Paying consideration to a consumer advocate celebrity or similar such paid media personality for what purports to be an endorsement after an investigation violates Rule 7.1. It is false and misleading where the celebrity “investigates and endorses: but one law firm because such an advertisement implies that there is a rating system and that one law firm rose to the top of the profession.



---

Using the example of Gephardt, there is not merely an implied investigation, but an actual investigation. It is not just one law firm that is or can be investigated. On the other hand, there is no purported system rating all law firms.

(Sentence 3) Where there is no rating system, this is false and misleading.

This assumes that if a spokesperson advertises a positive trait or traits that a law firm possesses, the public will believe he or she must have investigated all law firms and found that none of them measure up. Such an assumption is unwarranted.

(Sentence 4) The non-disclosure of payment for the endorsement is also false and misleading in that the public would reasonably believe that an "approved" rating would be based upon objective criteria.

The public recognizes that a spokesperson in an advertisement gets paid. There is no requirement that every advertisement using a spokesperson disclose how much the spokesperson is paid.

Additionally, this sentence assumes that every "approved" rating is not based on objective criteria, but only on getting paid. This assumption is unwarranted

(Sentence 5) Where the endorser is not a lawyer it suggests that there is no discernable basis for picking one law firm over another other than the payment of money.

The public commonly relies on non-lawyers (friends, neighbors, co-workers) in choosing an attorney. There is no reason to believe that a non-lawyer who investigates law firms cannot provide information that is helpful to the public.



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Networking



Technology  
Tips



Practice  
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Utah State Bar

# FALL FORUM 2014

Little America Hotel  
Salt Lake City

Up to

**8** HRS.

CLE Credit\*

\*Including up to 2 hours Ethics  
and up to 2 hours Prof/Civ.  
(incl. Thurs. Ethics Forum)

## November 20–21

Schedule & Registration Materials Inside →



Ethics &  
Civility



Time  
Management



Connecting with  
Clients



# Fall Forum Schedule of Events

THURSDAY, NOVEMBER 20

GRAND BALLROOM

5:00 pm – 9:00 pm **Meet Your Judges & Ethics Forum: Ethics Forum 5:00 – 6:00 pm and Meet Your Judges Mixer 6:00 – 9:00 pm.**  
Light meal, prize drawings



## The Utah Standards of Professionalism and Civility – Views from the Bench

Join us for a lively dialog about real world examples of civility (or incivility) in a contentious profession. Cumulatively, the panelists have over 36 years of experience on the trial bench and countless years prior to appointment as practitioners or public prosecutors.

## JUDGES PANEL:

Hon. Michael D. DiReda – Second Judicial District Court  
Hon. Deno Himonas – Third Judicial District Court  
Hon. Denise P. Lindberg – Third Judicial District Court  
Hon. Clark A. McClellan – Eighth Judicial District Court  
Moderator: William H. Christensen – Larsen Christensen & Rico

FRIDAY, NOVEMBER 21

GRAND BALLROOM

8:00 am – 8:30 am **Welcome:** Sammi V. Anderson and William H. Christensen – Co-Chairs

**Introduction of award recipients:** James D. Gilson – President, Utah State Bar  
Community Member of the Year | Professionalism | Outstanding Mentors

8:30 am – 9:30 am



## Pricing Legal Work in the New Economy

With so many changes in the legal market, it pays to know how to profitably price your legal work. Until recently, establishing pricing with your clients meant giving them your rate(s). Now it entails much more. This session will examine the principles of law firm pricing and profitability walking through a case study, exploring what makes legal work profitable and how you can better position yourself in conversations with clients that result in win-win pricing arrangements.



**Toby Brown** (former Utah State Bar webmaster) is now an international expert in legal pricing and will share his knowledge and experience on the subject.

9:30 am – 9:45 am

**BREAK**

BALLROOM C

ARIZONA

OLYMPUS

IDAHO

WYOMING

SESSION 1

Litigation

General

Hot Topics

Transactional

Practice Mgmt.

9:45 am – 10:45 am



## TRIAL ACADEMY 1 – Thinking Strategically About Your Upcoming Trial

Fall Forum Trial Academy Faculty\*

## Nuts and Bolts of Social Media: Which Tools Should I Use and How Do I Use Them?

Kevin O'Keefe – CEO, LexBlog, Inc.

## A Few Tips for Using eFiling

Hon. Kate A. Toomey – Third District Court  
Debra J. Moore – District Court Administrator

## LLC Act – Part 1: Understanding

Langdon T. Owen – Parsons Davies Kinghorn  
Matthew S. Wiese – Prince Yeates Geldzahlder  
Brent J. Clayton – Hirschi Steele  
Randy M Lish – Attorney

## Redact This: PDF Integrity

Kyle Pankratz – Senior Legal Counsel, Digital Marketing, Adobe

## \*FALL FORUM TRIAL ACADEMY FACULTY:

Hon. David Nuffer – U.S. District Court for Utah  
Hon. Brent W. West – Second District Court  
Hon. Thomas L. Kay – Second District Court  
Hon. Todd M. Shaughnessy – Third District Court

Stephen J. Trayner – Strong & Hanni  
Amy F. Sorenson – Snell & Wilmer  
Sharon A. Donovan – Dart Adamson & Donovan  
Jeffrey D. Eisenberg – Eisenberg & Gilchrist

Erik A. Christiansen – Parsons Behle & Latimer  
Gil Miller – Rocky Mountain Advisory  
Rick Hoffman – Lone Peak Valuation Group  
Justin T. Toth – Ray Quinney & Nebeker

10:45 am – 11:00 am

**BREAK**

SESSION 2

Litigation

General

Hot Topics

Transactional

Practice Mgmt.

11:00 am – 12:00 pm



## TRIAL ACADEMY 2 – Conducting Discovery with Trial in Mind

Fall Forum Trial Academy Faculty\*

## Ethical Pitfalls – The Good, Bad and the Ugly

Billy Walker – Senior Counsel, Office of Professional Conduct, Utah State Bar

**ETHICS**

## Time for a Change – Alternative Minimum Parent Time Schedule

Kellie F. Williams – VanCott Bagley Cornwall & McCarthy  
Lorie D. Fowlke – Scribner Fowlke, PC  
Stewart Ralphs – Director, Legal Aid Society

## New LLC Act – Part 2: Application

Tacy A. Hartman – Vancott, Bagley, Cornwall & McCarthy  
Russell K. Smith – Durham Jones & Pinegar  
Christopher N. Nelson – Ray Quinney & Nebeker  
Brent J. Clayton – Hirschi Steele

## You Can Book Me

Lincoln Mead – Webmaster, Utah State Bar



# GRAND BALLROOM

12:00 pm –  
12:30 pm

## Lunch & Awards

**Introduction of Life Time Service Award recipients:** James D. Gilson – President, Utah State Bar

12:30 pm –  
1:30 pm

## Networking Through The Internet:

Taking Professional and Business Development to a Whole New Level



**KEVIN O'KEEFE** is CEO and Founder of Seattle based, LexBlog, the leading provider of social media and blogging solutions to law and professional services firms. The LexBlog Network, LXBN, includes over 8,000 professional authors from around the world.

O'Keefe was a trial lawyer for 17 years, successfully marketing his law firm via the Internet in such a positive way that *USA Today* said "If he isn't careful, he may wind up giving lawyers a good name." O'Keefe's blog, Real Lawyers Have Blogs is a leading source of information on the use of blogs and social media for law and professional services firms.

1:30 pm –  
1:45 pm

## BREAK

### SESSION 3

#### Litigation

#### General

#### Hot Topics

#### Transactional

#### Practice Mgmt.

1:45 pm –  
2:45 pm

#### TRIAL ACADEMY 3 – Effective Motion Practice: How to Narrow Issues for Trial

Fall Forum Trial Academy  
Faculty\*

#### *United States v. Kurniawan, \$10,000 for a bottle of wine – A rare find or something from Rudy's kitchen?*

Jerome H. Mooney –  
Weston Garrou & Mooney  
Peter Hellman – Freelance  
Journalist, New York City, NY

#### Lawyers Molding Healthcare: A Tour through the Most Significant, Recent Health Care Cases

William J. Stilling – Parsons  
Behle & Latimer

#### A Dose of Practicality and Policy: An Overview of Controlled Substances Laws and Their Impact on Life and Professional Practice

Jeanne M. Brennan – Law  
Office of Jeanne M.  
Brennan

**PROF/CIV CREDIT**

#### Protecting Data – Document Retention from Ethics 20/20

Stephanie W. Pugsley –  
Tpusa, Inc.

2:45 pm –  
3:00 pm

## BREAK

### SESSION 4

#### Litigation

#### General

#### Hot Topics

#### Transactional

#### Practice Mgmt.

3:00 pm –  
4:00 pm

#### TRIAL ACADEMY 4 – Attacking and Defending Expert Testimony at Trial

Fall Forum Trial Academy  
Faculty\*

#### Current Utah Death Penalty Law

Melanie M. Haney – Capital  
Litigation Research  
Attorney, Administrative  
Office of the Courts

#### Having the Fee Conversation: Practical Tips on Talking with Clients

Toby Brown – Akin Gump,  
Houston, TX  
David E. Doxey – doTerra  
C. Scott Brown – Questar  
John W. May – Chief Legal  
Officer, TPUSA, Inc.  
P. Justin Judd – VP, Corporate  
Legal, Adobe

#### Boundary by Acquiescence and the Rights of Future Possessors

John M. Webster – Bartlett  
& Webster

#### Yours, Mine and Ours – The Security and Protection of Client and Personal Data on Mobile Devices and in the Cloud

Hon. David Nuffer – U.S.  
District Court for Utah  
Scott Tucker – Aptegra

**ETHICS**

4:00 pm –  
4:15 pm

## BREAK

### SESSION 5

#### Litigation

#### General

#### Hot Topics

#### Transactional

#### Practice Mgmt.

4:15 pm –  
5:15 pm

#### TRIAL ACADEMY 5 – Making the Most of Direct and Cross Examination at Trial

Fall Forum Trial Academy  
Faculty\*

#### False Claims Act: Litigation Primer and Advice for Employers

Brandon J. Mark – Parsons  
Behle & Latimer  
Mark Gavre – Parsons,  
Behle & Latimer

#### Paying the Bills: 3 Ways to Supplement a Growing Practice

Christian A. Kesselring –  
Kesselring Law  
Michelle Harvey – Access to  
Justice Coordinator, Utah  
State Bar  
Elizabeth Knight – Director,  
Office of Guardian ad Litem  
Robert Cummings – The Salt  
Lake Lawyers

#### Getting to Know Your GRAMA: Open Records Law in Utah

David C. Reymann – Parr  
Brown Gee & Loveless

**ETHICS**

#### 60 Websites in 60 Minutes

Lincoln Mead – Webmaster,  
Utah State Bar  
Janise Macanas – Asst. Utah  
Attorney General  
Russell Y. Minas – Van Cott  
Bagley Cornwall & McCarthy  
Hon. David Nuffer – U.S.  
District Court for Utah

**Fall Forum Committee:** William H. Christensen– Larsen Christensen & Rico, Co-Chair | Sammi V. Anderson – Manning Curtis Bradshaw & Bednar, Co-Chair | D. Scott Degraffenried – Babcock Scott & Babcock | Christian A. Kesselring – Kesselring Law | William J. Stilling – Parsons Behle & Latimer | Jaelynn R Jenkins – Anderson Hinkins | Edwin B. Parry – Edwin B. Parry, PC | Russell Y. Minas – Van Cott, Bagley, Cornwall & McCarthy | Michael A. Stahler – Strong & Hanni | Langdon T. Owen – Parsons Kinghorn Harris | Brent J. Clayton – Hirschi Steele | Bradley L. Tilt – Action Law LLC | Christopher D. Greenwood – Greenwood & Black | Darci L. Stephens – Ballard Spahr

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Pre-registration is recommended, as space is limited. Door registrations are accepted on a first come, first served basis.

**Register online with your login and password at: <https://services.utahbar.org>.**

**Forgot your password? Email: [onlineservices@utahbar.org](mailto:onlineservices@utahbar.org)**

### **Thursday Ethics Forum & Mixer: \$50**

#### **Friday Registration Prices:**

**Lawyers: \$245 before November 7, \$270 after**  
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**UTAH STATE BAR  
OFFICE OF PROFESSIONAL CONDUCT**

**ANNUAL REPORT  
August 2014**



## **INTRODUCTION**

This report on the Office of Professional Conduct ("OPC") will focus on six areas: (I) staff composition; (II) attorney misconduct case process and procedure; (III) statistics for July 1, 2013 to June 30, 2014 ("year 2013-2014"); (IV) progress and goals on cases; (V) the Consumer Assistance Program ("CAP");<sup>A</sup> (VI) other items for consideration; and (VII) goals for July 1, 2014 to June 30, 2015 ("year 2014-2015").

### **I. STAFF COMPOSITION**

The staff for year 2013-2014 consisted of 10 full-time employees and one part-time file clerk. These 10 full-time employees include Senior Counsel, a Deputy Senior Counsel, four Assistants Counsel, three Paralegals, and one Intake Clerk.

### **II. ATTORNEY MISCONDUCT CASE PROCESS AND PROCEDURE**

#### **A) Rules**

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

#### **B) Ethics and Discipline Committee**

Pursuant to Rule 14-503 of the RLDD, 27 volunteer attorneys and eight volunteer non-attorneys are appointed by the Utah Supreme Court to serve on an administrative body called the Ethics and Discipline Committee ("Committee"). The Committee's function is to consider attorney discipline cases that are appropriately referred to it under the RLDD.

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

The Utah Supreme Court appoints a Committee Chair and two Committee Vice-Chairs from the 27 attorneys. The Committee Chair is responsible for the oversight of the Committee and the Committee Vice-Chairs assist the Committee Chair in this task. The remaining 24 attorneys and eight non-attorneys do their main work in subcommittees called Screening Panels. The Utah Supreme Court appoints a Chair and a Vice-Chair to each Screening Panel. The year 2013-2014 composition of the Committee was as follows:

Terrie T. McIntosh, (Attorney at Law) Chair, Ethics and Discipline Committee

Laura S. Scott, (Parsons, Behle & Latimer) Vice Chair, Ethics and Discipline Committee

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

Panel A

Jill M. Pohlman, Stoel Rives LLP - Chair

Ellen Maycock, Kruse Landa, Maycock & Ricks – Vice Chair

Mark James, Hatch James & Dodge

Duane Gillman, Durham Jones & Pinegar

Heidi E.C. Leithead, Parr, Brown, Gee & Loveless

Richard G. Hamp, Salt Lake County District Attorney's Office

Bruce Landesman, Public Member

Marianne H. Moffitt, Public Member

Panel B

Michael McCarthy, Parsons Behle & Latimer, Chair

P. Matthew Muir, Miller Guymon, Vice-Chair

Jonathan Pappasideris, Salt Lake City Corporation

Kim Cordova, Brass & Cordova

Gary N. Anderson, Hillyard, Anderson & Olsen

Victoria Cramer, Utah Attorney General's Office

Dan Sorensen, Public Member

Suzanne Potts, Public Member

Panel C

Margaret Plane, Salt Lake City Attorney's Office, Chair

Bryan J. Pattison, Durham Jones & Pinegar, Vice-Chair

Eric A. Mittelstadt, Deputy Director, Utah Legal Services

Nanci S. Bockelie, Bockelie Law Office, L.C.

Corbin Gordon, Attorney at Law  
Rosemary J. Beless, Fabian & Clendenin  
Linda Blake, Public Member  
Alexis Cairo, Public Member

Panel D

Vernon L. Hopkinson, Cohne Rappaport & Segal, Chair  
Colin Winchester, Judicial Conduct Commission, Vice-Chair  
Laura K. Thompson, Utah Attorney General's Office, Vice-Chair  
Elizabeth Whitney, Attorney at Law  
Trystan B. Smith, Trystan Smith & Associates  
Howard C. Nielson, Jr. Cooper & Kirk  
Fred Fairclough, Public Member  
Shari D. Faulkner, Public Member

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

The OPC has the duty to be the secretary of the Committee and handle the Committee's administrative affairs. These OPC duties include, among other responsibilities, the scheduling of the hearings of the Committee and sending notices to the participants of these hearings. A more detailed description of these duties is provided elsewhere in this report.

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

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

- (1) Screen all information coming to the attention of the OPC to determine whether it is within the jurisdiction of the OPC in that it relates to misconduct by a lawyer or to the incapacity of a lawyer;
- (2) Investigate all information coming to the attention of the Office which, if true, would be grounds for discipline or transfer to disability status and

investigate all facts pertaining to petitions for reinstatement or readmission;

(3) For each matter not covered in Rule 14-510 [of the RLDD] brought to the attention of the OPC:

- (A) dismiss;
- (B) decline to prosecute;
- (C) refer non-frivolous and substantial informal complaints to the Committee for hearing; or
- (D) petition for transfer to disability status;

(4) Prosecute before the screening panels, the district courts and the Supreme Court all disciplinary cases and proceedings for transfer to or from disability status.

Information comes to the OPC's attention in the form of notarized/verified and non-notarized complaints. Notarized/verified complaints are official informal complaints ("informal complaints") within the meaning of Rule 14-510(a)(2) and, therefore, are processed pursuant to Rule 14-504 and Rule 14-510 of the RLDD. By contrast, non-notarized complaints are not official informal complaints, and are usually submitted to the OPC in the form of a Request for Assistance. The Request for Assistance form is able to be submitted to the Bar online. They are processed pursuant to Rule 14-504 of the RLDD. For purposes of this report, all non-notarized complaints will hereinafter be referred to as Requests for Assistance. The OPC reviews Requests for Assistance in coordination with CAP.

Additionally, pursuant to Rule 14-504(b)(2) and Rule 14-510(a)(1) of the RLDD, the OPC can start an attorney misconduct investigation or complaint on its own initiative, based upon information that comes to its attention. In these cases, the OPC usually sends the attorney a notice of the OPC complaint with the notarized signature of Senior Counsel. Under Rule 14-510(a)(2), the OPC complaint is not required to be verified and attested to.



## 1) Central Intake System

### Process

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

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

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<sup>B</sup> Two are on a regular rotation of intake case assignments and one is on a partial rotation of intake case assignments.

## **2) Investigations**

### **Initial Review**

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

### **Preliminary Investigation**

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

### **Settlement**

At any point during the investigation, the OPC is willing to conduct settlement discussions with the attorney.

### **Notice of Informal Complaint**

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

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

### **Dismissal/Declination to Prosecute**

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

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

- The OPC may decline to prosecute cases where there is a question as to the nexus between the allegations and the attorney's practice.
- The OPC may decline to prosecute cases where the attorney has already been disciplined in an attorney discipline matter for similar misconduct committed during the same period. In these cases, it is unlikely the misconduct will result in discipline greater than what has already been imposed in an attorney discipline matter.

- The OPC may decline to prosecute cases where the attorney has taken immediate action to remedy the alleged misconduct.
- The OPC may decline to prosecute a case by a referral to the Professionalism Counseling Board.<sup>c</sup>

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

### **3) Diversions**

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

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

adversely on the respondent's honesty, trustworthiness, or fitness as a lawyer; or, the attorney has engaged in a pattern of similar misconduct.

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

The Diversion Committee has to review and approve every diversion contract. Possible program areas of diversion are as follows: Fee Arbitration; Mediation; Law Office Management Assistance; Psychological And Behavioral Counseling; Monitoring; Restitution; Continuing Legal Education Programs, including Ethics School; and, any other program or corrective course of action agreed to by the responding attorney necessary to address an attorney's conduct.

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

Upon entrance to the diversion contract, the complaint against the attorney is stayed pending completion of diversion. If diversion is successful, the complaint is dismissed, and all information regarding the attorney is kept confidential. Further, successful completion of diversion is a bar to disciplinary prosecution based on the same allegations. However, a material breach of the diversion contract is cause for terminating the agreement and subjects the lawyer to appropriate discipline as if

diversion had never been an option. As noted below, a screening panel may also refer a complaint to the Diversion Committee.

#### **4) Informal Appeals**

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

#### **5) Screening Panel**

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

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

- Dismissal for lack of merit;
- Dismissal with a letter of caution;

- Dismissal by referral to Diversion Committee;
- Dismissal by referral to Professionalism Counseling Board;
- Recommendation that the attorney be (privately) admonished or publicly reprimanded;
  - If the Screening Panel recommends an admonition or public reprimand, the attorney can file an exception to the recommendation with the Committee Chair.
  - The OPC can file an exception to any of the determinations or recommendations with the Committee Chair. It should be noted that the OPC filed one exception during this year 2013-2014.
  - Following the Screening Panel Hearing, or upon completion of the Exceptions Hearing, if an Exception has been filed, the Committee Chair issues a formal determination and can either sustain, dismiss, or modify the Screening Panel's determination or recommendation of discipline.
  - After final written determination of the Committee Chair, where an exception had been filed, the OPC or an attorney can appeal by filing a request for review with the Supreme Court for reversal or modification. The OPC refers to these as "Administrative Appeals."
- A finding of probable cause that a Formal Complaint be filed with the District Court.
  - A determination that a Formal Complaint should be filed is not appealable.

If the Screening Panel determines that the informal complaint should be filed as a Formal Complaint, Rule 14-511 of the RLDD requires the OPC to prepare the Formal Complaint for the signature of the Chair of the Committee. Often the attorney has more than one informal complaint pending against him/her. If there is more than one informal complaint involved, an informal complaint may be temporarily held in a Screening Panel voted-formal-not-yet-filed category until the other informal complaints pass through the Screening Panel process and can be combined into a single Formal Complaint.



## **6) Formal Complaints**

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

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

## **7) Formal Appeals**

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

## **8) Monitored Cases**

Monitored cases include probation cases, disability cases and trusteeship cases. Where appropriate, probation cases require someone to docket reminder dates, and follow-up to ensure that the attorney meets the probation requirements. Disability cases generally require someone to investigate the extent of the disability, to process the case through District Court, and to monitor the continuing status of the attorney. Trusteeship cases generally require that someone inventory the attorney's files, notify the attorney's

clients of the trusteeship, and assist with distribution of client files to the clients. Additionally, trusteeship cases require someone to inventory unclaimed files, prepare a notice for publication of potential destruction of the files, prepare a request to the District Court to approve destruction of unclaimed files, and ultimately to destroy the files.

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

**9) Interim Suspension and Disability**

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

**10) Abeyances**

Attorney discipline cases may be continued, stayed and held in abeyance when there is related pending litigation (i.e., criminal or civil) and the alleged misconduct is substantially similar to the issues of the pending litigation. The request for abeyance can be made by either the OPC or the respondent attorney. The request is made to the Committee Chair pursuant to Rule 14-510(b)(9) if the discipline case is pending prior to

the filing of a formal case ("Informal Abeyance") and the request is made to the judge pursuant to Rule 14-517(d) if the discipline case is pending in the District Court as part of a formal case ("Formal Abeyance").

#### **11) Final Dispositions**

Until a case reaches a "final" disposition, the OPC considers it an active case. Final dispositions are cases where the result has been determined to be dismissal, dismissal with caution, admonition, public reprimand, disbarment, time-specified suspension, trusteeship where OPC is not the trustee, probation, resignation pending discipline, and cases in which no appeal is pending.

### **III. STATISTICS – Year 2013-2014**

#### **A) Case Activity**

Active cases as of July 1, 2013 ..... **501**

##### **1) Cases opened**

Informal Complaints .....	234
Requests for Assistance .....	465
Reinstatements .....	7
Reciprocals .....	3
Disability .....	1
Trusteeship .....	5
Interim Suspension .....	1
Total.....	716

**Total cases processed during period: .....1217**

##### **2) Informal Complaints Closed**

By Declination to Prosecute (declination) .....	86
By Summary Dismissal (summary).....	117
By Dismissal After Investigation (standard) .....	23
By Dismissal After Screening Panel .....	20
Total .....	246

##### **3) Requests for Assistance Closed**

By Sending to CAP.....	1
By Return for Notarization .....	92
By Declination to Prosecute .....	374

Total ..... 467

**4) Cases Closed With Orders of:**

		<u># of attys</u>
Admonition .....	7	(6)
Resignation With Discipline Pending .....	3	(2)
Suspension.....	5	(5)
Probation .....	4	(1)
Public Reprimand .....	12	(10)
Disbarment.....	2	(1)
Reinstatement .....	3	(3)
Miscellaneous.....	4 <sup>D</sup>	(4)
Trusteeships .....	6	(6)
Disability .....	1	(1)
Total .....	47	(39)

**Total case closures during period:.....760**

**Active cases as of July 1, 2014 .....457**  
(Open cases minus closures for year 2013-2014)

**5) During the Year 2013-2014 , the OPC had case activity as follows:**

Diversions.....3

Informal Abeyances.....2

Informal Appeals.....46  
[Two remands by Committee Chair (or Vice-Chair), and both have been heard by a Screening Panel; this resulted in a dismissal with caution, and a dismissal.]

Exceptions to Screening Panel Recommendation.....2  
[Representing two underlying informal complaints. Of these two exceptions, both exceptions are waiting to be decided.]<sup>E</sup>

Reinstatements .....7

Trusteeships.....5  
(Representing five underlying informal complaints)

Disability .....1  
(Representing one underlying informal complaint)

Reciprocals.....3

<sup>D</sup> This number represents one dismissal with prejudice; one order denying reinstatement; one dismissal of petition for reinstatement; and one order reversing order of admonition.

<sup>E</sup> It should be noted that the OPC initiated the exception in one of these cases.

Formal cases filed with the District Court .....14  
 (Representing 18 underlying informal complaints)

**6) Screening Panel outcomes were as follows:** **(# of attys)**

Cases voted formal.....	16	(13)
Cases voted public reprimand .....	10	(9)
Cases voted admonition .....	7	(7)
Cases dismissed .....	10	(10)
Cases dismissed with a caution .....	9	(9)
Cases dismissed on condition .....	1	(1)
<b>Total Screening Panel Case Outcomes .....</b>	<b>53</b>	<b>(49)</b>

**7) Stipulations**

Resignation with Discipline Pending .....	3	(2)
Suspensions .....	4	(4)
Admonitions .....	2	(1)
Public Reprimands .....	3	(3)
Probation .....	4	(1)
Dismissal .....	1	(1)
<b>Total Stipulations .....</b>	<b>17<sup>F</sup></b>	<b>(12)</b>

**8) Notice of Insufficient Funds**

As part of the OPC case activity, Rule 1.15(a) of the Rules of Professional Conduct requires that attorneys maintain their trust accounts in financial institutions that agree to report to the OPC “in the event any instrument in properly payable form is presented against an attorney trust account containing insufficient funds (NSF), irrespective of whether or not the instrument is honored.” Pursuant to this rule the OPC opened 57 NSF cases, and dismissed 55 NSF cases in year 2013-2014. The usual reasons for dismissals of NSF cases are accounting errors, bank errors, depositing errors, or drawing on the account before a deposit clears.

<sup>F</sup> All stipulations were post-Screening Panel at the District Court level except for two Admonitions.

## **9) Summary**

Of the 1217 cases the OPC processed in year 2013-2014 , 712 or 58.5% were resolved by dismissals, declinations to prosecute, referral to CAP or return for notarization. Of the 1217 cases, 33 or approximately 2.7% of the cases resulted in Orders of Discipline. Approximately 48.45% of the Orders of Discipline were by stipulation. Finally, approximately 4.35% of the OPC's processed cases for the year were heard by Screening Panels.

## **10) Beginning Year July 1, 2014 – June 30, 2015**

The OPC begins year 2014-2015 with 457 active cases against 322 attorneys. The breakdown of the various stages of the 457 cases is as follows:

Requests for Assistance .....	208
Informal Complaints.....	79
Return from Notary .....	33
Informal Abeyances.....	6
Informal Abeyances Removed .....	10
NOIC Opened.....	25
Diversions.....	3
Screening Panel Voted Formal (not yet filed) .....	11
Screening Panel Voted Public Reprimand..... (not yet accepted by Committee Chair)	2
Informal Appeal .....	6

(underlying informal  
complaints)

Formal Filed .....	40
Formal Abeyance .....	1
Reinstatements .....	4
Trusteeships.....	20
Interim Suspensions .....	1
Formal Appeal .....	5
Reciprocals.....	3

**B) Miscellaneous**

**1) Ethics Hotline and CLE**

Rule 14-504(b)(13) of the RLDD requires that the OPC provide informal guidance to promote ethical conduct by Bar members. In compliance with this rule, the OPC has an Ethics Hotline where the OPC attorneys give Bar members informal guidance by telephone.<sup>6</sup> During year 2013-2014 , the OPC rendered 692 informal ethics opinions by telephone.

Additionally, the OPC attorneys make Continuing Legal Education ("CLE") ethics presentations. During year 2013-2014 , the OPC's CLE presentations totaled 51 hours. Two of the CLE presentations were at the Ethics School conducted by the OPC. The OPC titles the Ethics School "What You Didn't Learn in Law School." Some attorneys are required to be there as a condition of a disciplinary case, but the OPC usually opens

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<sup>6</sup> The OPC also takes Ethics Hotline "calls" as posted to the Bar's website. These website requests are responded to by telephone.

it to the entire Bar. At the school, the OPC covers a number of topics, including the lawyer discipline process, engaging and terminating the attorney-client relationship, conflicts of interests, lawyer trust fund accounting and hot topics of ethical issues. The OPC also usually tries to have at least one judge as a guest speaker to talk about civility and professionalism. The Ethics School was held in September and March of the year 2013-2014 for six CLE hours each time. In September 2013, Ethics School was attended by 82 attorneys; and in March 2014, Ethics School was attended by 102 attorneys.

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

## **2) Committees**

The OPC participates in committees with respect to attorney conduct. Senior Counsel of the OPC sits as a voting member of the Utah Supreme Court's Advisory Committee on the Rules of Professional Practice. OPC counsel sits as a non-voting member on the Utah State Bar's Ethics Advisory Opinion Committee. And, Senior Counsel of the OPC is a voting member of the Utah Supreme Court's Advisory Committee on Professionalism.

## **3) Rule Violations and Source of Information**

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



(a) For example, for informal complaints reviewed in year 2013-2014, in approximate percentages, the cases resulted in violations of the following rules:

<u>Percentage<sup>H</sup></u>	<u>Rule</u>
36.36%	8.1(b) (Bar Admission and Disciplinary Matters)
30.30%	1.15 (Safekeeping Property)
24.24%	1.4 (Communication)
18.18%	8.4(c) (Misconduct – Deceit, Fraud, Misrepresentation)
15.15%	1.5 (Fees)
15.15%	8.4(b) (Misconduct – Criminal Act)
12.12%	1.3 (Diligence)
6.06%	1.1 (Competence)
9.09%	1.16 (Declining or Terminating Representation)
3.03%	3.1 (Meritorious Claims and Contentions)
	(Scope of Representation and Allocation of Authority
3.03%	1.2 Between Client and Lawyer)
3.03%	3.3 (Candor Toward the Tribunal)
3.03%	3.4 (Fairness to Opposing Party and Counsel)
3.03%	4.3 (Dealing with Unrepresented Person)
	(Unauthorized Practice of Law; Multijurisdictional
3.03%	5.5 Practice of Law)
3.03%	8.2 (Judicial Officials)
	(Misconduct Prejudicial to the Administration of
3.03%	8.4(d) Justice)

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

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<sup>H</sup> The total percentages of actual rule violations exceed 100% because each order of discipline generally includes multiple Rule of Professional Conduct violations.

violations of Rule 1.16 (Declining or Terminating Representation) commonly result from attorneys withholding the client file upon termination of the representation; and violations of Rule 8.1(b) (Bar Admission and Disciplinary Matters) usually are based upon attorneys failing to respond to the OPC's lawful requests for information in the course of disciplinary investigations. Accordingly, the OPC's CLE presentations often focus on helping practitioners avoid these particular problems

(b) Looking at the source for information received in year 2013-2014, in approximate percentages the sources were as follows:

<u>Percentage</u>	<u>Source</u>
68.82%	Client
9.61%	Financial Institution
7.24%	Opposing Party
2.83%	Lawyer Not Opposing Counsel
2.68%	Opposing Counsel
2.20%	OPC
2.05%	Family Member of Client or Former Client
1.10%	Respondent
0.79%	Reciprocal Discipline
0.79%	Judiciary
0.63%	Other Outside Disciplinary Source
0.63%	Law Enforcement/Gov. Agency
0.63%	Employee

**Total: 100.00%**

#### **IV. PROGRESS AND GOALS ON CASES**

The OPC, like every other state bar disciplinary authority, has and will continue to have unfinished work. Furthermore, the OPC, like every other state bar disciplinary authority, has and will continue to have a percentage of its unfinished work accumulate at the informal stage. The reason for this is the nature of the work. In this regard, the OPC processes disciplinary cases against attorneys who are often determined to use

every means at their disposal to protect their license to practice law. This sometimes makes investigating and processing cases analogous to a criminal proceeding. In these cases, it tends to lengthen the processing at both the informal and post-informal stages. Notwithstanding the nature of the work, it should be noted that the OPC's overriding mission is to perform its responsibility in a professional and civil manner.

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

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

- (1) Cases opened this year were down approximately 22.67% (716 vs. 926)<sup>1</sup>;
- (2) Dismissals this year decreased by approximately 6.18% (713 vs. 760);
- (3) Cases closed with orders of discipline this year decreased by approximately 29.78% (33 vs. 47); and
- (4) Active case numbers at the end of this year decreased by approximately 8.78% (457 vs. 501).

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<sup>1</sup> However, it should be noted that the OPC, as part of its CAP review process, reviewed an additional 309 Requests for Assistance that were sent to CAP without opening cases. Therefore, the OPC actually reviewed 1025 matters (up from the 926 of last year.)

The OPC has a goal to reduce its active case number each year by closing more cases in a year than the office receives in that year. This year, the OPC did accomplish this goal because it opened 716 cases and closed 760 cases and its active case number decreased by 8.78%.

The OPC has also established a goal of attempting to have 80% or more of its actively investigated cases in the informal stage resolved or moved to the next stage of prosecution in less than six months. Of its current caseload (457), 383 are at the informal stage. And of the 383 cases, 116 or approximately 30.29% have been in the informal stage for over six months. It should be noted that 14 of the 116 cases are not being actively investigated because they are either abeyances, informal appeals, diversions not completed, or special prosecutor cases (special prosecutor cases are cases filed against either OPC staff, Bar Commissioners or Ethics and Discipline Committee lawyer members – which pursuant to Rule 14-517(f) of the RLDD, have to be prosecuted outside of the OPC). Not counting these 14 cases, about 23.39% of the 116 cases have been at the informal stage for a period of greater than six months; so 76.61% of the actively investigated cases have been resolved or moved to the next stage of prosecution in six months or less. This 76.61% number is slightly below the OPC's goal and the OPC will strive in the upcoming year to achieve its percentage goal.

As reported on its last annual report, the OPC struggled in year 2012-2013 to move its cases at the intake stage in an expeditious fashion to completion. This resulted in the reduction in the number of case closures, fewer cases sent to Screening Panels, and thus, an increase in the number of active cases the OPC took into year 2013-2014. The OPC made the following changes:

- (1) At the beginning of this year 2013-2014, the OPC utilized the other non-central intake attorneys as part of an up front CAP review and determined that some of the Requests for Assistance could be sent to CAP without the need to open a case for further OPC review and the utilization of OPC resources. This resulted in more cases reviewed by CAP.
- (2) The OPC hired an Intake Paralegal to replace the Assistant to Counsel position to help with intake case management and investigations.

Based on the numbers in this report, these changes appear to have gone a long way toward resolving this issue with the result an overall improvement in the processing of cases.

Finally, the OPC has the goal of bringing the majority of all its cases to final resolution in a current year. In this year, the OPC brought approximately 62.4% of the cases it processed to a final disposition; this included bringing informal and post-informal stage cases to final dispositions. Based upon this fact, the OPC accomplished this goal. It should also be noted that while accomplishing this goal, the OPC also filed a significant number of new formal cases. In this respect, in addition to handling 17 new cases in the areas of reinstatement/trusteeship/disability/reciprocal/interim suspension, the OPC filed 14 new formal cases with the District Court (the 14 formal cases represent 18 underlying informal complaints).

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

The Central Intake System greatly aids case processing goals. Central Intake enables the OPC to address all information coming to its attention (both notarized and non-notarized) and to quickly and efficiently determine the appropriate track for the information. This leaves more resources to address cases raising more serious ethical allegations, resulting in quicker case processing for all cases.

#### **V. CONSUMER ASSISTANCE PROGRAM**

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

The OPC's review of CAP cases ensures that allegations of serious misconduct are not processed as Requests for Assistance. In year 2013-2014, the OPC reviewed 696 as part of its CAP review system. Of these 696 matters, 309 were sent to CAP and 23 came back to the OPC in this year as informal complaints. Thus, with respect to year 2013-2014, 286 matters were resolved by CAP.<sup>J</sup> The OPC uses the resources normally

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<sup>J</sup> Since CAP is not part of the OPC, the OPC does not have complete statistics on cases resolved by CAP in a year.

needed for reviewing and resolving the cases that are handled by CAP to process cases where there are serious ethical violations.

## **VI. OTHER ITEMS FOR CONSIDERATION**

### **A) OPC as Secretary to the Committee**

As noted above, the OPC acts as secretary to the Committee under the RLDD. At a meeting with the Court in January of this year to report on the work of the Committee and the OPC, the Court expressed some concern on the workload of the volunteers on the Committee and on the workload of the OPC as secretary to the Committee. The Court felt that it may be necessary in the future to staff and fund a position to at minimum be counsel and secretary to the Committee, to aid and relieve the workload of the OPC and the Committee.

To explore that possibility, the Court indicated that it would like a better idea of the time commitment necessary to staff the work of the Committee. With this direction, the OPC began to keep time records on the tasks that the OPC categorized as secretarial tasks to the Committee.<sup>K</sup> The approximate totals for the period January 23 to June 30 is 240 hours. There were 20 Screening Panel hearings during this period, so on average, the OPC spent 12 staff hours per hearing on secretarial tasks. It is the OPC's understanding that the Chair of the Committee will be making a report to the

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<sup>K</sup> A detailed list of these tasks is as follows: Prepare/forward informal appeals to Chair, notify parties of appeal rulings; forward abeyance requests to Chair; notify parties of abeyance rulings; check status of abeyances; prepare and send Calendar Notices; coordinate Screening Panel dates with Counsel; prepare Screening Panel agenda; prepare Screening Panel Decisions Sheets; forward continuance requests to Chair; copy file for Screening Panel Memo ("SPAM"); bate stamp for SPAM; create index and links in SPAM; send SPAM to cloud; track SPAM downloads; distribute post-SPAM filings; coordinate Screening Panel lunches; set up for Screening Panel hearings; record Screening Panel hearings; download Screening Panel hearing to V: drive; track Screening Panel attendance; notify parties of Screening Panel decision; draft Screening Panel findings; track Screening Panel decisions; prepare/forward exceptions to Chair; set up for exception hearings; record exception hearing; download exception hearing to V: drive; coordinate Committee luncheon; prepare Committee rule book; miscellaneous (e-mails, telephone, copies).

Court of her workload as the Chair, and the commitment of time of the workload of the two Vice-Chairs. Hopefully, all of this information will aid the Court in its determination.

**B) The Committee and Rule Making**

The attorney discipline process works from primarily three sets of Rules: the Rules of Professional Conduct; the Rules of Lawyer Discipline and Disability; and the Standards for Imposing Lawyer Sanctions. Historically, the Court's Advisory Committee on the Rules of Professional Practice has primarily advised the Court on proposed changes to the Rules of Professional Conduct with occasional advice on proposed changes to the Rules of Lawyer Discipline and Disability. To have a more uniform and experience-based advisory review system for the Court for future proposed rule changes to the Rules of Lawyer Discipline and Disability and the Standards for Imposing Lawyer Sanctions, the OPC recommended and the Court accepted that in lieu of the Rules of Professional Practice Committee, the Court use an ad hoc committee consisting of the Chair of the Ethics and Discipline Committee, the Vice-Chairs and any past chairs and vice-chairs of that Committee as selected and needed by the Chair as the Court's Advisory Committee on proposed rule changes to either the Rules of Lawyer Discipline and Disability or the Standards for Imposing Lawyer Sanctions. The OPC memorializes this change as part of this report.

**VII. GOALS FOR YEAR 2014-2015**

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



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

### **CONCLUSION**

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

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Billy L. Walker  
Senior Counsel  
Office of Professional Conduct  
Utah State Bar



# Utah State Bar®

Lawyers working for justice.

Continuing Legal Education

Bar Operations Licensing

Member Benefits Program

Section & Division Support

Utah Bar Journal New Lawyer Training Program

Pro Bono Commission Lawyer Referral Program

Disaster Legal Response Committee Fund for

Client Protection Spring & Summer Conventions

**JUSTICE** Unauthorized  
Practice of Law  
Committee

Tuesday Night Bar Young Lawyers Division

Consumer Assistance Program Fall Forum

Fee Dispute Resolution Program Professional

Conduct Enforcement Public Education Efforts

Governmental Relations Law & Justice Center

Operations Access to Justice Programs

Paralegal Division Admissions Leadership

*Summary of Operations*

2013–2014

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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# Introduction and Grants of Authority

The Utah State Bar operates under authority granted by the Utah Supreme Court through orders which restate the Court's inherent authority under the Utah Constitution to regulate the practice of law. Those orders confirm the specific purposes, duties and responsibilities of the Utah State Bar as:

- **Advancing the administration of justice according to law;**
- **Aiding the courts in carrying on the administration of justice;**
- **Regulating the admission of persons seeking to practice law;**
- **Regulating and disciplining persons practicing law;**
- **Fostering and maintaining integrity, competence and public service among those practicing law,**
- **Representing the Bar before legislative, administrative and judicial bodies;**
- **Preventing the unauthorized practice of law;**
- **Promoting professionalism, competence and excellence in those practicing law through continuing legal education and by other means;**
- **Providing service to the public, to the judicial system and to members of the Bar;**
- **Educating the public about the rule of law and their responsibilities under the law; and,**
- **Assisting members of the Bar in improving the quality and efficiency of their practice.**

The Board of Bar Commissioners has been granted all powers necessary and proper to carry out the duties and responsibilities of the Bar and the purposes of the Rules and has all authority not specifically reserved to the Court.

The Bar's internal operations are governed by **By-laws**; and through the establishment of a variety of administrative **policies and procedures**. Other rules necessary to regulate and manage the practice of law have been promulgated by the Bar and approved by the Court and have been amended from time to time as needs have changed and demands have increased. These other rules include the **Rules Governing Admission, Rules of Lawyer Discipline and Disability, Rules of Professional Conduct, Rules for Lawyers' Fund for Client Protection, the Law Student Assistance Rule**, and the **Rules of the Utah State Bar Dispute Resolution Committee**. The Court has also established rules governing mandatory continuing legal education. These rules may be found at [www.utahbar.org](http://www.utahbar.org).



# Bar Leadership

The Bar is a 501 (c) (6) non-profit Utah corporation governed by a fifteen-member Board of Bar Commissioners, which includes eleven elected lawyer representatives, two elected officers and two court-appointed public members. The Commission also includes ten non-voting ex officio members. The Commission hires an Executive Director to carry out the operations of the Bar and the policies of the Commission. The Executive Director employs and supervises the activities of operations staff, which numbers twenty-nine full-time, and nine part-time employees.

During the 2013–2014 year, the Bar Commission included the following:



## Elected Officers

### **Curtis M. Jensen, President**

Snow Jensen & Reece – St. George

### **James D. Gilson, President-elect**

Callister Nebeker & McCullough – Salt Lake City

## Elected Lawyers & Geographic Area:

### **Herm Olsen, 1st Division**

Box Elder, Cache and Rich Counties  
Hillyard Anderson & Olsen – Logan

### **Kenyon D. Dove, 2nd Division**

Weber, Morgan and Davis Counties  
Smith Knowles – Ogden

### **H. Dickson Burton, 3rd Division**

Tooele, Salt Lake and Summit Counties  
TraskBritt – Salt Lake City

### **Susanne Gustin, 3rd Division**

Tooele, Salt Lake and Summit Counties  
Attorney at Law

### **Hon. Evelyn J. Furse, 3rd Division**

Tooele, Salt Lake and Summit Counties  
United States District Court – Salt Lake City

### **John R. Lund, 3rd Division**

Tooele, Salt Lake and Summit Counties  
Snow Christensen & Martineau – Salt Lake City

### **Janise K. Macanas, 3rd Division**

Tooele, Salt Lake and Summit Counties  
Utah Attorney General's Office

### **Robert O. Rice, 3rd Division**

Tooele, Salt Lake and Summit Counties  
Ray Quinney & Nebeker – Salt Lake City

### **Angelina Tsu, 3rd Division**

Tooele, Salt Lake and Summit Counties  
Zions Management Services Corporation – Salt Lake City

### **Thomas W. Seiler, 4th Division**

Millard, Juab, Utah and Wasatch Counties  
Robinson Seiler & Anderson – Provo

### **Hon. Michael F. Leavitt, 5th Division**

Washington, Iron, Beaver, Sanpete, Sevier, Piute, Wayne, Garfield, and Kane Counties  
5th Judicial District Juvenile Court – St. George  
(Formerly affiliated with Durham Jones & Pinegar – St. George)

## Public Members Appointed by the Supreme Court:

**Steven R. Burt, AIA, Public Member**  
Entelen Design-Build – Salt Lake City

**Mary Kay Griffin, CPA, Public Member**  
Mayer Hoffman McCann – Salt Lake City

## Ex Officio Members:

**Lori W. Nelson, Immediate Past Bar President**  
Jones Waldo – Salt Lake City

**James R. Rasband, Dean, J. Reuben Clark School of Law**

**Robert Adler, Dean, S. J. Quinney College of Law**

**Lawrence E. Stevens, Utah State Bar Delegate to the ABA**  
Parsons Behle & Latimer – Salt Lake City

**Danielle Davis, Paralegal Division Representative**  
Strong & Hanni – Salt Lake City

**Gabriel K. White, Young Lawyers Division**  
Christensen & Jensen – Salt Lake City

**Nathan D. Alder, Utah ABA Members' Delegate**  
Christensen & Jensen, PC – Salt Lake City

**Jesse M. Nix, Minority Bar Association Representative**  
Salt Lake Legal Defender Association – Salt Lake City

**Margaret D. Plane, Utah State Bar Delegate to the ABA**  
Salt Lake City Attorney's Office – Salt Lake City

**Heather M. Farnsworth, Women Lawyers of Utah Representative**  
Match & Farnsworth – Salt Lake City

## Other Representatives:

**Timothy M. Shea, Utah Supreme Court Liaison**

# 2013–2014 Commission Priorities

The Bar Commission annually reviews its long range planning objectives and sets specific goals for the upcoming year within the plan. For the 2013–2014 year, those goals included:

- Promoting Public and Lawyer Education;
- Promoting a Fair and Impartial Judiciary;
- Promoting Access to Justice and Affordable Legal Services;
- Studying the future of the practice of law in Utah and how it will be affected in the coming years by technology, market conditions, age, diversity, law school policies, etc., and how the Bar can provide additional technology training and career development for our membership;
- Providing greater group benefits to members.



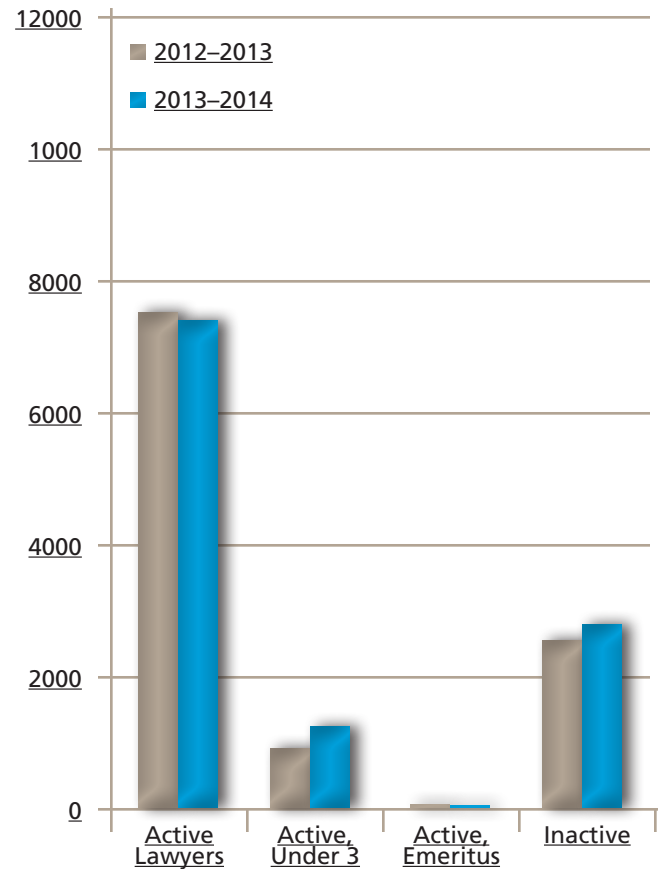
# Licensing Statistics

	2012–2013	2013–2014	Change
<b>Active Status</b>	<b>8,785</b>	<b>9,054</b>	<b>269</b>
Active Lawyers	7,601	7,505	(96)
Active, Under 3 Years	974	1,353	379
Active, Emeritus	167	146	(21)
In House Counsel	43	50	7

## Active Status By Location

1st Judicial District	148	147	(1)
2nd Judicial District	684	674	(10)
3rd Judicial District	4,767	4,505	(262)
4th Judicial District	786	707	(79)
5th–8th Judicial Districts	390	333	(57)
Out of State	770	761	(9)
No Division Designated	1,234	1,923	689

<b>Inactive Lawyers</b>	<b>2,479</b>	<b>2,583</b>	<b>104</b>
Inactive, Full Service	718	735	17
Inactive, No Service	1,499	1,585	86
Inactive, Emeritus	262	263	1
<b>TOTAL INACTIVE &amp; ACTIVE</b>	<b>11,264</b>	<b>11,637</b>	<b>373</b>



# Bar Programs and Services

## Regulatory Services

### Special Admissions

Special admissions include reviewing and processing Military Lawyers, House Counsel, Admission on Motion and Pro Hac Vice applications. During the Fiscal 2013–2014 year, we had the following special admissions applications:

	Applications	Admitted	Pending	Denied	Withdrawn
Military	0				
House Counsel	9	14	2	1	0
Motion	59	46	27	1	3
Uniform Bar Transfers	48	35	15	0	0
<i>Pro Hac Vice</i>	267				

## Admissions

Admissions includes the application process, character and fitness file reviews and hearings, Bar exam question drafting and selection, preparation and administration, grading essay exams, and all reciprocal admissions. Committees include the **Admissions Committee** (Steven T. Waterman and Judge James Z. Davis, Co-chairs), **Character and Fitness Committee** (Kimberly A. Neville and Andrew M. Morse, Co-chairs), **Bar Examiner Committee** (Tanya N. Peters and David K. Broadbent, Co-chairs), and the **Test Accommodation Committee** (Joan M. Andrews, Chair).

### July 2013 Bar Examination Statistics

364 Took the July Bar Exam – 304 Passed. **Pass Rate for the July 2013 Bar Exam: 84%**

**Essay Scores**  
50 Points Possible  
**Average Score: 30**

**Multistate Scores**  
200 Points Possible  
**Utah Average: 147**  
National Average: 144  
(53,706 tested)

**Combined Scores**  
**Utah Mean Score: 294**  
Passing Score: 270

### February 2014 Bar Examination Statistics

147 Took the February Bar Exam – 113 Passed. **Pass Rate for the February 2014 Bar Exam: 77%**

**Essay Scores**  
50 Points Possible  
**Average Score: 28**

**Multistate Scores**  
200 Points Possible  
**Utah Average: 142**  
National Average: 138  
(22,083 tested)

**Combined Scores**  
**Utah Mean Score: 285**  
Passing Score: 270

## Professional Conduct Enforcement

The Office of Professional Conduct investigates complaints of unethical conduct; provides ethics education seminars; provides informal ethics guidance by telephone; and either resolves or prosecutes cases before hearing panels, the district courts, and the Utah Supreme Court. Committees that the Office of Professional Conduct interacts with include the **Ethics and Discipline Committee of the Utah Supreme Court** (Terri T. McIntosh, Chair); the Utah Bar's **Ethics Advisory Opinion Committee** (John A. Snow, Chair); the **Supreme Court Rules of Professional Conduct Committee** (Stephen G. Johnson, Chair); the Supreme Court Advisory Committee on Professionalism (Justice Thomas R. Lee, Chair); and the **Supreme Court Diversion Committee** (Perri A. Babalis, Chair). The office has prepared a separate report on its operations, which is available at [www.utahbar.org/opc/](http://www.utahbar.org/opc/).

## Continuing Legal Education

In the past year, the CLE Department coordinated or presented 202 events (136 luncheons and 66 seminars) in 43 general practice areas. Eighteen of these events were broadcast via the web. Attorneys can participate via teleconference in any CLE seminar held at the Law & Justice Center. A total of 3,659 video replays and webcasts from outside CLE providers were viewed online. The CLE Department coordinates with the **CLE Advisory Board** (Jonathan O. Hafen, Chair).

## General Bar Management and Operations

General Bar management includes annual licensing, maintenance of databases, personnel, financial controls, inventory, equipment, governance organization, and long range planning. Bar staff manages policy implementation and operations through various voluntary leadership committees, including: **Bar Commission**, **Bar Commission Executive Committee**, and the **Bar Commission Budget & Finance Committee** (Ray O. Westergard, CPA, Chair). A copy of the 2013–2014 audit by Tanner, LLC is available at [www.utahbar.org/bar-operations/](http://www.utahbar.org/bar-operations/).

## "Group" Services

### Fall Forum, Summer & Spring Conventions

Conventions provide opportunities for lawyers to network in congenial, social, and informal settings to renew friendships; to learn and to facilitate the administration of justice, foster professionalism and engender a collective identity through familiarity with fellow professionals. These events provide unique seminars and speakers, educate lawyers about issues facing the Bar, the profession and the judiciary, permit interaction with judges, and are budgeted to break even.

Events were coordinated by the **Fall Forum Committee** (Denver Snuffer and Cathleen Gilbert, Co-chairs), the **Summer Convention Committee** (Troy Booher, Chair), and the **Spring Convention Committee** (Aaron Randall and Richard Matthews, Co-chairs).



**The 2014 Summer Convention  
in Snowmass, Colorado**

**281 lawyers; 13 CLE hours.**



**The 2013 Fall Forum  
in Salt Lake City**

**369 lawyers; 8 CLE hours.**



**The 2014 Spring Convention  
in St. George**

**480 lawyers; 10 CLE hours.**

### Member Benefit Programs

The Utah State Bar has contracted with benefits administrator Beneplace to radically expand offerings and services to Bar members at no cost. Beneplace, in partnership with the Bar, researches and recruits benefits providers and places them in the Utah State Bar benefits catalog <http://www.beneplace.com/utahbar>. Programs range from office supplies, to discounted membership programs, to vacation planning, to legal specific vendors, to ticket offers for sports and recreational opportunities. New vendors and discounts arrive each month with a summary of recent additions being provided online at <http://communications.beneplace.com/utahstatebar/>.



This year the Utah State Bar Commission has renewed the Bar's successful relationship with Casemaker for an additional 5 years and has had its research offerings expanded to include these new features:

**Casecheck+** works like Shephard's® and KeyCite® to notify you instantly of negative treatment, and identify whether your case law citations are still good law. Casecheck+ returns both positive and negative treatments instantly as you research and links to negative treatments, so you can quickly review the citation history for both state and federal cases. It works seamlessly inside the new Casemaker and doesn't require any extra steps to use.

**CiteCheck** analyzes every citation in your brief (or your opponent's) and provides you with a report of good law, negative treatments, and potential citation format errors. In just moments, you can have this crucial information.

**CasemakerDigest** allows members to receive daily summaries of the latest state and federal appellate decisions (within 12–24 hours of publication), classified by practice area. Choose one area, a few, or all, and get exactly the information you need when you need it.

These new features are now included at no charge to bar members through the new private member services portal located at <https://services.utahbar.org>.

Utah State Bar member benefits are overseen by the **Member Resource Committee** which is chaired by former Bar President, **Robert L. Jeffs**.

## Committee Support – Unrelated to Other Programs

Stand-alone committees have been charged to provide professional leadership and study of issues. A listing of all Bar committees can be found at [www.utahbar.org/bar-operations/](http://www.utahbar.org/bar-operations/).

## Section & Division Support

Staff provides support services to 33 Sections and 2 Divisions which are independent and financially self-sustaining. Activities include section meetings, CLE luncheons, social events, dues collection, general administrative and financial services, email and newsletter communications, and the maintenance of websites and blogs. A listing of all Bar sections and divisions can be found at [www.utahbar.org/bar-operations/](http://www.utahbar.org/bar-operations/).

## Bar Journal

The Bar provides information on professional issues, law office management, legal education, and law related opportunities. The *Utah Bar Journal*, which was published six times this past year by the **Bar Journal Committee** (William D. Holyoak, Chair), was provided to members. This year, the *Bar Journal* was available online in e-book formats with fully searchable text and clickable links. Access to past issues of the *Bar Journal* can be found at [www.utahbar.org](http://www.utahbar.org).



## Communications

2013–14 communications efforts started with a refresh of the Mission and Vision statements at the Board of Bar Commissioner's retreat. The result was more focus on lawyers taking action (mission) to arrive at a destination (vision). Mission: Lawyers serving the public and legal profession with excellence, civility, and integrity. Vision: A just legal system that is understood, valued, and accessible to all. Advertising campaigns for Constitution Day and the Modest Means Lawyer Referral program highlighted the good works of attorneys and promoted the two programs. A comprehensive, statewide, in-court, promotion campaign for Modest Means was also implemented. Law Day coverage was expanded substantially in the *Deseret News* and *The Salt Lake Tribune* Law Day Special Edition with twice the page count and more focused articles and ads. Exclusive Law Day content was also provided for *The Record*. The major 2013–14 advertising campaign highlighted the core values of member attorneys. Billboards throughout the state cautioned citizens about do-it-yourself law as an often less-desirable alternative to the good counsel of a Utah lawyer: Call a lawyer first.

## New Lawyer Training Program

New Lawyer Training Program (NLTP) participants work with a Utah Supreme Court approved mentor during their first year of practice. The mentor and new lawyer are required to meet at least once a month for twelve months to discuss the new lawyer's legal work, professional development, and adjustment to the practice of law. They are also required to discuss the Rules of Professional Conduct as a means of more effectively teaching and fostering professionalism, ethics, and civility.

Since it began in 2009, the New Lawyer Training Program has helped over 1000 new lawyers acquire skills to practice as competent and professional attorneys. The NLTP has also fostered long-term mentoring relationships and has helped new attorneys network with other established members of the Bar.

In 2014, the Utah State Bar Committee on New Lawyer Training was formed to take the place of the Supreme Court Advisory Committee on Professionalism. The New Lawyer Training Committee is now responsible for mentor approval.

As of July 31, 2014, there are 930 approved mentors. Between July 2013 and June 2014, 88 new mentor applicants were approved. Eight previously approved mentors asked to be removed from the list of mentors.



As of July 31, 2014, 1,165 new lawyers have completed the NLTP since the Program's inception in 2009. There are 211 new lawyers participating in the January 2014 mentoring term and 136 participating in the July 2014 mentoring term for a total of 347 current participants.

### Access to Justice Programs

In the 2013–2014 fiscal year, the Bar sustained existing programs to provide greater access to justice for those in Utah. The Access to Justice department continued to assist the Utah State Bar **Pro Bono Commission** (Judge Michele M. Christiansen and Judge Royal I. Hansen, Co-Chairs) and the **Modest Means Lawyer Referral Program** (Judge Su Chon and John L. Lund, Co-Chairs) and supported the Senior Center Clinics started by the Elder Law Section in 2010, the Tuesday Night Bar Program put on by the Young Lawyer Division of the Bar, the Debtor's Counseling Clinic put on in conjunction with the University of Utah Pro Bono Initiative, and the **Disaster Legal Response Committee** (Brooke Ashton and Andrea Valenti Arthur, Co-Chairs).

The Utah State Bar Pro Bono Commission placed cases in different areas of the law including domestic, consumer, post conviction, and probate law. The program has helped to recruit over 1,300 attorneys who are willing to provide pro bono services. The Pro Bono Commission has worked to place cases coming from judges and Utah Legal Services and is working to broaden the number of organizations who can take part in the program. Along with the placement of cases, the Pro Bono Commission started its first signature project in July 2013. Through these signature projects we hope to be able to represent more people through limited scope assistance.



In all eight judicial districts, the Pro Bono Commission has set up Committees who are co-chaired by a district court judge and a local attorney. The Commission and the Committees work together to recruit and recognize attorneys, place cases for representation with volunteer attorneys, and determine the legal needs of the local community. The Committees have been a great success in bringing about case placements and programs that provide support and opportunities to the attorneys in their districts so that they can serve in the way that works best for their community. This program will be a beacon to other states on how the Bar and legal service providers throughout the state can work together to provide a wider variety of much needed legal services to the needy.

The Modest Means Lawyer Referral Program provides the average Utahn the ability to acquire affordable legal assistance and gives Utah attorneys the ability gain clients through a referral service by agreeing to provide services at a lower cost. The program completed its first full year in February 2014. Attorneys participating in the Modest Means Lawyer Referral Program recognize the benefits of their participation not only for the public but for themselves and their practices.

The Access to Justice department in partnership with the CLE department has provided CLEs to give attorneys skills needed to provide pro bono and discounted modest means services in much needed areas of law. The CLE programs provide attorneys the opportunity to take cases that may not be part of their normal practice.

The Disaster Legal Response Committee continues to organize pro bono legal assistance to victims in the event of a disaster in Utah. The Committee has been active in developing a strategy and organizing materials with the area of disaster relief. The Committee is also working diligently on preparing members of the Utah State Bar to be prepared for a disaster so they will be ready to provide service to others if needed.

While working on these programs, the Access to Justice department has continued to be a resource to the general public and attorneys throughout the state; providing information to those looking for legal advice through phone and email, as well as helping attorneys fulfill their desire to provide services to low and middle income Utahns.



## Fund for Client Protection

The **Fund for Client Protection Committee** (Hon. **David R. Hamilton, Chair**) has 11 attorney members. There were 19 claims made to the Utah State Bar Fund for Client Protection against 10 attorneys during the 2013–2014 fiscal year totaling \$126,142. Of these claims, 14 were approved for awards totaling \$78,931.

A large number of cases in fiscal 2011–2012 regarding one attorney had to be heard over a three-year period. It was known that the claims would likely total more than the rules permitted to be paid against any individual attorney. Accordingly, it was decided that none of the awards would be submitted to the Bar Commission for payout until all of the cases had been heard, so that disbursement of funds amongst the

claimants would be as fair as possible. Ultimately, the \$425,000 lifetime cap on Fund payouts per attorney required that the claims against this attorney (“Attorney A”) be reduced by 11.8%. The result was as follows:

Original “Attorney A” clients’ claims on the Fund = \$550,089. Claims approved by the Fund for Client Protection Committee = \$481,780. After the 11.8% reduction = \$425,000.

Due to the \$75,000 per year limit per attorney, the “Attorney A” cases cannot all be paid in one year. The Committee, therefore, recommended that the 24 claimants who were awarded amounts over \$5,000 should receive payments from the Fund each year for the next six years until their claims are satisfied. “Attorney A” claims paid to date total \$225,000.

Attorney	# of claims made to the fund	# of claims recommended for approval	total \$ paid from the fund
A	7	7	\$60,626.47
B	1	0	0
C	1	1	\$1,750.00
D	2	2	\$3,540.00
E	1	1	\$6,000.00
F	1	0	0
G	2	2	\$5,300.00
H	1	0	0
I	1	1	\$1,715.00
J	2	0	0

## Unauthorized Practice of Law Committee

During the 2013–2014 fiscal year, the **Unauthorized Practice of Law Committee** (**Jonathan Rupp** and **Sarah Spencer**, Co-Chairs) and staff received 50 complaints. Three of the complaints were assigned to outside counsel for formal legal action in District Court. Eighteen of the complaints were against attorneys licensed in Utah or other jurisdictions and were transferred to the Office of Professional Conduct. The Committee is actively investigating 26 matters.

## Tuesday Night Bar

Tuesday Night Bar is a free legal clinic in Salt Lake City put on by the Utah State Bar’s Young Lawyers Division. Volunteer attorneys hold a clinic in the Utah Law and Justice Center approximately 40 weeks of the year. Clients call in advance to make appointments, and on average 25 people are helped during each clinic session. There are other Tuesday Night Bars held in other locations throughout the state and usually sponsored by the local Bar association.

## Young Lawyers Division

The Young Lawyers Division has produced video mentoring on their web site, promote Law Day Activities, and provide numerous service projects, including Wills for Heroes. Their web site is <http://younglawyers.utahbar.org>.



### Consumer Assistance Program

The Bar offers support to both consumers and attorneys who need assistance in their communication with each other. Work performed by the Consumer Assistance Program (CAP) eases the load for the Office of Professional Conduct (OPC) by dealing with minor complaints submitted by consumers whose main concerns usually include wanting timely return calls from their attorneys, wanting regular updates about their cases, and wanting regular billing statements. Complaints which rise to the level of ethical concerns are handled exclusively by OPC.

The CAP attorney addresses consumers' questions regarding the management of their legal matters and concerns about their lawyers. Additionally, the CAP attorney offers guidance to consumers to help them understand what they may reasonably expect from their counsel. During the 2013–2014 fiscal year, the CAP attorney handled 1,038 telephone conferences and opened 763 files. While the number of telephone conferences decreased by 91 from the previous year, the total number of files opened increased by 105. This is due to the change in how incoming Requests for Assistance are screened and opened. Instead of Office of Professional Conduct screening all written Requests for Assistance, most are now forwarded to CAP for initial review. Those submitted by inmates are handled through written correspondence to them rather than by an initial phone call. Additionally, some consumers never responded to CAP's telephone calls or email correspondence. Consequently many files were opened without an initial phone call to the consumer to discuss his or her concerns.

Action Taken by CAP Attorney		
	2012–2013	2013–2014
Lawyer was contacted about the client's concerns	181 files (28%)	196 files (26%)
Referred to Fee Dispute Resolution	26 files (4%)	17 files (2%)
Referred to Find a Utah Lawyer online listing	42 files (6%)	33 files (4%)
Referred to Tuesday Night Bar	7 files (1%)	1 file (0%)
Referred to OPC	111 files (17%)	120 files (16%)
CAP unable to assist	127 files (19%)	225 files (29%)

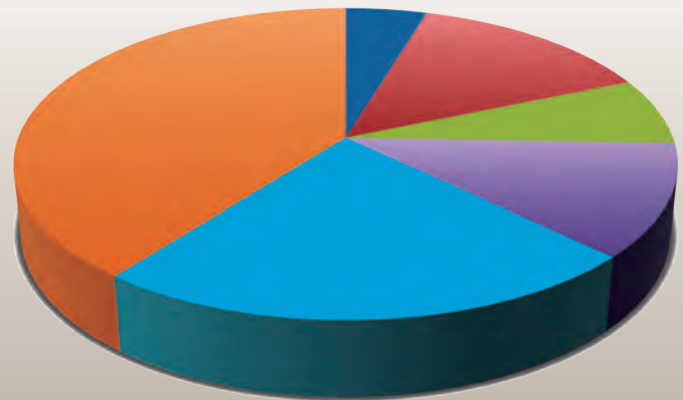
File Categories		
	2012–2013	2013–2014
Family Law Cases	207 files (36%)	212 files (28%)
Criminal Law Cases	84 files (13%)	164 files (21%)
Contract Cases	56 files (10%)	77 files (10%)
Personal Injury Cases	47 files (8%)	42 files 6%)
Bankruptcy Cases	41 files (7%)	33 files (4%)
Real Property Cases	13 files (2%)	24 files (3%)
Landlord/Tenant Cases	11 files (2%)	13 files (2%)
Social Security Cases	12 files (2%)	13 files (2%)

## Fee Dispute Resolution Program

In the last fiscal year the **Fee Dispute Resolution Committee** (William M. Jeffs, Chair) and staff prepared and conducted hearings with a volunteer lawyer or panels of volunteer lawyers, judges, and lay people to resolve disputes about legal fees in a process through which parties voluntarily agree to be bound. Last year, the committee opened 43 cases, settled 2, arbitrated 6, and mediated 3. Five cases were deemed not eligible or were withdrawn by the claimant. The committee and staff were unable to resolve ten cases because parties refused to participate. Seventeen cases are still pending. A link to more information may be found at [http://www.utahbar.org/public/fee\\_arbitration\\_service.html](http://www.utahbar.org/public/fee_arbitration_service.html).

### Fee Dispute Resolution Cases

■ Pending ■ Settled ■ Arbitrated ■ Mediated  
■ Ineligible/Withdrawn ■ Parties Refused to Participate



## Law & Justice Center Operations

The Utah State Bar owns and operates the 33,000 square foot building known as the Utah Law & Justice Center. The Center provides low-cost meeting room space and, in pro bono cases, no-cost meeting room space. Services by the Center staff include organization of events, audio-visual rental, catering, low cost leases, tenant support, interior and exterior grounds maintenance, and security. During the 2013–2014 fiscal year, the building rented space for over 700 meetings. The meeting space was used for Bar committees, Bar section continuing legal education luncheons and Seminars, Mediations, Arbitrations, charitable and non-profit entities, educational sessions, public interest meetings, and association trainings.

## Public Education, Services and Special Projects

The Bar Commissioners regularly initiate public education projects, including participation with the American Bar Association, makes appointments to Utah State Boards and Committees, helping to fund the Law Related Education Project, and sponsoring the Law Day Celebration with the Law Day Committee (Young Lawyers Division).

## Governmental Relations

The Bar hires a legislative representative and supports the activities of the **Governmental Relations Committee** (John H. Bogart and Paxton R. Guymon, Co-chairs) which makes recommendations for action on bills concerning the courts (including procedure and evidence), the administration of and access to justice, and the practice of law and provides assistance to legislators with wording alterations to avoid unintended consequences and to specific questions on legislation.



# 2013–2014 Section Leadership

Greg Monson, Chair  
Administrative Law Section

Juliette White, Chair  
Antitrust & Unfair Competition Section

Bridget Romano, Chair  
Appellate Practice Section

Bradley Morris, Chair  
Banking & Finance Section

Ted Cundick, Chair  
Bankruptcy Section

Justin Atwater, Chair  
Business Law Section

Grady McNett, Chair  
Collection Law Section

David Shaw, Chair  
Communications Law Section

Nathan Buttars, Chair  
Constitutional Law Section

John Mann, Chair  
Construction Law Section

Adam Trupp, Chair  
Corporate Counsel Section

George Vo-Duc, Chair  
Criminal Law Section

Todd Kinard, Chair  
Cyber Law Section

Stephen Kelson, Chair  
Dispute Resolution Section

Daniel R. Harper, Chair  
Education Law Section

Troy Wilson, Chair  
Elder Law Section

Shawn Welch, Chair  
Environmental Law Section

Langdon Owen, Chair  
Estate Planning Law Section

Jared Hales, Chair  
Family Law Section

Kara Martin, Chair  
Franchise Law Section

James Ahlstrom (took office mid-year), Chair  
Government Law Section

Steve Shurtz, Chair  
Intellectual Property Section

Nikki Davis, Chair  
International Law Section

Alison Adams-Perlac, Chair  
Juvenile Law Section

Jonathan Thorne, Chair  
Labor & Employment Law Section

George Burbidge, Chair  
Litigation Section

Phil Lowry, Chair  
Military Law Section

Brent Andrewson, Chair  
Non-Profit/Charitable Law Section

Brad Tilt, Chair  
Real Property Law Section

Elliott Taylor, Chair  
Securities Law Section

Felshaw King, Chair  
Senior Lawyers Section

Adam Ford, Chair  
Solo, Small Firm & Rural Law Practice Section

Kurt Hawes, Chair  
Chair, Tax Law Section

# 2013–2014 Division Leadership

Gabriel K. White, Chair  
Young Lawyers Division

Danielle Davis, Chair  
Paralegal Division

## 2013–2014 Awards



**Judge of the Year**  
**Judge Michael D. Lyon**



**Outstanding Mentor**  
**Brent H. Bartholomew**



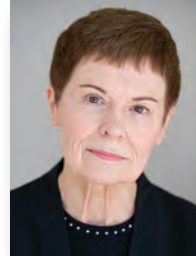
**Lawyer of the Year**  
**Peter Stirba**



**Outstanding Mentor**  
**Hugh Cawthorne**

**Committee of the Year**  
**Budget & Finance Committee**

**Section of the Year**  
**Solo, Small Firm & Rural Practice  
Section**



**Dorothy Merrill Brothers Award  
for the Advancement of Women  
in the Legal Profession**  
**Terrie McIntosh**



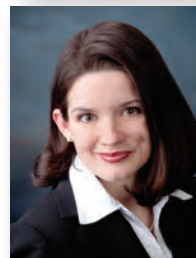
**Community Member of the Year**  
**Robert Austin**



**Raymond S. Uno Award for  
the Advancement of Minorities  
in the Legal Profession**  
**Janise K. Macanas**



**Professionalism**  
**William S. Britt**



**Pro Bono Lawyer of the Year**  
**Elizabeth Elon Thompson**

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

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

## Two most important responsibilities of a Bar Commissioner

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

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

Help fulfill vision by devoting time and intellect

Contribute ideas and work

Serve lawyers of Utah

Help accomplish goals of the commission

Represent my division and my liaison groups

Make the Bar meaningful to lawyers

Speak honestly

Contribute with ideas and feedback

Fiduciary

Forward thinking visionary

Communicate with Bar members

Have programs that assist all attorneys and advance the profession

Protect core functions

Promote access to justice and diversity

Know concerns of membership

Speak for membership

Take action on members' needs

Be conservative with bar dues

Attend the meetings

Use sound judgment

Serve community

Represent the unrepresented

Access to Justice

Work together to assist sections of the Bar

Support Rule of Law and integrity of legal system

Listen and participate

8/23/14  
From Bar Commissioner,