

## Driving and Parking Directions

### Commission Meeting Friday, October 25, 2013 **J. Reuben Clark Law School, Room 472**

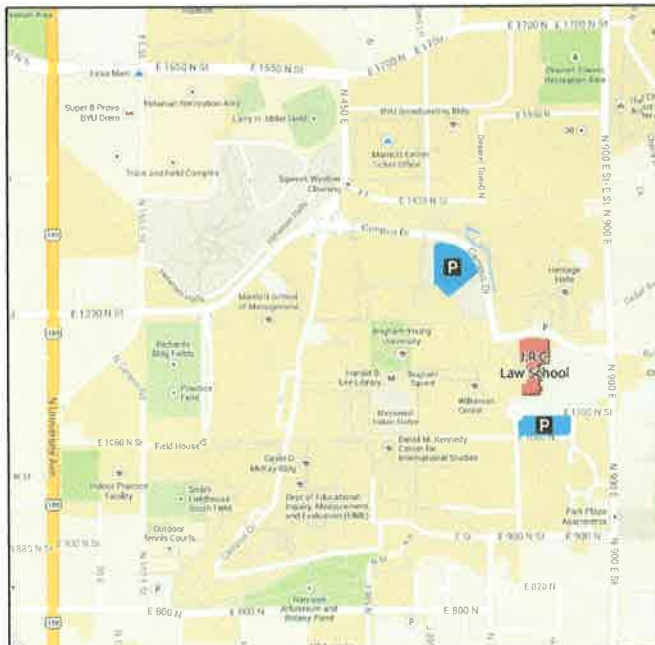


**645 S 200 E**  
Salt Lake City, UT 84111

1. Head **south** on **S 200 E** toward **E 700 S** 0.2 mi
2. Take the 3rd right onto **E 800 S** 0.4 mi
3. Turn left onto **W Temple** 0.2 mi
4. Slight right onto the **I-80 E/I-15 S** ramp to **Cheyenne** 2.1 mi
5. Follow signs for **Las Vegas/I-15 S** and merge onto **I-15 S** 39.3 mi
6. Take exit **265** toward **Provo Center St/Airport** 0.3 mi
7. Continue straight onto **W Center St** 2.2 mi
8. At the traffic circle, take the **3rd** exit onto **N 700 E** 0.9 mi
9. Turn right onto **E 900 N St** 223 ft
10. Turn left onto **E Campus Dr**  
Destination will be on the right 0.1 mi



**J. Reuben Clark Law School**  
341 E Campus Dr  
Provo, UT 84602



*There are two visitor's parking lots within walking distance of the law school. If these lots are full, there is another lot directly adjacent to the law school. If you have to use this lot, please give the law school receptionist your license plate number.*

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

*Lawyers creating a justice system that is understood, valued, respected, and accessible to all.*

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

*To lead Utah lawyers in serving the public and the legal profession by promoting justice, professional excellence, civility, ethics, and respect for and understanding of the law.*

## **2013 – 2014 COMMISSION PRIORITIES**

1. Promoting public and lawyer education;
2. Promoting a fair and impartial judiciary;
3. Promoting access to justice and affordable legal services;
4. 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;
5. Providing greater group benefits to members.

*(over)*

# UTAH STATE BAR STATEMENT ON DIVERSITY AND INCLUSION

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

*The Bar shall strive to:*

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

## UTAH STATE BAR AWARDS

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

# Utah State Bar Commission

Friday, October 25, 2013  
J. Reuben Clark Law School  
Provo, Utah

## Agenda

### 1. 9:00 a.m. President's Report: Curtis Jensen

- 15 mins.* 1.1 Leadership Conference Report (Tab 1)
- 05 mins.* 1.2 Pro Bono Celebration Report
- 05 mins.* 1.3 Fall Forum November 14-15
- 10 mins.* 1.4 Commission Priorities Review
- 10 mins.* 1.5 Underemployed Lawyers Issues
- 05 mins.* 1.6 Video Recording Licensure Issues

### 2. 9:50 a.m. Action Items

- 15 mins.* 2.1 Select Public Education Message: Sean Toomey
- 10 mins.* 2.2 Select "Hearts and Hands" Award Recipient (Tab 2)
- 15 mins.* 2.3 Approve 2012-2013 Audit: Mary Kay Griffin (Tab 3)

### 10:30 a.m. Break

### 3. 10:40 a.m. Discussion Items

- 10 mins.* 3.1 Pro Bono Commission Issues: Rob Rice
- 10 mins.* 3.2 Modest Means Program Issues: John Lund
- 20 mins.* 3.3 Transition from the Practice of Law Issues

### 4. 11:20 a.m. Information Items

- 05 mins.* 4.1 Database Review Status: John Baldwin
- 05 mins.* 4.2 Beneplace Group Benefits Report: John Baldwin (Tab 4)
- 10 mins.* 4.3 Judicial Council Report: John Lund
- 05 mins.* 4.4 Lawyer Advertising Rule Proposal Update: Katherine Fox

### 5. 11:45 a.m. Executive Session

12:00 N. Lunch then Mingle with Students and Faculty

1:00 p.m. Adjourn

(Over)



## Attachments (Tab 5)

1. September Financial Statement
2. Judicial Conduct Commission Report
3. Proposed Legislation "Court System Modification Amendments"
4. Blomquist Hale Report

## Calendar

### 2013

<b>November 14-15</b>	Fall Forum		Little America
<b>November 27</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>December 6</b>	Commission Meeting	9:00 a.m.	Law & Justice Center

### 2014

<b>January 2</b>	Election Notices Due		
<b>January 23</b>	Breakfast with Lawyer/Legislators	7:30 a.m.	Capitol Multipurpose Room
<b>January 17</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>January 24</b>	Commission Meeting	9:00 a.m.	S.J. Quinney College of Law
<b>February 1</b>	Election - Petitions, Statements, Photos Due		
<b>February 4</b>	Conference Call Re: Legislature	4:00 p.m.	
<b>February 6-8</b>	ABA Mid-Year Meeting		Chicago, Illinois
<b>February 11</b>	Conference Call Re: Legislature	4:00 p.m.	
<b>February 18</b>	Bar Day at the Legislature	9:00 a.m.	State Office Building Audit.
<b>February 18</b>	Conference Call Re: Legislature 4:00 p.m.		
<b>February 25</b>	Conference Call Re: Legislature 4:00 p.m.		
<b>February 25-26</b>	Bar Examination	8:00 a.m.	Law & Justice Center
<b>March 7</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>March 13</b>	SUBA Luncheon	12:00 Noon	St. George, Utah
<b>March 13</b>	Commission Meeting	1:00 p.m.	St. George, Utah
<b>March 13-15</b>	Spring Convention		St. George, Utah
<b>March 20</b>	Election Email Message Due		
<b>March 26-29</b>	Western States Bar Conference		Palm Desert, California
<b>April 1</b>	Election-Online Balloting Begins		
<b>April 15</b>	Election-Online Balloting Ends		
<b>April 16</b>	Election-Ballots Counted		
<b>April 8-10</b>	ABA Day in Washington		Washington, D.C.
<b>April 18</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>April 25</b>	Commission Meeting	9:00 a.m.	Law & Justice Center
<b>May 2-3?</b>	Northwestern States Bar Conference		Seattle, Washington
<b>May 19</b>	Admission Ceremony	12:00 Noon	Abravanel Hall
<b>May 29-31</b>	Jackrabbit Bar Conference		Cody, Wyoming
<b>June 6</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>June 13</b>	Commission Meeting	9:00 a.m.	Law & Justice Center
<b>July 11</b>	Executive Committee	12:00 Noon	Law & Justice Center
<b>July 16</b>	Commission Meeting	1:00 p.m.	Snowmass Village, Colorado
<b>July 16-19</b>	Summer Convention		Snowmass Village, Colorado

Tab 1

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**USB LEADERSHIP CONFERENCE**  
**OCTOBER 17, 2013**  
**LITTLE AMERICA 12:00 – 1:30 P.M.**

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**I. Seating and Welcome: (Curtis)**

**A. Quick overview of Bar related matters: (Jim / John)**

- Pro-bono and Modest Means Program Support;
- Snowmass Leadership Conference—start planning;
- Spend your money on appropriate seminars, travel and events;
- Lobbying limitations; and
- New member benefits offerings—sneak preview.

**B. Introduce Leadership Conference Theme and Program: (Curtis)**

Objective: This luncheon is designed to help each bar leader to benefit from the time, influence and resources of the other bar leader attending the conference. To connect bar leaders and provide net-working opportunities on both a personal and professional level, to support and promote common interest among bar leadership and provide a forum for discussion of critical bar issues and concerns.

**II. Lunch (15 Minutes)**

**III. Critical Questions Discussion (Curtis)**

**a. Short Video Presentation (Critical issues facing our profession / 5 Minutes)**

**b. Power Drill (10 Minutes)**

*(Each participant will take 2 minutes and address the following questions)*

1. Where do you work?
2. What Bar Section, Committee, Association or etc. are you representing?
3. What is your primary focus and objective for this position during your tenure?

**c. Connection Exercise—Critical Question discussion among the group: (30 Minutes)**

*(Each Table will be assigned one of the three Critical questions for discussion. Each member at the table will take two minutes to give his point of view or comment about the questions, followed by a group discussion by the table to come to some consensus or recommendation to report to the group during the final report phase of the conference.)*

1. Identify changes that you see coming to the legal profession and what we can be doing, or should be doing, to address and respond to these changes?

2. What Bar programs do you feel the members value the most, why do they value them, and what can we do as bar leaders to increase our members' interest and participation in bar programs?
3. Do you feel the members value the three Bar Conventions (Spring, Summer and Fall)? If so, what could the Bar do better to improve these conventions? Do you think there should be three Bar Conventions per year? If you do not feel bar members value these conventions or some of them, then why?

#### **IV. Final Report Summary (30 minutes) (Curtis / Jim / John)**

1. Each table to present their summaries.
2. Group discussion.
3. Thank you & Dismiss

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**UTAH STATE BAR LEADERSHIP CONFERENCE**  
**OCTOBER 17, 2013**  
**LITTLE AMERICA 12:00 – 1:30 P.M.**

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**I. Table Introductions and Goals**

1. Where do you work?
2. What Bar Section, Committee, Association or etc. are you representing?
3. What is your primary focus and objective for this position during your tenure?

**II. Critical Questions Discussion**

1. Identify changes that you see coming to the legal profession and what we can be doing, or should be doing, to address and respond to these changes.

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2. What Bar programs do you feel the members value the most, why do they value them, and what can we do as Bar leaders to increase our members' interest and participation in Bar programs?

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3. Do you feel the members value the three Bar Conventions (Spring, Summer and Fall)? If so, what could the Bar do better to improve these conventions? Do you think there should be three Bar Conventions per year? If you do not feel Bar members value these conventions or some of them, then why?

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# Tab 2

**UTAH BAR COMMISSION MEETING  
AGENDA ITEM**

**Title:** Heart and Hands Award

Item # 2.2

**Submitted by:** John Baldwin

Meeting Date: October 25, 2013

**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. Prof. Jensie L. Anderson
2. Sarah Spencer
3. Erin M. Stone

**PAST RECIPIENTS AND NOMINEES:**

Past Recipients	Other Nominations That Year
2012 Brent Johnson	
2011 Danny Quintana	
2010 Jay Kessler	
2009 Leonard Burningham	
2008 Troy Booher	

**INFO ONLY:**

**DISCUSSION:**

**ACTION NEEDED: X**



# Utah Philanthropy Day

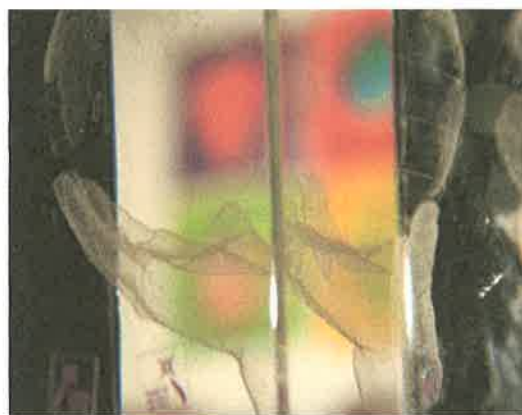
Celebrating Utah's Philanthropists

(<http://www.utahphilanthropyday.org/>)

## 2013

**The Utah Philanthropy Day luncheon will be  
Thursday, November 14, 2013, from 11:30 a.m. to  
1:30 p.m.**

We will honor some of Utah's philanthropic and volunteer leaders by presenting them with awards at a gala luncheon. The giving spirit of the awardees serves as an inspiration to other individuals and organizations to spread the impact of community giving.



The luncheon will be held in the Little America Hotel Ballroom, and space is limited to 800 attendees.

## 2013 Honorees

**The Right Reverend Carolyn Tanner Irish (Ret. UT), *Philanthropic Leadership Award***

**The R. Harold Burton Foundation, *Foundation Spirit of Giving Award***

**Regence BlueCross BlueShield of Utah, *Corporate Spirit of Giving Award***

**Deborah S. Bayle, *Outstanding Nonprofit Executive Award***

**Hailey Daniels, *Outstanding Young Volunteer Award***

**Debbie Nielson, *Norma Matheson Outstanding Volunteer Award***





## WOMEN LAWYERS of UTAH

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### 2013-2014 Board

October 14, 2013

**Alda Neimarlija**  
President

**Heather Farnsworth**  
Immediate Past President

**Susan Motschledler**  
President-Elect

**Kate Conyers**  
Treasurer

**Diana Hagen**  
Secretary

**Noella Sudbury**  
Career Advancement  
Committee Chair

**Melinda Hill**  
CLE Committee Chair

**Sarah Starkey**  
Community Outreach  
Committee Chair

**Rebecca Ryon**  
Life/Work Balance  
Committee Chair

**Jaelynn Jenkins**  
Membership Committee Chair

**Ashley Peck**  
Publicity Committee Chair

**Courtney Kochevar**  
Special Projects  
Committee Chair

**Cheryl Mori**  
Regional Chapters Chair

**Hon. Julie Lund**  
Judicial Representative

**MaryAnn Bennett**  
UMBAYLD Representative

**Patricia Christensen**  
WLU Advisor

### VIA EMAIL

Board of Bar Commissioners  
UTAH STATE BAR  
*Attn: Christy Abad, Executive Secretary*  
645 South 200 East, Suite 310  
Salt Lake City, Utah 84111

### ***Re: Nomination of Jensie L. Anderson for Utah State Bar's Hearts and Hands Award***

Ladies and Gentlemen:

Women Lawyers of Utah is pleased to nominate Professor Jensie L. Anderson for the Utah State Bar's *Hearts and Hands Award*. WLU strongly believes that Professor Anderson is a very deserving candidate for this award. Her accomplishments, level of dedication and commitment and her contribution to the community are plentiful and all of the examples would be impossible to list. Here are some of the examples of Professor's Anderson's contributions.

A 1993 graduate of the University of Utah College of Law, where she was a William H. Leary Scholar and received the David T. Lewis Award for Outstanding Clinical Service, Professor Anderson has spent her career using her exceptional legal skills to help those who so often fall through the cracks of our judicial system and to train law students to follow in her footsteps. In a profile published in the *High Country News* called "Justice for All," Professor Anderson was quoted as saying "The justice system is one that I really feel like is made for the rich. And if you're poor, and especially if you're homeless...there's not a lot of access to justice service." To address that need, Anderson gets up every Sunday morning and takes a card table and brief case to the viaduct at 500 South and 700 West, where she and several of her law students offer free legal advice to people who are down on their luck.

A *pro bono* project started in 1993 by Professor Lionel Frankel and University of Utah law students, including Anderson, the Viaduct Outreach/Street Law Project has been operating consistently since, under Professor Anderson's direction since Professor Frankel's death. As Anderson points out, "homeless people have the same types of legal problems that everyone else has – they just don't have a home... and they don't have the money to deal with them; and police hassle them for loitering and vagrancy, a problem that people with homes rarely face." Anderson and her students field their questions, and help them with their problems – eviction, employment, criminal charges, domestic matters, access to benefits... After helping one elderly disabled man obtain Medicaid benefits, he called to thank her when he was able to obtain cancer treatment he would not otherwise have been able to get.

The Viaduct Project is not Professor Anderson's only outreach effort, however. She is also the Legal Director and Past President of the Rocky Mountain Innocence Center, where she spends 15-20 hours per week working with people who have been wrongfully convicted of serious crimes in Utah, Wyoming and Nevada. The Center exonerated its first client in 2004, when Anderson used DNA evidence to prove Bruce Dallas Goodman innocent of the 1984 murder of his girlfriend. Again, though, Anderson not only leads with her own heart and hands, she also teaches her craft to students who share her vision of a more just society. "We started out (in 2000) as a tiny non-profit with some really big ideas, and it quickly became clear that we needed staff, we needed funding and we needed organized involvement of students," Anderson is quoted as saying. Israelsen-Hartley, Sara, "Law Students driving force behind Rocky Mountain Innocence Center," *Deseret News*, 2/22/11. "The students, from the University of Utah, BYU, UNLV and the University of Wyoming, are a crucial component, as are the volunteer attorneys." *Id.* Since that first win in 2004, Anderson and her team at the Rocky Mountain Innocence Project have filed petitions for post-conviction relief in several other significant cases, three of which are currently pending decision.

Meanwhile, Professor Anderson makes her living as a Clinical Professor of Law at the S. J. Quinney College of Law, where she teaches Legal Methods, Innocence Investigation and Post-Conviction Process, Criminal Process, Lawyering Skills and Introduction to Law, and serves as the Supervisor of the Innocence Clinic and the Administrative Supervisor of the Criminal Clinic, including both the Prosecutor and the Defender Clinics.

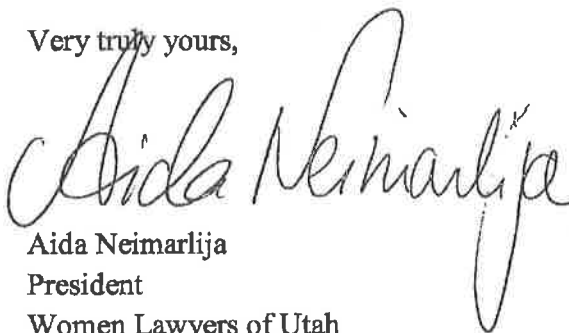
In 1997, while serving as a staff attorney with the American Civil Liberties Union of Utah, responsible for all litigation, lobbying and community education for the ACLU, Anderson was recognized as the "Distinguished Young Lawyer of the Year" by the Utah State Bar. In 2006, she was recognized as the Utah State Bar's Pro Bono Lawyer of the Year; and in 2008, she was honored with the Peter W. Billings Excellence in Teaching Award. For her continuing commitment to those

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UTAH STATE BAR  
October 14, 2013  
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most at risk in our community, Women Lawyers of Utah urges that she be recognized with the Utah State Bar's Heart and Hands Award for 2013.

A copy of Professor Anderson's full resume is attached hereto for your further review. If you have any questions, or we may provide additional information to you with regard to Professor Jensie Anderson, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, reading "Aida Neimarlija". The signature is written in dark ink and is positioned above the printed name and title.

Aida Neimarlija

President

Women Lawyers of Utah

Enclosure

## **JENSIE L. ANDERSON**

University of Utah  
S.J. Quinney College of Law  
332 South 1400 East, Front  
Salt Lake City, Utah 84112  
(801) 581-4661  
andersonj@law.utah.edu

### **EXPERIENCE**

#### **University of Utah S.J. Quinney College of Law**

Clinical Professor of Law

Salt Lake City, Utah -- July 1999-present

Courses: Legal Methods, Innocence Investigation and Post-Conviction Process,  
Criminal Process, Lawyering Skills, Introduction to Law

Clinical: Innocence Clinic Supervisor and Criminal Clinic Administrative  
Supervisor including Prosecutor and Defender Clinics

#### **University Service Activities:**

*Faculty Advisor:* Public Interest Law Organization (2000-present)

Utah Law Student Innocence Association (2007-08)

*Committees:* Fordham Loan Forgiveness Program Committee (2001-present)

Spurgeon Public Interest Fellowship Committee (2001-present)

Lionel Frankel Public Interest Summer Fellowship Program  
Committee (2003-present)

Law School Admissions Committee (1999-2001; 2002-present)

Curriculum Committee (2001-02)

#### **Utah Legal Services**

Volunteer Supervising Attorney

Salt Lake City, Utah (Viaduct Outreach/Street Law) -- October 1993 to present

Areas of Practice: General Poverty Law and Pro Bono Service

Additional Activities: CLE presenter on homeless and poverty law issues

#### **Cannon, Cleary & Match, LLC**

Attorney

Salt Lake City, Utah -- September 1997-July 1999

Areas of Practice: Social Security Law, including Appeals Council and Federal Court  
Appeals, and Indigent Criminal Defense through Public Defenders  
Conflicts Contract

#### **American Civil Liberties Union of Utah**

Staff Attorney

Salt Lake City, Utah -- December 1994-August 1997

Areas of Practice: Civil Rights and Constitutional Law

Additional Activities: Lobbying, Education and Media Relations

**Holme, Roberts & Owen, LLC**

Associate Attorney

Salt Lake City, Utah -- May 1993-December 1994

Areas of Practice: General Litigation, Family Law and Employment Law

## **EDUCATION**

**University of Utah College of Law**

Juris Doctor, May 1993

Teaching Assistant, Legal Writing and Research

David T. Lewis Outstanding Clinical Service Award

Traynor Moot Court Competition Semi-finalist and Best Brief, Second Place

William H. Leary Scholar 1990-1993

Women's Law Caucus Secretary/Treasurer

**University of Utah, Department of Theatre and Film**

Bachelor of Fine Arts, Theatre Performance, June 1985

Theatre Department Talent Scholarship 1984

## **PROFESSIONAL AWARDS**

Peter W. Billings Excellence in Teaching Award, 2008

Utah State Bar Pro Bono Lawyer of the Year, 2006

Utah State Bar Young Lawyer of the Year, 1997

## **PRESENTATIONS**

Moderator, *Handling Non-DNA Cases*, National Innocence Network Conference, Roundtable Session, Spring 2010

Presenter, *Persuading Judges and Jurors to Question the Reliability of Eyewitness Identification*, Utah Association of Criminal Defense Lawyers Annual Conference, Fall 2009

Panelist, *Disturbing the Universe: William Kunstler*, Salt Lake City Film Center and the American Civil Liberties Union Film Series, Fall 2009

Panelist, *The Innocence Project: Race, Class, and the Justice System*, Westminster College Bastian Foundation Diversity Lecture Series, Winter 2009

Instructor, *Criminal Procedure I and II*, Legal Institute for Justice Court Judges, Fall 2006 and Winter 2009

Instructor, *Innocence Investigation and Post-Conviction Process*, University of Nevada-Las Vegas Innocence Clinic Orientation, Fall 2008

Instructor, *Writing PreSentence Reports*, Utah Adult Probation and Parole Training Seminar, Fall 2008

Panelist, *The School to Prison Pipeline*, ACLU of Utah Community Discussion, Fall 2008

Instructor, *Writer's Workshop*, Court Executive's Training Conference, Summer 2008

Instructor, *Researching and Writing an Effective Memorandum*, Utah Judicial Institute Law Clerk Annual Workshop, Fall 2007

Panelist, *The Exoneration and Assistance Bill in Utah, Beyond Biology: Wrongful Convictions in the Post-DNA World*, Utah Law Review Symposium, Fall 2007

Moderator, *Improving the Reliability of Eyewitness Testimony* (with Kirk Bloodsworth, Jennifer Thompson Cannino and Dr. Stephen Clark), Utah Judicial Conference, Fall 2007

Presenter, *Investigating Wrongful Convictions: A Practical Approach*, Private Investigators Association of Utah Annual Conference, Fall 2007

Presenter, *Actual Innocence and Wrongful Convictions: An Introduction*, Salt Lake Legal Defenders CLE Series, Fall 2007

Speaker, *Actual Innocence and Wrongful Convictions: An Introduction*, Utah Appellate Courts Conference, Spring 2007

Panelist, *Pro Bono Involvement*, ABA Law Student Division, Regional Spring Conference, Spring 2007

Panelist, *Synergy of Innocence I: Wrongful Convictions and Advocacy*, S.J. Quinney College of Law, University of Utah, Fall 2006

Panelist, *Wrongful Conviction Compensation Legislation in Utah*, Second Annual Utah Valley State Death Penalty Symposium, Fall 2006

Panelist, *Actual Innocence*, CLE presented by Utah Law Student Innocence Association, Winter 2006

Panelist, *Creative Pro Bono*, 2005 Women Lawyers of Utah Annual Conference, Fall 2005

Panelist, *Innocence and Post-Conviction Litigation*, First Annual Utah Valley State Death

Penalty Symposium, Fall 2005

Speaker, *An Actual Innocence Primer*, Private Investigators Association of Utah Annual Conference, Fall 2005

Speaker, *Its NOT Your Client's DNA: Now What?*, 2005 National Innocence Network Conference - Litigation Track, Spring 2005

Panelist, *Innovative Strategies to Address the Special Legal Problems of the Homeless*, ABA Commission of Homelessness and Poverty, ABA 2004 Midyear Meeting, Winter 2004

Moderator, *Competent or Just Conservative: The Battle Over President Bush's Judicial Nominations*, CLE presented by University of Utah Public Law Organization, Fall 2003

Moderator, *The Effect of the Olympics on Civil Rights and the Rights of the Poor*, CLE presented by University of Utah Public Law Organization, Fall 2002

Moderator, *Homelessness in Salt Lake City*, CLE presented by University of Utah Public Law Organization, Fall 2000

Panelist, *Our Democratic Process: Where Individual Freedoms End and Society's Rights Begin*, Hugh O'Brian Leadership Seminar, Summer 1997

Speaker, *All You Ever Wanted to Know About Your Civil Liberties*, Legal Assistants Association of Utah Mid-Year Meeting, Summer 1997

Speaker, *Active Citizenship*, The Citizen's Democracy Project First Annual Conference, Spring 1997

## **PUBLICATIONS**

Author, "Mandatory Pro Bono Reporting: A Step in the Right Direction," Utah State Bar Journal, May 1998 at 34.

## **SIGNIFICANT LITIGATION**

*Goodman v. State*, Fifth Judicial District, State of Utah, Case No. 040500085 (Conviction Vacated November 3, 2004)

Lead counsel on Petition for Post-conviction DNA Testing and Petition for Relief under the Post-conviction Remedies Act vacating conviction in an eighteen-year-old murder case on the grounds of newly discovered physical evidence

*Brown v. State*, First Judicial District, State of Utah, Case No. 090100583 (Filed March 5, 2009)

Co-Counsel on Petition for Post-Conviction Determination of Factual Innocence and Petition for Relief under the Post-Conviction Remedies Act requesting that Court set aside seventeen-year-old murder conviction on the grounds of Non-DNA factual innocence and due process violations (pending).

*Gordon v. State*, Third Judicial District, State of Utah, Case No. 090917952 (Filed October 29, 2009)

Co-Counsel on Petition for Relief under the Post-Conviction Remedies Act requesting that Court set aside ten-year-old murder conviction on due process grounds (pending).

*Miller v. State*, Utah Court of Appeals, Case No. 20080921, (Filed July 13, 2009, Decided November 19, 2009), Third Judicial District, State of Utah, Case No. 080907781 (Appearance filed March 22, 2010)

Co-counsel on Brief of Amicus Curiae and Lead Post-Conviction Counsel; Court reversed trial court and ordered hearing for innocence determination in ten-year-old aggravated robbery conviction in first appellate interpretation of the Determination of Factual Innocence Statute (hearing pending).

#### **MEMBERSHIPS AND OTHER PROFESSIONAL ACTIVITIES**

Board of Directors, Rocky Mountain Innocence Center, 1999-present

President, 2001-present

Vice-President, 1999-2001

Member, Utah State Bar Association, 1993-present

Member, Actor's Equity Association, 1987-present

Member, Utah Supreme Court Advisory Committee on Criminal Jury Instructions, 2006 - present

Point Representative, The Eyewitness Identification Reform Litigation Network, 2006-present

Member, National Innocence Network, Exoneree Support Committee, 2007- present (Chair 2007-2009)

Member, Innocence, Exoneration and Assistance Legislative Committee, 2007-present

Legal Panel, American Civil Liberties Union of Utah, 2008-present

Board of Directors, Community Counseling Center, 2000-2005

Board of Directors (Executive Committee Legal Advisor), KRCL Community Radio, 2002-2004

Board of Directors, Citizens for Penal Reform, 1999

Board of Directors, Rape Recovery Center, 1999-2001

Board of Directors, Center for Family Development, 1994-95

Chairperson, Utah Bar Young Lawyers Pro Bono Committee, 1997-98

Judge Pro Tem, Third District Small Claims Court, 1997-99

On-air legal advisor, Utah Living, ABC Affiliate, 1997

Participant, National Institute of Trial Advocacy, August 1995





**CHRIS MARTINEZ**  
Attorney  
801-933-8940

October 8, 2013

**VIA U.S. MAIL**

Christy Abad  
Executive Secretary  
Utah State Bar  
645 South 200 East, Suite 310  
Salt Lake City, Utah 84111

Re: *Heart and Hands Award – Jensie Anderson*

Dear Christy Abad,

I am writing to offer my recommendation that Jense Anderson receive this year's Heart & Hands award. I can think of no person more deserving of the award than Ms. Anderson. Since 2000, Ms. Anderson has dedicated her career to the exoneration of people wrongfully convicted of a crime. She started the Rocky Mountain Innocence Center in 2000 and has served on its board ever since. She has devoted thousands of hours of her time both to the administration of the Rocky Mountain Innocence Center and to the representation of the Innocence Center's clients. Her tireless efforts have resulted in the exoneration of four people who collectively spent decades in prison for crimes they did not commit. Moreover, she and others at the Rocky Mountain Innocence Center worked with the State of Utah Attorney General's Office and the Utah State Legislature for the passage of the Factual Innocence Act, a landmark act that provides the legal mechanism for the exoneration of wrongfully convicted people in Utah.

Ms. Anderson is an example to countless law students of the importance of pro bono work. Ms. Anderson heads a clinic at the University of Utah in which law students work on Innocence Center cases and get the opportunity to learn first-hand the difference that pro bono work has in the lives of clients who otherwise would have no access to the justice system.

I had the privilege of working with Ms. Anderson. She was co-counsel with me, Alan Sullivan, and Jackie Hopkinson in the case of *Debra Brown v. the State of Utah*. Ms. Anderson spent hundreds of hours working on the case – drafting briefs, preparing arguments, attending depositions, and providing guidance. And this does not count the countless hours she spent prior to my involvement, investigating and developing the facts that ultimately led to Debra Brown's freedom. The only reason I can see that Ms. Anderson did all of this work, without pay and largely without recognition, is because she believed in Debra Brown's innocence and she believed that she needed to do something about it. Without Ms. Anderson's tireless advocacy, Ms. Brown would still be in prison for a crime she did not commit.



Thank you for your time and consideration. Please choose Ms. Anderson to receive this year's Heart and Hands award.

Sincerely,  
DORSEY & WHITNEY LLP

A handwritten signature in dark ink, appearing to read "Chris Martinez", written over the printed name.

Chris Martinez

October 13, 2013

To Whom it May Concern,

We are writing to nominate Jencie Anderson for the Heart & Hands Award. Professor Anderson has made significant contributions to the legal community through her philanthropic service with the Rocky Mountain Innocence Center ("RMIC"). Professor Anderson has voluntarily served on the RMIC Board of Directors since 1999 and has been the Legal Director since 2001. RMIC is a non-profit organization that works to correct and prevent the conviction of innocent people in Utah, Nevada, and Wyoming. Significantly, as a product of RMIC's efforts, Debra Brown was exonerated this summer in the Utah Supreme Court after spending 17 years in prison for a murder she did not commit. Professor Anderson was co-counsel on *Brown v. State of Utah* and worked tirelessly to exonerate Ms. Brown under Utah's non-DNA factual innocence statute, which RMIC helped to write and pass in 2008. In addition, Professor Anderson has given over a dozen presentations relating to innocence work, emphasizing the need for our legal system to recognize its mistakes.

In conjunction with RMIC, Professor Anderson serves as director of the Innocence Clinic at S.J. Quinney College of Law. Professor Anderson's passion for justice is contagious. Her drive quickly motivates her students, whether it is those involved in the Innocence Clinic or one of the other hands-on classes she teaches. She is an exceptional instructor. Professor Anderson is engaging, funny and relatable. She brings creativity and real life examples to her students, grounding her classes in practical application of the law. She provides a classroom environment open to questions and participation, and displays a wonderful humanity that makes her by far one of the most loved instructors on campus. Her support for her student extends beyond the classroom. She is always willing to meet with anyone and provide encouragement and emotional support. She encourages her students to find and follow their passions and more than anything kick doors open. Many students have spent hours sitting with Professor Anderson, frustrated and upset by the struggles associated with law school. Her kindness, empathy and encouragement result in lifted spirits and empowerment to continue. She genuinely cares for her students. We know it, feel it and love her.

Finally, Professor Anderson's service is not limited to RMIC. She also serves as a volunteer supervising attorney for Utah Legal Services at the Viaduct Outreach and Street Law Clinic. She does CLE presentations to share her knowledge with other attorneys on homeless and poverty law issues. Professor Anderson gives her time as the faculty advisor for the Public Interest Law Organization. Additionally, she donates her time to the National Innocence Network, Exoneree Support Committee and several other networks and committees simultaneously, offering much needed support.

It is not only because of the admirable qualities that Professor Anderson possesses that drive her philanthropic commitment, but also the ethic she inspires in us as students to set lofty goals and strive to possess those same morals that we feel Professor Anderson should be recognized with the Heart & Hands Award.

Respectfully,

*The Executive Board*  
Women's Law Caucus  
S.J. Quinney College of Law

**Christy Abad**

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**From:** Williams, DJ [DWILLIAMS@stoel.com]

**Sent:** Thursday, October 10, 2013 11:26 AM

**To:** Christy Abad

**Subject:** Nomination for Heart and Hands Award

I would like to nominate Jensie Anderson for the 2014 Heart and Hands award. Jensie is a Clinical Professor and Director of the Innocence Clinic at the University of Utah. She also actively litigates several innocence cases. I have worked with Jensie for several years as a member of the board of the Rocky Mountain Innocence Center (<http://rminnocence.org/>) and on innocence cases. For many years, Jensie has worked tirelessly to correct and prevent the conviction of innocent people in Utah, Nevada, and Wyoming. She has been and currently is one of the key anchors that keeps the Rocky Mountain Innocence Center moving forward. That program has achieved remarkable results -- passing post-conviction innocence statutes in Utah and other states and securing the release and exoneration of wrongfully convicted individuals. In Utah, Jensie was key to the release and exoneration of Debra Brown, who spent 17 years in prison for a murder she did not commit and Harry Miller who spent four years in prison for a robbery he did not commit. Jensie and others with RMIC also recently worked closely with Wyoming attorneys to secure the release of Andrew Johnson, who spent more than 20 years in prison for a sexual assault he did not commit.

Given the value that our society places on one's liberty and freedom, working to secure that freedom for those that are wrongfully convicted of crimes is a very noble cause. RMIC is the only organization that provides these services regionally and it does it entirely for free. As mentioned, Jensie was key to the formation of RMIC and she is involved with or does much of the work that happens there. Jensie is a true philanthropist as she donates countless hours to increase the well-being of humankind by assuring that our justice system incarcerates only those that committed crime. I strongly recommend that Jensie receive this award.

Thank You.

David J. (D.J.) Williams

STOEL RIVES LLP | 201 S. Main St, Suite 1100 | Salt Lake City, UT 84111-4904

Direct: (801) 578-6963 | Mobile: (801) 641-8978 | Fax: (801) 578-6999

[dwilliams@stoel.com](mailto:dwilliams@stoel.com) | [www.stoel.com](http://www.stoel.com)

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**Christy Abad**

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**From:** Durham, Matt [MMDURHAM@stoel.com]

**Sent:** Friday, October 11, 2013 9:20 AM

**To:** Christy Abad

**Subject:** Heart and hands Nomination

I would like to nominate Prof. Jencie Anderson for the 2014 Heart and hands Award. I work w Jencie in her capacity as the Clinical Director of the Innocence Clinic at the SJ Quinney College of Law. Jencie is a highly competent and capable attorney in the area of post-conviction remedies for the wrongly accused. She has an unparalleled passion and commitment for the cause of justice and works tirelessly to make sure that our criminal justice system does not inadvertently convict and incarcerate innocent people. Jencie is highly adept and leveraging her own skills and commitment in order to recruit other members of the bar to help with this important work. In addition, she is a highly respected and highly regarded mentor for law students who work in the Innocence Clinic. She would be a worthy recipient of the Heart and Hands Award.

Thanks.

**Matthew M. Durham**

**STOEL RIVES LLP** | 201 S. Main St, Suite 1100 | Salt Lake City, UT 84111-4904

Direct: (801) 578-6984 | Fax: (801) 578-6999

[mmdurham@stoel.com](mailto:mmdurham@stoel.com) | [www.stoel.com](http://www.stoel.com)

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10/11/2013

## Christy Abad

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**From:** Benji McMurray [Benji\_McMurray@fd.org]  
**Sent:** Monday, October 14, 2013 12:12 PM  
**To:** Christy Abad  
**Subject:** Nomination for Hearts and Hands Award - Jensie Anderson

To whom it may concern,

I am writing to nominate Professor Jensie Anderson for a Hearts and Hands Award in recognition of her tireless work over many years to vindicate innocent men and women who have been wrongly convicted of crimes they did not commit.

Jensie is a founding board member of Rocky Mountain Innocence Center (RMIC), which began with the vision of U of U Law Professor Lionel Frankel.

For more than a decade since then, Jensie has volunteered hundreds of hours to work on innocence claims, and with her able assistance, RMIC has secured exonerations for Harry Miller, Bruce Dallas Goodman, Andrew Johnson, and Deb Brown. In addition to time spent working on cases, Jensie has spent countless hours working with local law firms, private attorneys, and law students to involve many others in this important work. Jensie spent many years as president of RMIC, helping it grow from a small program for volunteer law students to a regional nonprofit that is actively investigating and litigating innocence claims in Utah, Nevada, and Wyoming.

Jensie now serves as legal director of RMIC. Through all these years, Jensie has not been compensated for her work at RMIC, and her years of service reflect her dedication and passion for this work.

It is fair to say that innocence work in Utah, Nevada, and Wyoming would not be what it is today without Jensie's longsuffering and commitment to this cause. She is a skilled attorney who has generously devoted years of her life to this cause. I hope you will consider her for this year's Hearts and Hands award.

Sincerely,  
Benji McMurray  
Assistant Federal Public Defender  
801-524-4010

**Christy Abad**

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**From:** Nate Alder [nathan.alder@chrisjen.com]  
**Sent:** Wednesday, October 09, 2013 4:48 PM  
**To:** Christy Abad; Christy Abad  
**Subject:** Heart and Hands Award 2013 -- Sarah Spencer  
**Attachments:** Nathan D Alder.vcf

Dear Members of the Bar Commission:

Just a quick note to offer up a solid recommendation for the Heart & Hands Award. I have been impressed by Sarah Spencer's commitment to the Wills For Heroes program and now Serving Our Seniors program. I was president when Wills For Heroes got started, and Sarah was an early recruit to that, and soon she took it over and ran with it but not for just a year, for several years. I was quite taken by that because we had burned out earlier chairs of that time-consuming committee. She was also instrumental in developing our Serving Our Seniors platform and program. And she's always recruiting new people to these events and our programs' ranks. When I think of people who are in the community, doing good, she's one who I believe we should honor and proudly call our own. I have also watched Sarah take on numerous pro bono cases. She's a champion for the disenfranchised. She likes the challenge of going up against large, institutional bodies that need to re-assess their programs and policies. For example, she's representing inmates in an important case involving prison policy re: discipline measures. I watched her take on a David & Goliath case a few years ago that no one thought she'd have a chance of winning for the injured and damaged family (our client); she's so tenacious and focused that she helped save this family in crisis. Literally save them from breaking apart and living on the streets. We both got thank you cards from the three children in that family, and that was more than thanks enough for us for a job well done. We fell in love with those cute kids who had moved from temporary living spaces to shelters due to a house fire and a two-year ordeal (claim denial) with their obstinate and litigious insurer.

Sarah is doing a lot for her young age. She's a co-chair of our UPL Committee. I know that Kathryn Fox and Billy Walker appreciate her dedication in this arena. Lincoln Mead also calls Sarah a "good bar junkie." They've worked together a lot on Wills/Seniors. She was also a co-chair of a Sun Valley annual convention a few years ago. She's active in YLD. Amazingly, she's been a lawyer for nine years and she's only 30 years old. I still marvel at her early and amazing career. She's done more by the age of 30 than I ever did.

The Philanthropy Day event in November is cherished one. It is pretty low key for attendees but very much a special moment of recognition for the recipient of our award. I attended the first Phil Day in 1999 and many since then. I'm so very pleased the Bar is part of this community-wide, state-wide celebration of the good being done in Utah.

I am sure we'll have many good names for this award nomination. Thank you for letting me add Sarah's name to the list.

Best,

Nate

10/10/2013



**Nathan D. Alder**

Christensen & Jensen, P.C.  
Attorney  
(801) 323-5000 Work  
Nathan.Alder@chrisjen.com  
[HTTP://www.chrisjen.com](http://www.chrisjen.com)

15 South Temple, Suite 800  
Salt Lake City, Utah 84101  
United States

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**Christy Abad**

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**From:** Christopher A. Jones [caj@princeyeates.com]  
**Sent:** Monday, October 14, 2013 3:06 PM  
**To:** Christy Abad  
**Subject:** Nominations

**Hearts & Hands Nomination**

Nominee: Erin M. Stone, shareholder at Prince, Yeates & Geldzahler

From building a successful law practice to being a board chair of a multi-million dollar non-profit organization, Erin Stone gives 100% to whatever she puts her mind to. In 2007 Stone was hired as an associate at the law firm Prince, Yeates & Geldzahler. Due to her strong work ethic and determination, Stone became a shareholder (partner) in January 2011.

As Stone experienced substantial success in her legal career, she was also achieving great things through her volunteer work with Girl Scouts of Utah (GSU). In August 2009, Stone was elected to serve as a Member of the Board for GSU, a non-profit entity with revenues exceeding \$4 million annually and that serves more than 8,000 girl members and 3,000 adult volunteers. In her capacity on the board, Stone has worked to raise thousands of dollars for the organization and has helped raise awareness about the GSU in the community. In August 2013, Stone was elected to serve as the Board Chair for the 2013-2015 term.

Stone believes that mentoring and giving back is an important responsibility, and her largest contribution to the community has been her volunteer work with Girl Scouts. Her leadership role at GSU is a commitment that requires almost daily attention. As Board Chair, Stone acts as the liaison between the Board and the CEO, she conducts all board meetings and retreats, is a member of all standing committees, and serves as a guest speaker at Girl Scouts of Utah events, among many other leadership tasks. Stone has spent significant time recruiting community leaders to GSU board positions. In 2012 and 2013, Stone chaired the International Women's Day celebration, an annual fundraiser hosting more than 300 guests. The events raised thousands of dollars for the GSU program which serves over 8,000 girls in grades K-12.

One of Stone's biggest successes on behalf of GSU came in 2012, when Stone played a key role in the negotiations and purchase of 236 acres adjacent to GSU's camp in Wasatch County. This purchase was critical to maintain the safety of girls attending camp, and to preserve the spectacular lakes, land and wildlife surrounding camp with a conservation easement.

Stone has helped establish a relationship between GSU and the University of Utah Athletics Department for programming and mentoring opportunities between Girl Scouts and female athletes. Stone participated in Camp CEO in both 2012 and 2013, a daylong education and career mentoring session with girls in grades 9-12. Stone works to educate others in the community about the good work and amazing opportunities GSU provides. Stone continually works to ensure that GSU remains financially stable so it can continue to provide opportunities and programs to girls for many years to come.

Erin Stone is known by her colleagues to be a very genuine individual who is professional and kind. She is a friend and a mentor to many and gives back to her community freely. Perhaps there is no better way to fully express what she has done for GSU than through the words of those she works with:

"Erin accepts all board assignments with an enthusiastic smile and she represents our organization with honesty and integrity. She has opened doors to organizations and businesses, has served as a chair for several of our successful events, and is currently the board chair for 2013-15. Erin's own success story is an inspiration to the youth that she mentors."

*Debbie Nielson, Past Board Chair  
Girl Scouts of Utah*


"In my non-profit career that has spanned 12 years and 7 organizations, I've met few trustees who are as committed and passionate as Erin Stone. It's obvious that she is completely dedicated to the cause and the girls whose lives are changed by Girl Scouting. I'm honored to work with her, and Girl Scouts of Utah is lucky to have her on our side."

*Nathan Measom, Development Manager  
Girl Scouts of Utah*

Stone dedicates much of her time to mentoring Girl Scouts, law students and young lawyers. She stresses success in higher education, career development, and networking. She believes that spending time mentoring our youth is a critical component in developing successful future leaders and colleagues. She is a wonderful asset to the Salt Lake legal field and a model citizen that truly believes in giving back to her community.

**Christopher A. Jones**  
**Prince, Yeates & Geldzahler**  
15 West South Temple, Suite 1700  
Salt Lake City, Utah 84101

Phone (801) 524-1000  
Fax (801) 524-1098  
E-mail [caj@princeyeates.com](mailto:caj@princeyeates.com)  
Web-Site [www.princeyeates.com](http://www.princeyeates.com)

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Tab 3

**Utah State Bar  
Budget and Finance Committee Meeting  
Utah Law & Justice Center  
September 26, 2013  
Minutes**

**Present:** *Committee:* Chair, Ray O. Westergard, Jonathan K. Butler, Jim Gilson, Mary Kay Griffin, Curtis Jensen, Brad Merrill Kara Pettit, David York (not attending Diane Abegglen; *Bar Staff:* John Baldwin, Richard Dibblee, Jeff Einfeldt; *Deloitte:* Peter Mann

**Minutes:**

The meeting was called to order by Ray Westergard at approx 12:20

1. Significant time was spent by Deloitte discussing the draft audit report for the year ended 6/30/2013.
  - a. The format of the letter was changed this year by the audit profession.
  - b. The Bar received a 'clean opinion' – highest level that can be received.
  - c. There were no significant questions or comments.
  - d. Auditor letter to the Board was discussed; no misstatements, no disagreements, nothing unresolved, no internal control deficiencies.
  - e. Bar management was excused to accommodate a discussion directly between the auditors and the Budget and Finance Committee. The auditors were then excused from the remainder of the meeting.
2. A discussion was held regarding the current financial activity of the Bar through August 2013. No significant variances or concerns to date.
3. Meeting was adjourned approx. 1:30.

September 27, 2013

The Budget and Finance Committee of the  
Board of Commissioners of the Utah State Bar  
645 South 200 East  
Salt Lake City, UT 84111

Dear Members of the Budget and Finance Committee of the Board of Commissioners:

We have performed an audit of the financial statements of the Utah State Bar (the “Bar”) as of and for the year ended June 30, 2013, in accordance with auditing standards generally accepted in the United States of America (“generally accepted auditing standards”) and have issued our report thereon dated September 27, 2013.

We have prepared the following comments to assist you in fulfilling your obligation to oversee the financial reporting and disclosure process for which management of the Bar is responsible.

## **OUR RESPONSIBILITY UNDER GENERALLY ACCEPTED AUDITING STANDARDS**

Our responsibility under generally accepted auditing standards has been described in our engagement letter dated May 30, 2013. As described in that letter, the objective of a financial statement audit conducted in accordance with generally accepted auditing standards is to express an opinion on the fairness of the presentation of the Bar’s financial statements for the year ended June 30, 2013, in conformity with accounting principles generally accepted in the United States of America (“generally accepted accounting principles”), in all material respects. Our responsibilities under generally accepted auditing standards include forming and expressing an opinion about whether the financial statements that have been prepared by management with the oversight of the Budget and Finance Committee of the Board of Commissioners are presented fairly, in all material respects, in conformity with generally accepted accounting principles. The audit of the financial statements does not relieve management or the Budget and Finance Committee of the Board of Commissioners of its responsibilities.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether caused by fraud or error. In making those risk assessments, we considered internal control over financial reporting relevant to the Bar’s preparation and fair presentation of the financial statements in order to design audit procedures that were appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Bar’s internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Bar’s internal control over financial reporting. Our consideration of internal control over financial reporting was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses.

## **ACCOUNTING ESTIMATES**

Accounting estimates are an integral part of the financial statements prepared by management and are based on management’s current judgments. Those judgments are ordinarily based on knowledge and

experience about past and current events and on assumptions about future events. Significant accounting estimates reflected in the Bar's 2013 financial statements include the depreciable lives of property and fair values of investment securities. Property is depreciated over the shorter of the period the asset will be in use or the lease term for those assets categorized as capital leases. The fair values of investment securities are estimated based on quoted market prices for identical or similar assets or are estimated based on inputs derived principally from or corroborated by observable market data.

During the year ended June 30, 2013, we are not aware of any significant changes in accounting estimates or in management's judgments relating to such estimates.

### **UNCORRECTED MISSTATEMENTS**

Our audit of the financial statements was designed to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. There were no uncorrected misstatements or disclosure items passed identified during our audit.

### **MATERIAL CORRECTED MISSTATEMENTS**

There were no material misstatements that were brought to the attention of management as a result of our audit procedures.

### **SIGNIFICANT ACCOUNTING POLICIES**

The Bar's significant accounting policies are set forth in Note 2 to the Bar's 2013 financial statements. During the year ended June 30, 2013, there were no significant changes in previously adopted accounting policies or their application.

### **DISAGREEMENTS WITH MANAGEMENT**

We have not had any disagreements with management related to matters that are material to the Bar's 2013 financial statements.

### **OUR VIEWS ABOUT SIGNIFICANT MATTERS THAT WERE THE SUBJECT OF CONSULTATION WITH OTHER ACCOUNTANTS**

The Bar has a consulting relationship for the past several years with an independent CPA who prepares the Bar's federal and state income tax returns and consults with regard to accounting software and accounting processes related thereto. We are not aware of any consultations that management may have had with other accountants about auditing and accounting matters during 2013.

### **SIGNIFICANT FINDINGS OR ISSUES DISCUSSED, OR SUBJECT OF CORRESPONDENCE, WITH MANAGEMENT PRIOR TO OUR INITIAL ENGAGEMENT OR RETENTION**

Throughout the year, routine discussions were held, or were the subject of correspondence, with management regarding the application of accounting principles or auditing standards in connection with transactions that have occurred, transactions that are contemplated, or reassessment of current circumstances. In our judgment, such discussions or correspondence were not held in connection with our retention as auditors.

## **OTHER SIGNIFICANT FINDINGS OR ISSUES ARISING FROM THE AUDIT DISCUSSED, OR SUBJECT OF CORRESPONDENCE, WITH MANAGEMENT**

Throughout the year, routine discussions were held, or were the subject of correspondence, with management. In our judgment, such discussions or correspondence did not involve significant findings or issues requiring communication to the Budget and Finance Committee of the Board of Commissioners.

## **SIGNIFICANT DIFFICULTIES ENCOUNTERED IN PERFORMING THE AUDIT**

In our judgment, we received the full cooperation of the Bar's management and staff and had unrestricted access to the Bar's senior management in the performance of our audit.

## **MANAGEMENT'S REPRESENTATIONS**

We have made specific inquiries of the Bar's management about the representations embodied in the financial statements. Additionally, we have requested that management provide to us the written representations the Bar is required to provide to its independent auditors under generally accepted auditing standards. We have attached to this letter, as Appendix A, a copy of the representation letter we obtained from management.

\* \* \* \* \*

This report is intended solely for the information and use of management, the Budget and Finance Committee of the Board of Commissioners, and others within the organization and is not intended to be, and should not be, used by anyone other than these specified parties.

Yours truly,

*Deloitte & Touche LLP*

cc: The Management of the Utah State Bar





John C. Baldwin  
Executive Director

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## APPENDIX A

September 27, 2013

Deloitte & Touche LLP  
299 S. Main Street, Suite 1900  
Salt Lake City, Utah 84111

We are providing this letter in connection with your audit of financial statements of the Utah State Bar (the "Bar"), which comprises the statement of financial position as of June 30, 2013, and the related statements of activities and cash flows for the year then ended, and the related notes to the financial statements, for the purpose of expressing an opinion as to whether the financial statements present fairly, in all material respects, the financial position, changes in net assets, and cash flows of the Bar in conformity with accounting principles generally accepted in the United States of America.

We confirm that we are responsible for the following:

- a. The fair presentation in the financial statements of financial position, changes in net assets, and cash flows in conformity with accounting principles generally accepted in the United States of America (GAAP)
- b. The design, implementation, and maintenance of programs and controls to prevent and detect fraud
- c. Establishing and maintaining effective internal control over financial reporting

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, the following representations made to you during your audit.

1. The financial statements referred to above are fairly presented in conformity with GAAP.
2. The Bar has provided to you all relevant information and access as agreed in the terms of the audit engagement letter.
3. The Bar has provided you:
  - a. Financial records and related data
  - b. Minutes of the meetings of the Board of Commissioners and committees or summaries of actions of recent meetings for which minutes have not yet been prepared.


4. There have been no communications from regulatory agencies concerning noncompliance with or deficiencies in financial reporting practices.
5. We believe the effects of the uncorrected financial statement misstatements detected in the current year that relate to the prior year presented, when combined with those misstatements aggregated by you during the prior-year audit engagement and pertaining to the prior year presented, are immaterial, both individually and in the aggregate, to the financial statements for the year ended June 30, 2012 taken as a whole.
6. The Bar has provided to you a risk assessment, including the assessment of the risk that the financial statements may be materially misstated as a result of fraud. Management believes that through daily monitoring of the Bar and based on the established control procedures that a material fraud would be detected.
7. We have no knowledge of any fraud or suspected fraud affecting the Bar involving:
  - a. Management
  - b. Employees who have significant roles in the Bar's internal control over financial reporting
  - c. Others, if the fraud could have a material effect on the financial statements.
8. We have no knowledge of any allegations of fraud or suspected fraud affecting the Bar received in communications from employees, former employees, regulators, or others.
9. Significant assumptions used by us in making accounting estimates are reasonable.
10. There are no unasserted claims or assessments that legal counsel has advised us are probable of assertion and must be disclosed in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 450, *Contingencies*.
11. We believe that internal control over the receipt and recording of contributions is adequate.
12. We have included in the financial statements all assets and liabilities under the Bar's control.
13. The Bar has maintained an appropriate composition of assets in amounts needed to comply with all donor restrictions.
14. We believe that any reclassification between net asset classes is correct.
15. The Bar has considered any potential unrelated business income taxes.
16. The Bar has claimed a special tax status under the provisions of Section 501(c)(6) of the Internal Revenue Code. The Bar is organized as a not-for-profit corporation in accordance with the laws of the State of Utah and is exempt from income taxes. The Bar has operated consistent with the requirements of a not-for-profit organization through June 30, 2013.

Except where otherwise stated below, matters less than \$25,000 collectively are not considered to be exceptions that require disclosure for the purpose of the following representations. This amount is not necessarily indicative of amounts that would require adjustment to, or disclosure in, the financial statements.

17. There are no transactions that have not been properly recorded in the accounting records underlying the financial statements.
18. The Bar has no plans or intentions that may affect the carrying value or classification of assets and liabilities.
19. Regarding related parties:
  - a. We have disclosed to you the identity of the Bar's related parties and all the related party relationships and transactions of which we are aware.
  - b. To the extent applicable, related parties and all the related-party relationships and transactions, including sales, purchases, loans, transfers, leasing arrangements, and guarantees (written or oral) have been appropriately identified, properly accounted for, and disclosed in the financial statements.
20. In preparing the financial statements in conformity with GAAP, management uses estimates. All estimates have been disclosed in the financial statements for which known information available prior to the issuance of the financial statements indicates that both of the following criteria are met:
  - a. It is at least reasonably possible that the estimate of the effect on the financial statements of a condition, situation, or set of circumstances that existed at the date of the financial statements will change in the near term due to one or more future confirming events.
  - b. The effect of the change would be material to the financial statements.
21. There are no:
  - a. Violations or possible violations of laws or regulations whose effects should be considered for disclosure in the financial statements or as a basis for recording a loss contingency
  - b. Known actual or possible litigation and claims whose effects should be considered and accounted for and disclosed in the financial statements and that have not been disclosed to you.
22. The Bar has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral.
23. The Bar has complied with all aspects of contractual agreements that may have an effect on the financial statements in the event of noncompliance.

24. We have identified the following significant assumptions and factors affecting fair value of financial instruments as follows: fair value of investments has been determined using available market information as of June 30, 2013. The assumptions are reflective of management's intent and ability to carry out specific courses of action and the significant assumptions used are consistent with the Bar's plans and past experience.
25. With regard to the fair value measurements and disclosures of certain assets and liabilities, such as investments:
- i. The measurement methods, including the related assumptions, used in determining fair value were appropriate, consistent with market participant assumptions where available without undue cost and effort, and were consistently applied in accordance with GAAP
  - ii. The completeness and adequacy of the disclosures related to fair values are in conformity with accounting principles generally accepted in the United States of America
  - iii. No events have occurred after June 30, 2013, but before the date of this letter, the date the financial statements were available to be issued that require adjustment to the fair value measurements and disclosures included in the financial statements.
26. Arrangements with financial institutions involving compensating balances or other arrangements involving restrictions on cash balances, line of credit, or similar arrangements have been properly disclosed in the financial statements.
27. We believe that all expenditures that have been deferred to future periods are recoverable.
28. We have disclosed to you all new or changes to the existing 401(k) plan.
29. We have no intention of terminating our 401(k) plan or taking any other action that could result in an effective termination or reportable event for the plan. We are not aware of any occurrences that could result in the termination of the plan.
30. Regarding supplemental schedules:
- i. We are responsible for the fair presentation of the supplemental schedules in accordance with accounting standard generally accepted in the United States of America
  - ii. We believe the supplemental schedules, including their form and content, are fairly presented in accordance with accounting standards generally accepted in the United States of America
  - iii. The methods of measurement and presentation of the supplemental schedules have not changed from those used in the prior period.

31. In 2007, the Bar purchased an investment in a Lehman Brothers bond with a face value of \$300,000. On September 15, 2008, Lehman Brothers filed for chapter 11 bankruptcy placing the bond into default. As of June 30, 2012, the fair value of the bond was approximately \$67,500. During 2012, the Bar began receiving distributions according to the bankruptcy plan. As of June 30, 2013, the fair value of this investment was approximately \$72,750. The Bar expects to recover this amount through future distributions received under the bankruptcy plan.
32. The Bar's financial instruments include cash and cash equivalents, investments, and capital leases. The fair value of such financial instruments has been determined using available market information as of June 30, 2013. Management believes that the recorded value of each financial instrument approximates its fair value.
33. As of June 30, 2013, the Bar was involved in various lawsuits and in the normal course of its operations. The Bar's management believes the outcome of these lawsuits will not have a material adverse effect on the Bar's financial statements.
34. No events have occurred after June 30, 2013, but before the date of this letter, the date the financial statements were available to be issued that require consideration as adjustments to, or disclosures in, the financial statements.



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John C. Baldwin, Executive Director



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Jeffrey S. Einfeldt, Chief Financial Officer

# Utah State Bar

Financial Statements and Supplemental Schedules  
as of and for the Year Ended June 30, 2013, and  
Independent Auditors' Report

# UTAH STATE BAR

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Deloitte & Touche LLP  
299 South Main Street  
Suite 1900  
Salt Lake City, Utah 84111  
United States of America

Tel: 801-328-4706  
Fax: 801-366-7900  
www.deloitte.com

## **INDEPENDENT AUDITORS' REPORT**

To the Board of Commissioners of the  
Utah State Bar:

We have audited the accompanying financial statements of the Utah State Bar (the "Bar"), which comprise the statement of financial position as of June 30, 2013, and the related statements of activities and cash flows for the year then ended, and the related notes to the financial statements.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditors' Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Bar's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Bar's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Bar as of June 30, 2013, and the changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.



### **Report on Summarized Comparative Information**

We have previously audited the Bar's 2012 financial statements, and we expressed an unmodified audit opinion on those audited financial statements in our report dated November 1, 2012. In our opinion, the summarized comparative information presented herein as of and for the year ended June 30, 2012 is consistent, in all material respects, with the audited financial statements from which it has been derived.

### **Report on Supplemental Schedules**

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The supplemental schedules listed in the table of contents are presented for the purpose of additional analysis and are not a required part of the financial statements. These schedules are the responsibility of the Bar's management and were derived from and relate directly to the underlying accounting and other records used to prepare the financial statements. Such schedules have been subjected to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such schedules directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, such schedules are fairly stated in all material respects in relation to the financial statements as a whole.

*Deloitte & Touche LLP*

September 27, 2013

# UTAH STATE BAR

## STATEMENT OF FINANCIAL POSITION

AS OF JUNE 30, 2013 (WITH SUMMARIZED FINANCIAL INFORMATION AS OF JUNE 30, 2012)

	2013			2012
	Unrestricted	Temporarily Restricted	Total	Total
<b>ASSETS</b>				
<b>CURRENT ASSETS:</b>				
Cash and cash equivalents	\$ 1,712,448	\$ 403,132	\$ 2,115,580	\$ 3,870,720
Investments at fair value	3,776,511	765,882	4,542,393	2,438,108
Receivables	3,435	155	3,590	1,471
Prepaid expenses	105,992		105,992	75,832
Total current assets	5,598,386	1,169,169	6,767,555	6,386,131
<b>PROPERTY:</b>				
Land	633,142		633,142	633,142
Building and improvements	2,302,520		2,302,520	2,284,741
Office furniture, equipment, and leased equipment	830,338		830,338	776,056
Computer and computer software	126,313	1,499	127,812	120,338
Construction in progress	308,188		308,188	
Total property	4,200,501	1,499	4,202,000	3,814,277
Less accumulated depreciation	(3,049,008)	(1,499)	(3,050,507)	(3,000,315)
Net	1,151,493	-	1,151,493	813,962
<b>TOTAL</b>	<b>\$ 6,749,879</b>	<b>\$ 1,169,169</b>	<b>\$ 7,919,048</b>	<b>\$ 7,200,093</b>
<b>LIABILITIES AND NET ASSETS</b>				
<b>CURRENT LIABILITIES:</b>				
Current portion of capital lease obligations	\$ 2,710	\$ -	\$ 2,710	\$ 1,844
Current portion of Client Security Fund claims payable		75,000	75,000	75,000
Accounts payable and accrued liabilities	598,588	5,226	603,814	569,348
Interfund advance	7,725	(7,725)		
Deferred revenue	2,432,785	156,745	2,589,530	2,532,385
Total current liabilities	3,041,808	229,246	3,271,054	3,178,577
CLIENT SECURITY FUND CLAIMS PAYABLE — Less current portion		200,000	200,000	275,000
CAPITAL LEASE OBLIGATIONS — Less current portion	9,446		9,446	12,156
Total liabilities	3,051,254	429,246	3,480,500	3,465,733
<b>COMMITMENTS AND CONTINGENCIES</b>				
(Notes 3, 6, 7, and 8)				
<b>NET ASSETS:</b>				
Unrestricted	3,698,625		3,698,625	2,995,419
Temporarily restricted:				
Bar section and other funds		369,941	369,941	417,575
Client Security Fund		(38,006)	(38,006)	(85,837)
Mandatory Continuing Legal Education Board		407,988	407,988	407,203
Total net assets	3,698,625	739,923	4,438,548	3,734,360
<b>TOTAL</b>	<b>\$ 6,749,879</b>	<b>\$ 1,169,169</b>	<b>\$ 7,919,048</b>	<b>\$ 7,200,093</b>

See notes to financial statements.

# UTAH STATE BAR

## STATEMENT OF ACTIVITIES

FOR THE YEAR ENDED JUNE 30, 2013 (WITH SUMMARIZED FINANCIAL INFORMATION FOR 2012)

	2013			2012
	Unrestricted	Temporarily Restricted	Total	Total
REVENUE:				
License fees	\$ 3,850,060	\$ -	\$ 3,850,060	\$ 3,717,116
New lawyer training program	92,389		92,389	86,452
Services and programs	752,447		752,447	646,163
Meetings	395,870		395,870	398,846
Bar examination fees	520,012		520,012	505,933
Bar section funds, Client Security Fund, and other funds		464,441	464,441	523,920
Mandatory Continuing Legal Education Board revenue		231,360	231,360	281,256
Net investment income (Note 4)	64,234	2,144	66,378	57,689
Management and other services	17,032		17,032	28,870
Room rental and catering	248,426		248,426	374,897
In-kind room rental	76,501		76,501	60,683
Access to Justice	1,922		1,922	
Net assets released from program restrictions	696,963	(696,963)		
Total	6,715,856	982	6,716,838	6,681,825
EXPENSES:				
Licensing	161,575		161,575	175,114
New lawyer training program	89,596		89,596	81,557
Services and programs	913,609		913,609	731,771
Meetings	394,752		394,752	371,610
Bar examination	441,451		441,451	441,098
Bar section funds, Client Security Fund, and other funds	467,852		467,852	843,303
Mandatory Continuing Legal Education Board expenses	232,020		232,020	227,755
Office of Professional Conduct	1,091,364		1,091,364	1,061,752
General and administrative	526,694		526,694	666,367
Committees	124,178		124,178	106,294
Room rental and catering	435,371		435,371	617,846
In-kind room rental	76,501		76,501	60,683
Consumer assistance	58,808		58,808	54,060
Commission/special projects	249,225		249,225	184,259
General counsel	241,543		241,543	264,500
Computer and MIS support	183,953		183,953	162,080
Public education	99,720		99,720	134,648
Access to Justice	164,079		164,079	102,698
Legislative	60,359		60,359	27,070
Total	6,012,650		6,012,650	6,314,465
CHANGE IN NET ASSETS	703,206	982	704,188	367,360
NET ASSETS:				
Beginning of year	2,995,419	738,941	3,734,360	3,367,000
End of year	\$ 3,698,625	\$ 739,923	\$ 4,438,548	\$ 3,734,360

See notes to financial statements.

# UTAH STATE BAR

## STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED JUNE 30, 2013 (WITH COMPARATIVE TOTALS FOR 2012)

	2013	2012
CASH FLOWS FROM OPERATING ACTIVITIES:		
Change in net assets	\$ 704,188	\$ 367,360
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation and amortization	50,192	101,542
Net realized gains on investments		(232)
Net unrealized gains on investments	(27,958)	(18,420)
Changes in assets and liabilities:		
Receivables	(2,119)	4,514
Prepaid expenses	(30,160)	53,352
Accounts payable and accrued liabilities	34,465	(96,578)
Deferred revenue	57,146	202,525
Client Security Fund claims payable	(75,000)	350,000
Net cash provided by operating activities	<u>710,754</u>	<u>964,063</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of property	(387,723)	(71,473)
Purchase of investments	(4,008,707)	(2,461,286)
Investment proceeds and income reinvested	<u>1,932,380</u>	<u>2,482,067</u>
Net cash used in investing activities	<u>(2,464,050)</u>	<u>(50,692)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Payments on capital lease obligations	<u>(1,844)</u>	<u>(8,490)</u>
Net cash used in financing activities	<u>(1,844)</u>	<u>(8,490)</u>
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	(1,755,140)	904,881
CASH AND CASH EQUIVALENTS:		
Beginning of year	<u>3,870,720</u>	<u>2,965,839</u>
End of year	<u>\$ 2,115,580</u>	<u>\$ 3,870,720</u>
SUPPLEMENTAL DISCLOSURE:		
Interest paid	<u>\$ 1,682</u>	<u>\$ 249</u>
Property purchased with capital lease obligations		<u>\$ 14,000</u>

See notes to financial statements.

# UTAH STATE BAR

## NOTES TO FINANCIAL STATEMENTS

AS OF AND FOR THE YEAR ENDED JUNE 30, 2013

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### 1. ORGANIZATION

The Utah State Bar (the “Bar”) is an organization created in 1931 by the laws of the State of Utah. The Bar was integrated by court order on June 30, 1981 and was incorporated as a 501(c)(6) organization on June 24, 1991. Members of the Bar are all attorneys licensed under the laws of the State of Utah.

### 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Fund Accounting** — The assets, liabilities and net assets of the Bar are reported on the accrual basis of accounting. The unrestricted fund is used for the general operations of the Bar. The temporarily restricted funds are used to account for the operation of funds segregated for the various Bar sections, the Client Security Fund, the Mandatory Continuing Legal Education Board (the “MCLE Board”), and other funds, including an overhead charge to defray the costs of administering these funds.

**Cash and Cash Equivalents** — The Bar considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. As of June 30, 2013, cash and cash equivalents included approximately \$323,000 in credit card receivables.

**Investments** — Investments are recorded at fair value at year end with any realized and unrealized gains or losses being reflected in the statement of activities.

**Property** — Property is recorded at cost. Depreciation is provided using the straight-line method over the following estimated useful lives:

Building and improvements	25 years
Office furniture, equipment, and leased equipment	3–7 years
Computer and computer software	3–5 years
Construction-in-progress	—

**Deferred Revenue** — License fees are assessed in June for the following fiscal year. All such license fees collected prior to the current fiscal year end are recorded as deferred revenue. Deferred revenue is recognized as income in the year in which it is earned.

**Use of Estimates in Preparing Financial Statements** — The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**Income Tax Status** — On June 24, 1991, the Bar incorporated as a 501(c)(6) organization and has received a determination letter from the Internal Revenue Service exempting the Bar from federal and state income taxes. Management believes that the Bar is currently designed and operated in compliance with the applicable requirements of the Internal Revenue Code, and the Bar continues to be tax-exempt. Therefore, no provision for income taxes has been included in the Bar’s financial statements.

**Summarized Financial Information** — The financial statements include certain prior-year summarized comparative information in total but not by net asset class. Such information does not include sufficient detail to constitute a presentation in conformity with accounting principles generally accepted in the United States of America. Accordingly, such information should be read in conjunction with the Bar's financial statements for the year ended June 30, 2012, from which the summarized information was derived.

### 3. CAPITAL LEASE OBLIGATIONS

The Bar leases certain equipment under capital lease obligations. Equipment under capital lease has a cost of \$14,000 and accumulated depreciation of \$4,200. Future minimum lease payments under capital lease and present values of the net minimum lease payments are as follows:

Years ending June 30:	
2014	\$ 4,120
2015	4,120
2016	4,120
2017	<u>3,090</u>
Total future minimum lease payments	15,450
Less amount representing interest	<u>(3,294)</u>
Present value of future net minimum lease payments	12,156
Less current portion	<u>(2,710)</u>
Long-term obligations	<u>\$ 9,446</u>

### 4. INVESTMENTS AND NET INVESTMENT INCOME

The fair value of investments at June 30, 2013, consists of the following:

	Carrying Amount	Net Unrealized Gains	Fair Value
Investments in marketable securities:			
Corporate bonds	\$ 4,349,490	\$ 62,764	\$ 4,412,254
Certificates of deposit	<u>130,139</u>	<u>          </u>	<u>130,139</u>
	<u>\$ 4,479,629</u>	<u>\$ 62,764</u>	<u>\$ 4,542,393</u>

Investment income related to cash and cash equivalents and investments for the year ended June 30, 2013, consists of the following:

	Unrestricted	Temporarily Restricted	Total
Interest income	\$ 35,385	\$ 3,035	\$ 38,420
Net unrealized gains (losses)	<u>28,849</u>	<u>(891)</u>	<u>27,958</u>
Total	<u>\$ 64,234</u>	<u>\$ 2,144</u>	<u>\$ 66,378</u>

Custodial fees for the year ended June 30, 2013, were \$14,336.

## 5. FAIR VALUE OF FINANCIAL INSTRUMENTS

The Bar's financial instruments include cash and cash equivalents, investments, and capital leases. The fair value of such financial instruments has been determined using available market information as of June 30, 2013. Management believes that the recorded value of each financial instrument approximates its fair value.

The Bar's financial instruments reported in the financial statements at fair value are categorized into a three-level hierarchy based on the nature of the inputs to the valuation technique. The tiers in the fair value hierarchy include: Level 1, defined as observable inputs such as quoted market prices in active markets; Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and Level 3, defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions.

The following table presents the Bar's fair value hierarchy for its assets and liabilities measured at fair value on a recurring basis as of June 30, 2013:

	Level 2
Assets — Investments in marketable securities:	
Corporate bonds	\$4,412,254
Certificates of deposit	<u>130,139</u>
Total	<u>\$4,542,393</u>

Our Level 2 assets are valued using inputs from third parties and market observable data. We obtain valuation data for the corporate bonds and certificates of deposit from third party sources, which determine the net asset values for our accounts using quoted market prices and reportable trades.

The Bar did not have any assets or liabilities measured at fair value on a non-recurring basis as of June 30, 2013. For the year ended June 30, 2013, there were no transfers in or out of Level 2.

## 6. EMPLOYEE BENEFIT PLANS

The Bar sponsors a 401(k) defined contribution plan to which the Bar contributes 10% of the compensation of all plan participants. Employees who have completed one year of service with the Bar and have attained the age of 21 are eligible to participate. Contributions to the plan were \$197,164 for the year ended June 30, 2013. Participants may also elect to make contributions to this plan.

The Bar also sponsors a Section 125 cafeteria plan. All contributions to this plan are made by the participants.

#### **7. CLIENT SECURITY FUND**

On October 30, 1983, the Bar received approval from the Utah Supreme Court to collect up to \$20 per attorney per year to accumulate a client security fund in the base amount of \$200,000 to partially indemnify the public against losses incurred as a result of lawyers' misappropriation of clients' funds. Claims against the fund are limited to \$20,000 for each claim. The deficit in the temporarily restricted Client Security Fund (CSF) was \$38,006 which was comprised of \$68,180 in cash and cash equivalents, \$168,814 in investments, and \$275,000 of claims payable at June 30, 2013. Cases must be reviewed and approved by the CSF Committee and also by the Board of Commissioners before they are considered to be claims payable by the CSF. In 2012, the Committee approved various claims including one claim totaling \$425,000 to settle a significant matter related to client losses. The Fund paid \$75,000 of this settlement in both 2012 and 2013, with the remaining balance of \$275,000 to be paid over the next four years. The CSF Committee routinely reviews open matters which, in its opinion, will not have a material adverse effect on the Bar's financial statements.

#### **8. CONTINGENCIES**

As of June 30, 2013, the Bar was involved in various lawsuits in the normal course of its operations. The Bar's management believes the outcome of these lawsuits will not have a material adverse effect on the Bar's financial statements.

In 2007, the State of Utah revoked the Bar's tax-exempt status of its real and personal property taxes retroactively to 2002. The Bar filed an appeal with the Utah State Tax Commission in 2009 and received a favorable decision in 2011, which provided, among others items, that the Bar be refunded for taxes paid under protest for the past several years. After lengthy negotiations to determine the settlement amount, the Bar received payments totaling \$94,487 as final settlement for the matter in October 2012. The Bar recorded this refund as an offset to general and administrative expense within the statement of activities for the year ended June 30, 2013.

#### **9. SUBSEQUENT EVENTS**

No events have occurred after June 30, 2013, but before September 27, 2013, the date the financial statements were available to be issued, that require consideration as adjustments to or disclosure in the financial statements.

\* \* \* \* \*



## **SUPPLEMENTAL SCHEDULES**

**UTAH STATE BAR**
**SUPPLEMENTAL SCHEDULE 1**
**SCHEDULE OF ACTIVITY OF TEMPORARILY RESTRICTED FUNDS  
FOR THE YEAR ENDED JUNE 30, 2013**

	Balance June 30, 2012	Revenue	Net Investment Income	Expenses	Funds Released From Restriction	Balance June 30, 2013	Net Increase (Decrease)
<b>BAR SECTION FUNDS:</b>							
Administrative Law	\$ 10,019	\$ 2,270	\$ -	\$ 3,374	\$ -	\$ 8,915	\$ (1,104)
Antitrust/Unfair Competition	4,619	1,275		752		5,142	523
Appellate Practice	3,826	13,385		19,052		(1,841)	(5,667)
Banking and Finance	8,224	5,360		5,938		7,646	(578)
Bankruptcy	(1,227)	6,120		2,698		2,195	3,422
Business Law	24,334	9,667		18,467		15,534	(8,800)
Collection Law	13,149	3,252		2,035		14,366	1,217
Communications Law	1,677	460		143		1,994	317
Constitutional Law	3,219	1,995		1,395		3,819	600
Construction Law	1,770	3,570		4,126		1,214	(556)
Corporate Counsel	16,732	3,313		4,483		15,562	(1,170)
Criminal Law	20,942	6,841		12,144		15,639	(5,303)
Cyberlaw	5,325	5,581		2,312		8,594	3,269
Dispute Resolution	13,588	1,653		8,147		7,094	(6,494)
Education Law	4,756	1,125		1,132		4,749	(7)
Elder Law	5,003	4,473		5,716		3,760	(1,243)
Environmental Law	15,112	7,795		14,166		8,741	(6,371)
Family Law	37,900	38,411		42,702		33,609	(4,291)
Franchise law	268	1,805		1,942		131	(137)
Governmental Law	27,442	3,880		4,306		27,016	(426)
Health Law	0	5,837		1,886		3,951	3,951
Intellectual Property	57,690	18,366		8,721		67,335	9,645
International Law	1,383	2,900		2,819		1,464	81
Juvenile Law	4,295	2,280		4,963		1,612	(2,683)
Labor and Employment Law	16,688	11,700		16,727		11,661	(5,027)
Litigation Law	40,091	42,785		49,723		33,153	(6,938)
Military Law	681	2,360		2,323		718	37
Non-profit/Charitable Law	289	2,795		2,605		479	190
Probate/Estate Planning	12,368	19,870		24,009		8,229	(4,139)
Real Property	27,072	13,256		30,040		10,288	(16,784)
Securities	18,007	9,944		5,504		22,447	4,440
Senior Lawyers	2,281	3,417		4,708		990	(1,291)
Solo, Small Firm, Rural Practice	4,467	9,171		14,983		(1,345)	(5,812)
Tax	9,298	11,988		10,685		10,601	1,303
Young Lawyers	(13,402)				(13,402)	-	13,402
<b>Total</b>	<b>397,886</b>	<b>278,900</b>	<b>-</b>	<b>334,726</b>	<b>(13,402)</b>	<b>355,462</b>	<b>(42,424)</b>
<b>OTHER PROGRAMS —</b>							
Paralegal Division	9,196	14,287		9,004		14,479	5,283
<b>BOOKS FROM BARRISTERS</b>	<b>10,493</b>				<b>10,493</b>	<b>-</b>	<b>(10,493)</b>
<b>CLIENT SECURITY FUND</b>	<b>(85,837)</b>	<b>171,254</b>	<b>699</b>	<b>124,122</b>		<b>(38,006)</b>	<b>47,831</b>
<b>MANDATORY CONTINUING LEGAL EDUCATION BOARD</b>	<b>407,203</b>	<b>231,360</b>	<b>1,445</b>	<b>232,020</b>		<b>407,988</b>	<b>785</b>
<b>TOTAL</b>	<b>\$ 738,941</b>	<b>\$ 695,801</b>	<b>\$ 2,144</b>	<b>\$ 699,872</b>	<b>\$ (2,909)</b>	<b>\$ 739,923</b>	<b>\$ 982</b>

UTAH STATE BAR

SUPPLEMENTAL SCHEDULE 2

SCHEDULE OF SERVICES AND PROGRAMS REVENUE AND EXPENSES  
FOR THE YEAR ENDED JUNE 30, 2013

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	Bar Journal	Continuing Legal Education	Membership Benefits	Other	Total
REVENUE	<u>\$ 119,735</u>	<u>\$ 608,387</u>	<u>\$ 7,842</u>	<u>\$ 16,483</u>	<u>\$ 752,447</u>
EXPENSES:					
Salaries and benefits	34,316	93,825	6,587		134,728
General and administrative	<u>132,045</u>	<u>445,379</u>	<u>160,935</u>	<u>40,522</u>	<u>778,881</u>
Total expenses	<u>166,361</u>	<u>539,204</u>	<u>167,522</u>	<u>40,522</u>	<u>913,609</u>
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	<u>\$ (46,626)</u>	<u>\$ 69,183</u>	<u>\$ (159,680)</u>	<u>\$ (24,039)</u>	<u>\$ (161,162)</u>

**UTAH STATE BAR****SUPPLEMENTAL SCHEDULE 3****SCHEDULE OF MEETINGS REVENUE AND EXPENSES  
FOR THE YEAR ENDED JUNE 30, 2013**

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	<b>Summer Convention</b>	<b>Fall Forum</b>	<b>Spring Convention</b>	<b>Total</b>
REVENUE	<u>\$ 180,934</u>	<u>\$ 87,355</u>	<u>\$ 127,581</u>	<u>\$ 395,870</u>
EXPENSES:				
Program	160,990	61,069	63,982	286,041
Salaries and benefits	7,211	12,322	24,393	43,926
General and administrative	<u>43,929</u>	<u>9,256</u>	<u>11,600</u>	<u>64,785</u>
Total expenses	<u>212,130</u>	<u>82,647</u>	<u>99,975</u>	<u>394,752</u>
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	<u>\$ (31,196)</u>	<u>\$ 4,708</u>	<u>\$ 27,606</u>	<u>\$ 1,118</u>

**UTAH STATE BAR****SUPPLEMENTAL SCHEDULE 4****SCHEDULE OF MANDATORY CONTINUING LEGAL EDUCATION BOARD  
REVENUE AND EXPENSES  
FOR THE YEAR ENDED JUNE 30, 2013**

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**REVENUE:**

Sponsor fees	\$ 90,172
Application fees	23,388
Compliance fees	91,700
Accreditation fees	26,100
Investment income	<u>1,445</u>
Total revenue	<u>232,805</u>

























**EXPENSES:**

Salaries, payroll taxes, and benefits	180,771
Office overhead expense	44,493
Board meetings	1,303
Travel	4,877
Miscellaneous	<u>576</u>
Total expenses	<u>232,020</u>

EXCESS OF REVENUE OVER EXPENSES	<u>\$ 785</u>
---------------------------------	---------------

Tab 4

# Providers


Category	Logo	Provider	Description of Service	Discount Description	Link
Education		ABCMouse.com	Online preschool - kindergarten curriculum	Save more than 15% every month	
Education		All Campus	University	One-time \$500 Scholarship. 10% reduction in tuition pricing. Waived Application Fee and transcript request fee.	
Education		Boise State	Online MBA Program	\$5,400 tuition savings	
Education		California State University, San Bernardino	Online MBA Program	\$3,000 tuition savings	
Education		Dominican University	University	One-time \$500 Scholarship. 10% reduction in tuition pricing. Waived Application Fee and transcript request fee.	
Education		Drexel	University	10-25% tuition reductions and deferred billing available to staff and their immediate family members	
Education		eCubed	Online Degree Programs	10% off tuition.	
Education		Florida International University	Corporate Online MBA Program	\$10,000 tuition savings	
Education		Graceland University	University	One-time \$1,000 scholarship. 10% reduction in the online tuition pricing. Waived application and Transcript Request Fees.	
Education		Green Mountain College	University	One-time \$500 Scholarship. 10% reduction in tuition pricing. Waived Application Fee and transcript request fee.	
Education		Lawrence Technical University	University	One-time \$500 Scholarship. 10% reduction in tuition pricing. Waived Application Fee and transcript request fee.	
Education		Saint Francis University	University	One-time \$500 Scholarship. 10% reduction in tuition pricing. Waived Application Fee and transcript request fee.	

# Providers

Category	Logo	Provider	Description of Service	Discount Description	Link
Electronics		Lenovo	Computers and accessories	Up to 35% discount plus seasonal promotions.	
Electronics		Matrix Protection	Electronic protection plan	Waived \$30 activation fee and a free 30 day, no-risk trial.	
Electronics		Monster Products	Electronics and Accessories	50% off cables, headphones, speakers and more.	
Electronics		Otterbox		10% discount on phone cases	
Electronics		Panasonic	Electronics	Discounts vary per product	
Electronics		Samsung	Electronics	Discounts vary per product	
Electronics		Skinit.com	Customizable Cases for your Electronics	25% off all cases - up to \$12 off a custom case	
Electronics		Toshiba	Computers, accessories and electronics	Discounts vary per product.	
Entertainment		California Attractions & Theme Parks	Amusement park and attraction tickets	5-50% off admission	
Entertainment		Cirque du Soleil Nationwide	Performance tickets	5-50% off admission	
Entertainment		Discount Movie Tickets & Movie Rentals	Theater tickets and rental vouchers	5-50% off admission	
Entertainment		Discounted Ski Tickets	Ski Tickets	Up to 45% off Ski Mountains across the country	

























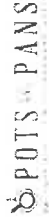

# Providers

Category	Logo	Provider	Description of Service	Discount/Description	Link
Entertainment		Premium Seats: NHL Hockey Tickets	Sports, Theater and Concert Tickets	10% discount.	
Entertainment		San Diego Attractions	Amusement park and attraction tickets	5-50% off admission	
Entertainment		San Francisco Attractions	Amusement park and attraction tickets	5-50% off admission	
Entertainment		ScoreBig	Sports, Theater and Concert Tickets	Save 10-60%. No shipping charges	
Entertainment		SeaWorld Nationwide	Amusement park tickets	5-50% off admission	
Entertainment		Six Flags	Amusement park tickets	5-50% off admission	
Entertainment		South Florida Tours and Attractions	Amusement park and attraction tickets	5-50% off admission	
Entertainment		Theme Parks & Attractions	Amusement park and attraction tickets	Up to 25% discount	
Entertainment		Universal Orlando Resort	Amusement park tickets	5-50% off admission	
Entertainment		Washington DC Attractions	Amusement park and attraction tickets	5-50% off admission	
Entertainment		Washington State Attractions	Amusement park and attraction tickets	5-50% off admission	
Financial Wellness		BilliWay	Utility Savings Program	Reduce your utility bills through your everyday spending.	





# Providers

Category	Logo	Provider	Description of Service	Discount Description	Link
Financial Wellness		Wells Fargo Home Loans	Mortgage lender	Reduced closing cost (based on loan amount)	
Flowers and Gifts		1-800-BASKETS	Gift Baskets	15% discount	
Flowers and Gifts		1-800-FLOWERS	Flowers	15% discount	
Flowers and Gifts		Cherry Moon Farms	Gourmet gift and fruit baskets	15% discount	
Flowers and Gifts		Cheryl & Co.	Fresh baked desserts & gifts	10% off on purchase, no minimum purchase required.	
Flowers and Gifts		Fannie May Fine Chocolates	Classic chocolate assortments and gifts.	15% Discount. No minimum, purchase.	
Flowers and Gifts		From You Flowers	Flowers	25% discount.	
Flowers and Gifts		FTD	Flowers	20% discount	
Flowers and Gifts		Godiva	Chocolates	15% discount.	
Flowers and Gifts		Levenger	Executive accessories, briefcases, wallets, pens and gifts	15% discount	
Flowers and Gifts		ProFlowers	Flowers	15% discount	
Flowers and Gifts		Red Envelope	Gifts for him, her and baby.	15% discount	

# Providers

Category	Logo	Provider	Description of Service	Discount Description	Link
Health and Wellness		Retrofit	Weight loss program	20% off	
Health and Wellness		Sears Fitness	Electronics and appliances	Save 5% or more on home gym equipment	
Health and Wellness		Snap Fitness	Gym network	30 day free trial for \$8.95 S&H. Sign up as a member and get 50% off enrollment and 5% off monthly dues.	
Health and Wellness		The Walking Company	Shoes	15% discount.	
Health and Wellness		Weight Watchers	Weight loss program	Save 30% on your first month. Save over 30% on Weight Watchers Online with our 3-Month savings plan	
Home and Garden		ADT	Home security	Get a free* ADT Monitored Home Security System (an \$850 value) + bonus equipment (up to \$199 in value).	
Home and Garden		Comfortaire	Mattresses	Up to 50% on select mattresses	
Home and Garden		Cuisinart	Kitchenware	Save up to 40% off a wide selection of Cuisinart Premiere Products.	
Home and Garden		Finecraft	Window treatments	Save up to 60% blinds, shutters, cornices and other items	
Home and Garden		First Alert	Home security	Burglar Alarms-\$100 discount, Add-ons-\$50 discount	
Home and Garden		Frontpoint Security Solutions, LLC	Home security	Save up to \$350 on Home Security Equipment	
Home and Garden		Potsandpans	Kitchenware	Up to 20% discount.	





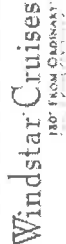





# Providers

Category	Logo	Provider	Description of Service	Discount Description	Link
Moving Services		Penske	Truck Rentals	5% off of all truck rentals. 14% off one-way moves.	
Moving Services		SIRVA (MyHome Benefits)	Mortgage lender, moving service and real estate service	Cash rewards for real estate assistance, \$300 closing cost credit, moving, packing, storage discounts	
Retail		Briggs & Riley	Luggage	receive 30% off the prices displayed	
Retail		Brooks Brothers	Shoes & Apparel	Save 15% on regular priced merchandise	
Retail		Corporate Jewelers	Showroom in Dallas, TX; all products available online.	66% off fine jewelry.	
Retail		FragranceNet.com	Cologne, perfume and cosmetics	15% discount	
Retail		Reebok	Shoes	\$10 off any purchase of \$75	
Retail		Skechers Direct	Corporate Shoe Program	25% Discount off of Retail on Select Skechers Shoes. Free Shipping and Returns.	
Retail		Studio 14 Jewelry	Jewelry	Up to 40% discount	
Retail		Working Mother Magazine	Publication for working mothers	55% discount	
Sports & Outdoors		Campmor	Camping accessories	10% Discount	
Travel		Alamo	Rental cars	Save up to 25% on your rental	

# Providers

Category	Logo	Provider	Description of Service	Discount Description	Link
Travel		Discount Hotel Reservations	Discount Hotel Reservations	Employee Discounts of up to 60% off standard rates	
Travel		Disney Cruise Line	Cruises	Earn a 4% Vacation Reward on all cruise, resort and tour vacations	
Travel		Dreams Resorts & Spas	Resorts	Earn a 4% Vacation Reward on all cruise, resort and tour vacations	
Travel		El Dorado Resorts	Resorts	Earn a 4% Vacation Reward on all cruise, resort and tour vacations	
Travel		Employee Travel Specials	Hotels	Save an average of 15% on hotels! Discounts and special rates at hotels around the world.	
Travel		Enterprise	Rental cars	5% discount on everyday low rates	
Travel		Expedia	Hotels	10% discount	
Travel		Hardrock Resorts	Resorts	Earn a 4% Vacation Reward on all cruise, resort and tour vacations	
Travel		Holland America	Cruises	Earn a 4% Vacation Reward on all cruise, resort and tour vacations	
Travel		Hotelopia	Hotels	10% discount	
Travel		Last Minute Travel Club	Hotels	Free Membership. Members save up to 55% on hotels worldwide	
Travel		National	Rental cars	As a member, you'll save up to 20% on your rental at National Car Rental.	

# Providers

Category	Logo	Provider	Description of Service	Discount Description	Link
Travel		Trafalgar Tours	Tours	Earn a 4% Vacation Reward on all cruise, resort and tour vacations	
Travel		Viking River Cruises	Cruises	Earn a 4% Vacation Reward on all cruise, resort and tour vacations	
Travel		Windstar Cruises	Cruises	Earn a 4% Vacation Reward on all cruise, resort and tour vacations	
Travel		Wyndham Hotel Group	Hotels	20% discount off best available rate	
Wireless Phones		T-Mobile	Cell phones	Discount on monthly service varies based on agreement	

Tab 5

**UTAH STATE BAR**  
**Budget and Finance Committee**  
**Highlights of the September 2013 Financial Statements (Unaudited)**

**I. FINANCIAL STATEMENT HIGHLIGHTS**

1. **Licensing:** Licensing revenue is at 101% of the year to date budget with revenues totaling \$3,721,504 representing \$30,273 over budget. Costs are under budget by \$15,064. A comparison of the membership statistics by status is attached. We suspended approx. 323 attorneys for failure to renew, an increase from last year of 177.
2. **Admissions:** Revenue totals \$29,300 representing \$4,943 over budget. Expenses are \$4,633 over budget.
3. **NLTP:** Revenue for NLTP is \$21,200 which is \$4,968 over budget. Year to date expenses total \$24,330 which is \$1,496 over budget. NLTP net loss is \$(3,130) which is favorably over budget by \$3,472.
4. **Gain/(Loss) on Investments and Interest Income:** Combined year to date gains, losses and interest income is \$11,097 which is \$10,029 over budget. Current purchases in the investment account are yielding between .1% and .5%. Expected interest income and gain on investments for the coming year are still expected to be negligible.
5. **Property Management:** Rent and other revenue totals \$69,774 which is \$28,462 over budget. Expenses are \$10,453 over budget. The net loss year to date is \$41,646 which is favorably under budget by \$18,009.
6. **CLE:** Continuing Legal Education revenue totals \$97,010 which is \$46,596 over budget. Expenses are \$38,372 over budget. CLE department net revenue year to date is favorably over budget by \$8,224.
7. **Summer Convention:** The net revenue year to date is \$147,682 and is unfavorably under budget by \$36,352. Expenses are unfavorably over budget by \$27,088. The financials currently show a net loss of \$84,226 which exceeds the budgeted loss by approximately \$63,440.
8. **Bar Journal:** Bar Journal revenue is \$5,572 over budget. Expenses are \$15,012 over budget. Expenses exceed revenues by \$3,326 representing an unfavorable budget variance of \$9,440.
9. **Member Benefits:** Member Benefits revenue is \$4,880 over budget. Expenses are \$21,319 under budget.
10. **Access to Justice:** Expenses total \$38,432 year to date and are over budget by \$7,958.



**UTAH STATE BAR**  
**Budget and Finance Committee**  
**Highlights of the September 2013 Financial Statements (Unaudited)**

11. **Total Revenue and Expenses - Accrual Basis:** Revenue year to date totals \$4,158,923 and exceeds the budget by \$92,075. Expenses year to date total \$1,610,278 which is over budget by \$79,961. Net revenue year to date is \$2,548,645 which is \$12,114 favorably over budget.
12. **Total Revenue Over Expenses - Cash Basis:** By adding depreciation of \$11,720 revenue exceeds expenses on a cash basis by \$2,560,365 which is \$13,805 favorably over budget. This also represents our year to date net change in cash from operations.

**II. ADDITIONAL COMMENTS**

1. **Lehman Brothers Bonds:** The Bar received distributions totaling \$29,470 from the Lehman Bros bankruptcy through October 2012 and will continue to receive distributions semi-annually for the next several years. The initial bankruptcy claim on behalf of the Bar is \$300,000. The current market value of the remaining claim is listed at \$77,640.
2. **Board Designated Reserves:** In consultation with Bar management and the Budget and Finance Committee, the Commission targeted the following reserve amounts.

Operations Reserve (4 months' operations)	\$1,833,000
Capital Replacement Reserve (equipment)	200,000
Capital Replacement Reserve (building)	<u>650,000</u>
Total	<u>\$2,683,000</u>

The reserve at June 30, 2013 was approximately \$2,556,000.

UTAH STATE BAR  
Membership Statistics  
September 30, 2013

<u>STATUS</u>	<u>05/31/13</u>	<u>09/30/13</u>	<u>Change</u>
Active	7,601	7,344	(257)
Active under 3 years	974	957	(17)
Active Emeritus	167	153	(14)
In House Counsel	43	38	(5)
<b>Subtotal - Active</b>	<b>8,785</b>	<b>8,492</b>	<b>(293)</b>
Inactive - Full Service	718	701	(17)
Inactive - No Service	1,499	1,579	80
Inactive Emeritus	262	268	6
<b>Subtotal - Inactive</b>	<b>2,479</b>	<b>2,548</b>	<b>69</b>
<b>Total Active and Inactive</b>	<b>11,264</b>	<b>11,040</b>	<b>(224)</b>
 <u>Supplemental Information</u>			
Paralegals	136	127	(9)
Associate Section Members	72	72	0
Journal Subscribers	94	94	0
 <u>Active Attorneys by Region</u>			
Logan - Brigham	148	140	(8)
Davis - Weber	684	648	(36)
Salt Lake	4,767	4,441	(326)
Provo	786	680	(106)
Southern Utah	390	335	(55)
Out of State	770	705	(65)
Out of Country	6	3	(3)
No region designated	1,234	1,540	306
<b>Total Active Attorneys</b>	<b>8,785</b>	<b>8,492</b>	<b>(293)</b>

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10/16/13

Accrual Basis

# Utah State Bar

## Balance Sheet

As of September 30, 2013

	Sep 30, 13	Aug 31, 13	Sep 30, 12
<b>ASSETS</b>			
Current Assets			
Checking/Savings			
1010 · Petty Cash	625	625	625
1011 · Cash in Bank	88,100	168,302	95,629
1060 · ILM Invested Funds Market Value	5,723,394	6,069,965	5,403,861
Total Checking/Savings	5,812,119	6,238,892	5,500,114
Accounts Receivable			
1071 · Accounts receivable	4,821	17,177	5,338
Total Accounts Receivable	4,821	17,177	5,338
Other Current Assets			
1070a · Other Accounts Receivable	0	103	(8)
1089 · Unbilled tenant costs	19,524	39	18,559
1100 · Prepaid Expense	77,400	77,773	79,655
1919 · Section ILM net earn recvble	4,457	4,283	4,120
1920 · A/R - Section Funds	17,961	8,288	101,326
Total Other Current Assets	119,342	90,485	203,653
Total Current Assets	5,936,282	6,346,553	5,709,105
Fixed Assets			
1500 · Property & Equipment	3,584,335	3,568,261	3,184,101
1550 · Accumulated Depreciation	(3,060,729)	(3,056,822)	(3,008,920)
1600 · Land	633,142	633,142	633,142
Total Fixed Assets	1,156,748	1,144,581	808,323
<b>TOTAL ASSETS</b>	<b>7,093,030</b>	<b>7,491,134</b>	<b>6,517,428</b>
<b>LIABILITIES &amp; EQUITY</b>			
Liabilities			
Current Liabilities			
Accounts Payable			
2001 · A/P - Trade	6,250		660
Total Accounts Payable	6,250		660
Other Current Liabilities			
2010 · Other Accounts Payable	241,146	303,956	300,490
2100 · Accrued Payables	337,067	340,711	350,196
2350 · Capital Lease Obligations-ST	2,710	2,710	1,844
2920 · A/P - Section Funds	250,170	248,580	239,845
Total Other Current Liabilities	831,093	895,957	892,374
Total Current Liabilities	837,343	895,957	893,034
Long Term Liabilities			
2400 · Capital lease obligations	8,416	9,446	12,156
Total Long Term Liabilities	8,416	9,446	12,156
Total Liabilities	845,759	905,404	905,191
Equity			
3500 · Unrestricted Net Assets (R/E)	3,698,625	3,698,625	2,955,918
3510 · Fund Balance - Beginning			36,591
Net Income	2,548,646	2,887,105	2,619,728
Total Equity	6,247,271	6,585,731	5,612,238
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>7,093,030</b>	<b>7,491,134</b>	<b>6,517,428</b>

**Utah State Bar**  
**Summary Income Statement**  
**September 30, 2013**

	Year to Date			YTD %	2013/14
	Actual	Budget	Variance Fav/(Unfav)	of Ttl Bdgt	Total Budget
<b><u>Revenue</u></b>					
Licensing	\$ 3,721,504	\$ 3,691,231	\$ 30,273	95.7	\$3,886,900
Admissions	29,300	24,357	4,943	6.2	473,060
NLTP	21,200	16,232	4,968	26.3	80,600
Mgt - Service	210	4,330	(4,120)	1.2	17,400
In Kind Revenue	503	449	54	15.7	3,200
Mgt - Interest & Gain	11,097	1,068	10,029	73.5	15,100
Property Mgt	69,774	41,312	28,462	23.6	295,100
OPC	530	598	(68)	4.2	12,500
CMIS/Internet	300	624	(324)	10.0	3,000
CLE	97,010	50,414	46,596	25.3	383,000
Summer Convention	147,682	184,034	(36,352)	80.2	184,200
Fall Forum	-	7,213	(7,213)	-	89,100
Spring Convention	875	-	875	0.7	128,700
Bar Journal	48,214	42,642	5,572	36.5	132,100
Committees	-	-	-	-	100
Member Benefits	7,224	2,344	4,880	104.7	6,900
Section Support	-	-	-	-	84,348
Access to Justice	3,450	-	3,450	-	-
Young Lawyers Division	50	-	50	-	-
<b>Total Revenue</b>	<b>\$ 4,158,923</b>	<b>\$ 4,066,848</b>	<b>\$ 92,075</b>	<b>71.8</b>	<b>\$5,795,308</b>
<b><u>Expenses</u></b>			(Fav)/Unfav		
Licensing	41,885	56,949	(15,064)	24.5	170,683
Admissions	160,285	155,652	4,633	35.6	450,698
NLTP	24,330	22,834	1,496	24.7	98,632
Bar Mgt	209,895	165,827	44,068	32.0	655,721
Property Mgt	111,420	100,967	10,453	22.4	496,767
OPC	297,557	302,456	(4,899)	25.3	1,178,401
General Counsel	56,966	74,783	(17,817)	19.0	300,039
Computer/MIS/Internet	46,833	45,418	1,415	23.4	200,265
CLE	95,945	57,573	38,372	25.9	369,805
Summer Convention	231,908	204,820	27,088	103.4	224,267
Fall Forum	22,374	6,796	15,578	25.5	87,761
Spring Convention	4,406	3,783	623	5.4	81,975
Bar Journal	51,540	36,528	15,012	28.4	181,418
Committees	10,526	76,747	(66,221)	8.8	119,017
Member Benefits	36,360	57,679	(21,319)	20.5	177,155
Section Support	24,921	17,411	7,510	29.5	84,348
Consumer Assistance	17,861	12,930	4,931	28.9	61,858
Access to Justice	38,432	30,474	7,958	20.8	184,884
Tuesday Night Bar	9,217	2,123	7,094	70.5	13,070
Legislative	193	288	(95)	0.3	64,405
Commission/Sp. Proj	80,435	70,902	9,533	48.4	166,167
Public Education	32,787	15,371	17,416	22.3	146,922
Young Lawyers Division	4,202	12,006	(7,804)	8.8	48,000
<b>Total Expenses</b>	<b>\$ 1,610,278</b>	<b>\$ 1,530,317</b>	<b>\$ 79,961</b>	<b>29.0</b>	<b>\$5,562,258</b>
<b>Net Revenue/(Expense)</b>	<b>\$ 2,548,645</b>	<b>\$ 2,536,531</b>	<b>\$ 12,114</b>		<b>\$ 233,050</b>
<b>Add: Depreciation</b>	<b>11,720</b>	<b>10,029</b>	<b>1,691</b>		<b>55,363</b>
<b>Cash Increase/(Decrease) from Operations</b>	<b>\$ 2,560,365</b>	<b>\$ 2,546,560</b>	<b>\$ 13,805</b>		<b>\$ 288,413</b>
<b>Other Uses of Cash</b>					
Change in Assets/Liabilities	227,602	227,602	-		
Capital Expenditures	16,976	550,000	(533,024)		550,000
<b>Net Change in Cash</b>	<b>\$ 2,770,991</b>	<b>\$ 2,224,162</b>	<b>\$ 546,829</b>		<b>\$ (261,587)</b>



# UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2013

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 2013

Of the 86 complaints received in FY 2013, 81 have been resolved and 5 are still pending.

Complaints Received in FY 2013			
Judge Type	Number of Judges	Number of Complaints Received	Number of Judges Named in Complaints
Supreme Court	5	0	0
Court of Appeals	7	1	3
District	71	51	39
Juvenile	29	7	5
Justice Court	98	22	17
Pro Tempore	74	3	3
Active Senior	29	2	2
<b>Total</b>	<b>313</b>	<b>86</b>	<b>69</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

### Resolutions Determined by the Utah Supreme Court

**Reprimand.** On August 22, 2012, the Utah Supreme Court reprimanded retired Woods Cross City Justice Court Judge Robert Peters. Judge Peters initiated and considered an ex parte communication with a person who was on probation, and then revoked that person's probation without following the statutorily mandated procedures. The judge's actions violated: Code of Judicial Conduct Rule 1.2, which requires judges to avoid impropriety and the appearance of impropriety; Code of Judicial Conduct Rule 2.2, which requires judges to apply the law; and Code of Judicial Conduct Rule 2.9(A), which forbids ex parte communications about pending matters.

**Dismissal.** On September 28, 2012, the Utah Supreme Court rejected the JCC's recommended reprimand of West Valley City Justice Court Judge Keith Stoney. The JCC had recommended that the judge be reprimanded for issuing a \$10,000 cash only bench warrant in response to a woman's inappropriate behavior toward court clerks. The Supreme Court determined that there was insufficient evidence upon which to base a finding that Judge Stoney had violated the Code of Judicial Conduct.

**Reprimand.** On March 26, 2013, the Utah Supreme Court reprimanded Kanab City Justice Court Judge Gary Johnson. After hearing a small claims trial but before issuing his decision, Judge Johnson first engaged in an ex parte communication with the defendant, and then engaged in an ex parte communication with the plaintiff. The judge's actions violated Code of Judicial Conduct Rule 2.9(A), which forbids ex parte communications about pending matters.

### Resolutions Determined by the Utah Supreme Court

**Censure.** On May 21, 2013, the Utah Supreme Court censured Box Elder County Justice Court Judge Kevin Christensen. Judge Christensen was concurrently employed by the county justice court and three municipal justice courts. From 2009 through 2011, Judge Christensen received combined salaries from the four courts that exceeded the salary limits imposed by the Legislature. The judge's conduct violated Code of Judicial Conduct Rule 1.1, which requires judges to comply with the law. The Court also ordered Judge Christensen to repay the excess salary amounts he had received.

### Resolution Obtained by the Judicial Conduct Commission

**Retirement.** On September 11, 2012, the Judicial Conduct Commission agreed to dismiss any and all pending complaints against West Valley City and Saratoga Springs Justice Court Judge Keith Stoney. Judge Stoney agreed to retire from both courts on December 31, 2012, and agreed not to seek or accept future appointment to any judicial office in the State of Utah.

## 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 ten times during FY 2013.

### 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  
Hon. Carolyn McHugh  
Rep. Kraig Powell  
Lois Richins  
Sen. Stephen Urquhart  
Terry Welch

During FY 2013, JCC Commissioner Constance Lundberg resigned due to health reasons. Her contribution to the JCC and the citizens of Utah is greatly appreciated.

### 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 a downloadable complaint form.

### 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. Additional funding comes from agency savings in prior years. For FY 2013, the legislative appropriation was \$206,600; expenses totaled \$235,589. In order to balance its budget for FY 2013, the JCC was required to use \$28,989 from prior years' savings.

Effective July 1, 2013, the Legislature increased the JCC's annual appropriation by \$25,000 per year. Without that increase, the JCC would not have sufficient funds to operate in FY 2014 and beyond.



## 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 recommendation, 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>



**COURT SYSTEM MODIFICATION AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill creates a new circuit court with limited jurisdiction.

**Highlighted Provisions:**

This bill:

- ▶ creates circuit courts within each judicial district;
- ▶ provides jurisdiction over all misdemeanors and domestic issues, including divorce, child custody and parent-time, adoption, paternity, and child support;
- ▶ removes jurisdiction of misdemeanors from justice courts;
- ▶ provides for appointment of circuit court judges in the same manner as district court judges;
- ▶ requires the appointment of a circuit court administrator by the state court administrator;
- ▶ provides for the distribution of fines, fees, and surcharges;
- ▶ enumerates the number of judges in each circuit; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

- 78A-1-101**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-1-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-2-108**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-5-102**, as last amended by Laws of Utah 2010, Chapter 34
- 78A-5-111**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-7-106**, as last amended by Laws of Utah 2012, Chapter 205

33           **78A-10-301**, as enacted by Laws of Utah 2008, Chapter 3

34           **78A-11-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3

35   ENACTS:

36           **78A-1-103.5**, Utah Code Annotated 1953

37           **78A-5a-101**, Utah Code Annotated 1953

38           **78A-5a-102**, Utah Code Annotated 1953

39           **78A-5a-103**, Utah Code Annotated 1953

40           **78A-5a-104**, Utah Code Annotated 1953

41           **78A-5a-105**, Utah Code Annotated 1953

42           **78A-5a-106**, Utah Code Annotated 1953

43           **78A-5a-107**, Utah Code Annotated 1953

44           **78A-5a-108**, Utah Code Annotated 1953

45           **78A-5a-109**, Utah Code Annotated 1953

46           **78A-5a-110**, Utah Code Annotated 1953

47           **78A-5a-111**, Utah Code Annotated 1953

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49   *Be it enacted by the Legislature of the state of Utah:*

50           Section 1. Section **78A-1-101** is amended to read:

51           **78A-1-101. Courts of justice enumerated -- Courts of record enumerated.**

52           (1) The following are the courts of justice of this state:

53           (a) the Supreme Court;

54           (b) the Court of Appeals;

55           (c) the district courts;

56           (d) the circuit courts;

57           ~~[(d)]~~ (e) the juvenile courts; and

58           ~~[(e)]~~ (f) the justice courts.

59           (2) All courts are courts of record, except the justice courts, which are courts not of  
60   record.

61           Section 2. Section **78A-1-102** is amended to read:

62           **78A-1-102. Trial courts of record -- Divisions.**

63           The district, circuit, and juvenile courts shall be divided into eight geographical

64 divisions:

- 65 (1) First District - Box Elder, Cache, and Rich Counties;  
66 (2) Second District - Weber, Davis, and Morgan Counties;  
67 (3) Third District - Salt Lake, Summit, and Tooele Counties;  
68 (4) Fourth District - Utah, Wasatch, Juab, and Millard Counties;  
69 (5) Fifth District - Beaver, Iron, and Washington Counties;  
70 (6) Sixth District - Garfield, Kane, Piute, Sanpete, Sevier, and Wayne Counties;  
71 (7) Seventh District - Carbon, Emery, Grand, and San Juan Counties; and  
72 (8) Eighth District - Daggett, Duchesne, and Uintah Counties.

73 Section 3. Section **78A-1-103.5** is enacted to read:

74 **78A-1-103.5. Number of circuit judges.**

75 The number of circuit court judges shall be:

- 76 (1) two circuit judges in the First District;  
77 (2) seven circuit judges in the Second District;  
78 (3) 14 circuit judges in the Third District;  
79 (4) six circuit judges in the Fourth District;  
80 (5) two circuit judges in the Fifth District;  
81 (6) one circuit judge in the Sixth District;  
82 (7) two circuit judges in the Seventh District; and  
83 (8) one circuit judge in the Eighth District.

84 Section 4. Section **78A-2-108** is amended to read:

85 **78A-2-108. Assistants for administrator of the courts -- Appointment of trial**  
86 **court executives.**

87 (1) The administrator of the courts, with the approval of the presiding officer of the  
88 council, is responsible for the establishment of positions and salaries of assistants as necessary  
89 to enable him to perform the powers and duties vested in him by this chapter, including the  
90 positions of appellate court administrator, district court administrator, circuit court  
91 administrator, juvenile court administrator, and justices' court administrator, whose  
92 appointments shall be made by the administrator of the courts with the concurrence of the  
93 respective boards as established by the council.

94 (2) The district [~~court administrator~~] and circuit court administrators, with the

95 concurrence of the presiding judge of a district or circuit court respectively or the district or  
96 circuit court judge in single judge districts, may appoint in each district a district and circuit  
97 trial court executive, respectively. The trial court executive may appoint, subject to budget  
98 limitations, necessary support personnel including clerks, research clerks, secretaries, and other  
99 persons required to carry out the work of the court. The trial court executive shall supervise  
100 the work of all nonjudicial court staff and serve as administrative officer of the district and  
101 circuit, respectively.

102 (3) Administrators and assistants appointed under this section shall be known  
103 collectively as the Administrative Office of the Courts.

104 Section 5. Section **78A-5-102** is amended to read:

105 **78A-5-102. Jurisdiction -- Appeals.**

106 (1) The district court has original jurisdiction in all matters civil and criminal, not  
107 excepted in the Utah Constitution and not prohibited by law.

108 (2) The district court judges may issue all extraordinary writs and other writs necessary  
109 to carry into effect their orders, judgments, and decrees.

110 (3) The district court has jurisdiction over matters of lawyer discipline consistent with  
111 the rules of the Supreme Court.

112 (4) The district court has jurisdiction over all matters properly filed in the circuit court  
113 as it was constituted prior to July 1, 1996.

114 (5) The district court has appellate jurisdiction over judgments and orders of the justice  
115 court as outlined in Section 78A-7-118 and small claims appeals filed pursuant to Section  
116 78A-8-106.

117 (6) Appeals from the final orders, judgments, and decrees of the district court are under  
118 Sections 78A-3-102 and 78A-4-103.

119 (7) The district court has jurisdiction to review:

120 (a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4,  
121 Administrative Procedures Act, and shall comply with the requirements of that chapter, in its  
122 review of agency adjudicative proceedings; and

123 (b) municipal administrative proceedings in accordance with Section 10-3-703.7.

124 (8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in  
125 class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if:

(a) ~~[there is no]~~ with regard to misdemeanors, there is no circuit court with territorial jurisdiction or, with regard to infractions and violations of ordinances, there is no justice court with territorial jurisdiction;

(b) the ~~[offense]~~ ordinance violations occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has not formed and then dissolved, a justice court; or

(c) they are included in an indictment or information covering a single criminal episode alleging the commission of a felony ~~[or a class A misdemeanor]~~.

(9) If the district court has subject matter jurisdiction pursuant to Subsection (5) or (8), it also has jurisdiction over offenses listed in Section 78A-7-106 even if those offenses are committed by a person 16 years of age or older.

(10) The district court has jurisdiction of actions under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the case to the district court.

Section 6. Section **78A-5-111** is amended to read:

**78A-5-111. Transfer of court operating responsibilities -- Facilities -- Staff -- Budget.**

(1) A county's determination to transfer responsibility for operation of the district court to the state is irrevocable.

(2) (a) Court space suitable for the conduct of judicial business as specified by the Judicial Council shall be provided by the state from appropriations made by the Legislature for these purposes.

(b) The state may, in order to carry out its obligation to provide these facilities, lease space from a county, or reimburse a county for the number of square feet used by the district. Any lease and reimbursement shall be determined in accordance with the standards of the State Building Board applicable to state agencies generally. A county or municipality terminating a lease with the court shall provide written notice to the Judicial Council at least one year prior to the effective date of the termination.

(c) District courts shall be located in municipalities that are sites for the district court or circuit court, as that court was constituted as of January 1, 1994. Removal of the district court from the municipality shall require prior legislative approval by joint resolution.

(3) The state shall provide legal reference materials for all district judges' chambers

and courtrooms, as required by Judicial Council rule. Maintenance of county law libraries shall be in consultation with the court executive of the district court.

(4) (a) At the request of the Judicial Council, the county or municipality shall provide staff for the district court in county seats or municipalities under contract with the administrative office of the courts.

(b) Payment for necessary expenses shall be by a contract entered into annually between the state and the county or municipality, which shall specifically state the agreed costs of personnel, supplies, and services, as well as the method and terms of payment.

(c) Workload measures prepared by the state court administrator and projected costs for the next fiscal year shall be considered in the negotiation of contracts.

(d) Each May 1 preceding the general session of the Legislature, the county or municipality shall submit a budget request to the Judicial Council, the governor, and the legislative fiscal analyst for services to be rendered as part of the contract under Subsection (4)(b) for the fiscal year immediately following the legislative session. The Judicial Council shall consider this information in developing its budget request. The legislative fiscal analyst shall provide the Legislature with the county's or municipality's original estimate of expenses. By June 15 preceding the state's fiscal year, the county and the state court administrator shall negotiate a contract to cover expenses in accordance with the appropriation approved by the Legislature. The contracts may not include payments for expenses of service of process, indigent defense costs, or other costs or expenses provided by law as an obligation of the county or municipality.

Section 7. Section **78A-5a-101** is enacted to read:

#### **CHAPTER 5a. CIRCUIT COURT ACT OF 2013**

##### **78A-5a-101. Title.**

This act shall be known and may be cited as the "Circuit Court Act of 2013."

Section 8. Section **78A-5a-102** is enacted to read:

##### **78A-5a-102. Purpose of chapter.**

The purpose of this act is to create a statewide court of record of limited jurisdiction organized and administered in the same manner as district courts of the state.

Section 9. Section **78A-5a-103** is enacted to read:

##### **78A-5a-103. Circuit court jurisdiction.**

Circuit courts have original jurisdiction over:

(1) all misdemeanors, and any felonies referred to it by the district court; and

(2) matters of divorce, child custody and parent-time, child support, paternity, and adoption.

Section 10. Section 78A-5a-104 is enacted to read:

**78A-5a-104. Appeals to Court of Appeals -- Prosecuting attorney to represent state -- City attorney to represent municipality.**

(1) Unless specifically directed by another statute, appeals from final civil and criminal judgments of the circuit courts are to the Court of Appeals.

(2) The county or district attorney shall represent the interests of the state as public prosecutor in any appeals of criminal matters prosecuted by the county attorney in the circuit court. City attorneys shall represent the interests of the state in any appeals of criminal matters prosecuted by the city attorney and the interests of municipalities in any appeals involving violations of municipal ordinances.

Section 11. Section 78A-5a-105 is enacted to read:

**78A-5a-105. Records to be maintained -- Number of reporters determined by Judicial Council.**

(1) A verbatim record of the proceedings before circuit courts shall be maintained by a certified shorthand reporter, suitable electronic recording devices, or other means approved by the Judicial Council.

(2) The Judicial Council shall by rule determine the number and location of certified shorthand reporters to be available to serve the circuit courts.

Section 12. Section 78A-5a-106 is enacted to read:

**78A-5a-106. Appointment and terms of circuit court judges.**

(1) Judges of the circuit courts shall be appointed through the same process as district court judges.

(2) Initial terms of appointment shall be until the first general election held more than three years after the effective date of the appointment. Thereafter, the term of office of the judges of the circuit court is six years and commences on the first Monday in January, next following the date of election.

(3) A judge whose term expires may serve, upon request of the Judicial Council, until a

219 successor is appointed and qualified.

220 Section 13. Section **78A-5a-107** is enacted to read:

221 **78A-5a-107. Duties of the clerk of the circuit court.**

222 The clerk of the circuit court shall:

223 (1) take charge of and safely keep the court seal;

224 (2) take charge of and safely keep or dispose of all books, papers, and records filed or

225 deposited with the clerk, and all other records required by law or the rules of the Judicial

226 Council;

227 (3) issue all notices, processes, and summonses as authorized by law;

228 (4) keep a record of all proceedings, actions, orders, judgments, and decrees of the

229 court;

230 (5) take and certify acknowledgments and administer oaths;

231 (6) supervise the deputy clerks as required to perform the duties of the clerk's office;

232 and

233 (7) perform other duties as required by the presiding judge, the court executive,

234 applicable law, and the rules of the Judicial Council.

235 Section 14. Section **78A-5a-108** is enacted to read:

236 **78A-5a-108. Circuit court costs.**

237 (1) The cost of salaries, travel, and training required for the discharge of the duties of  
238 circuit judges, court executives, court commissioners, and secretaries of judges or court  
239 executives, shall be paid from appropriations made by the Legislature. The administrative  
240 office of the courts shall provide recording devices suitable for maintaining the record of court  
241 hearings in all circuit court locations.

242 (2) Except as provided in Subsection (1), the Judicial Council may directly provide for  
243 the operation of the circuit courts, including personnel salary and benefits, travel, training,  
244 facilities, security, equipment, furniture, supplies, and other operating expenses or may contract  
245 with a county or municipality for the actual and necessary expenses of the operation. Any  
246 necessary contract with a county or municipality shall be pursuant to Subsection 78A-5-111(4).

247 (3) The state may, in order to carry out its obligation to provide facilities for the circuit  
248 court, lease space from a county or municipality or reimburse a county or municipality for the  
249 amount of space used by the court. Leases and reimbursements shall be determined in



250 accordance with standards applicable to state agencies generally.

251 Section 15. Section **78A-5a-109** is enacted to read:

252 **78A-5a-109. Allocation of court fees and forfeitures.**

253 (1) Except as provided in this section, circuit court fines and forfeitures collected for  
254 violation of state statutes shall be paid to the state treasurer.

255 (2) Fines and forfeitures collected by the court for violation of a state statute or county  
256 or municipal ordinance constituting a misdemeanor shall be remitted 1/2 to the state treasurer  
257 and 1/2 to the treasurer of the state or local governmental entity which prosecutes or which  
258 would prosecute the violation.

259 (3) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code  
260 of Utah, Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating  
261 Act, shall be paid to the state treasurer.

262 (a) For violations of Title 23, the state treasurer shall allocate 85% to the Division of  
263 Wildlife Resources and 15% to the General Fund.

264 (b) For violations of Title 41, Chapter 22, or Title 73, Chapter 18, the state treasurer  
265 shall allocate 85% to the Division of Parks and Recreation and 15% to the General Fund.

266 (4) Fines and forfeitures collected for violation of Section 72-7-404 or 72-7-406, less  
267 fees established by the Judicial Council, shall be paid to the state treasurer for deposit in the B  
268 and C road account. Fees established by the Judicial Council shall be deposited in the state  
269 General Fund. Money deposited in the class B and C road account is supplemental to the  
270 money appropriated under Section 72-2-107 but shall be expended in the same manner as other  
271 class B and C road funds.

272 (5) (a) Fines and forfeitures collected by the court for a second or subsequent violation  
273 under Section 41-6a-1713 or Subsection 72-7-409(8)(b) shall be remitted:

274 (i) 60% to the state treasurer to be deposited in the Transportation Fund; and

275 (ii) 40% in accordance with Subsection (2).

276 (b) Fines and forfeitures collected by the court for a second or subsequent violation  
277 under Subsection 72-7-409(8)(c) shall be remitted:

278 (i) 50% to the state treasurer to be deposited in the Transportation Fund; and

279 (ii) 50% in accordance with Subsection (2).

280 (6) Fines and forfeitures collected for any violations not specified in this chapter or

otherwise provided for by law shall be paid to the state treasurer.

(7) Fees collected in connection with civil actions filed in the district court shall be paid to the state treasurer.

(8) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Section 16. Section 78A-5a-110 is enacted to read:

**78A-5a-110. Trial court executives -- Qualifications -- Appointment -- Duties.**

(1) In circuits with sufficient workload to require it, a trial court executive may be appointed for the circuit by the circuit court administrator with the concurrence of the presiding judge of the circuit, to be in charge of all administrative services for the circuit court at the trial level. The trial court executive shall be selected on the basis of professional qualifications and serve full-time in this position.

(2) The court executive is responsible for:

(a) appointment of the clerk of the court in each primary location and approval of the selection of clerical employees made by the clerk of the court;

(b) management of the court's calendar;

(c) direct supervision and management of all staff services, including the clerk of the court, courtroom clerks and bailiffs, law clerks, and secretaries;

(d) administration of court-affiliated caseworkers, professionals such as doctors and psychologists retained or utilized by the court to perform diagnostic or consultative functions, and all other comparable officials;

(e) personnel, financial, and records administration, subject to the standards of the Judicial Council;

(f) secretarial services for meetings of the judges;

(g) liaison with local government, bar associations, news media, and general public;

(h) management of physical facilities and equipment and the purchase of outside services; and

(i) reporting to and consulting with the office of the state court administrator concerning the operations of the court.

(3) The salary, employee benefits, and any secretarial support services for trial court executives appointed after the effective date of this act shall be paid from the General Fund of

the state or other funds available to the Judicial Council.

Section 17. Section 78A-5a-111 is enacted to read:

**78A-5a-111. Court space allocation.**

(1) (a) Court space suitable for the conduct of judicial business as specified by the Judicial Council shall be provided by the state from appropriations made by the Legislature for these purposes.

(b) The state may, in order to carry out its obligation to provide these facilities, lease space from a county, or reimburse a county for the number of square feet used by the court. Any lease and reimbursement shall be determined in accordance with the standards of the State Building Board applicable to state agencies generally. A county or municipality terminating a lease with the court shall provide written notice to the Judicial Council at least one year prior to the effective date of the termination.

(2) The state shall provide legal reference materials for all circuit judges' chambers and courtrooms, as required by Judicial Council rule. Maintenance of law libraries shall be in consultation with the court executive of the district court.

(3) (a) At the request of the Judicial Council, the county or municipality shall provide staff for the circuit court in county seats or municipalities under contract with the administrative office of the courts.

(b) Payment for necessary expenses shall be by a contract entered into annually between the state and the county or municipality, which shall specifically state the agreed costs of personnel, supplies, and services, as well as the method and terms of payment.

(c) Workload measures prepared by the state court administrator and projected costs for the next fiscal year shall be considered in the negotiation of contracts.

(d) Each May 1 preceding the general session of the Legislature, the county or municipality shall submit a budget request to the Judicial Council, the governor, and the legislative fiscal analyst for services to be rendered as part of the contract under Subsection (3)(b) for the fiscal year immediately following the legislative session. The Judicial Council shall consider this information in developing its budget request. The legislative fiscal analyst shall provide the Legislature with the county's or municipality's original estimate of expenses. By June 15 preceding the state's fiscal year, the county and the state court administrator shall negotiate a contract to cover expenses in accordance with the appropriation approved by the

Legislature. The contracts may not include payments for expenses of service of process, indigent defense costs, or other costs or expenses provided by law as an obligation of the county or municipality.

Section 18. Section **78A-7-106** is amended to read:

**78A-7-106. Jurisdiction.**

(1) Justice courts have jurisdiction over ~~[class B and C misdemeanors, violation]~~ violations of ordinances, and infractions committed within their territorial jurisdiction by a person 18 years of age or older.

(2) Except those offenses over which the juvenile court has exclusive jurisdiction, justice courts have jurisdiction over the following ~~[class B and C misdemeanors, violation]~~ violations of ordinances, and infractions committed within their territorial jurisdiction by a person 16 years of age or older:

(a) Title 23, Wildlife Resources Code of Utah;

(b) Title 41, Chapter 1a, Motor Vehicle Act;

(c) Title 41, Chapter 6a, Traffic Code;

(d) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(e) Title 41, Chapter 22, Off-Highway Vehicles;

(f) Title 73, Chapter 18, State Boating Act;

(g) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(h) Title 73, Chapter 18b, Water Safety; and

(i) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

~~[(3) Justice Courts have jurisdiction over class C misdemeanor violations of Title 53, Chapter 3, Part 2, Driver Licensing Act.]~~

~~[(4)]~~ (3) As used in this section, "the court's jurisdiction" means the territorial jurisdiction of a justice court.

~~[(5)]~~ (4) An offense is committed within the territorial jurisdiction of a justice court if:

(a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(b) either a person committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(d) a person commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(e) a person solicits, aids, or abets, or attempts to solicit, aid, or abet another person in the planning or commission of an offense within the court's jurisdiction;

(f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(ii) (A) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; and

(B) as used in Subsection ~~[(5)]~~ (4)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;

(iii) a person who commits theft exercises control over the affected property within the court's jurisdiction; or

(iv) the offense is committed on or near the boundary of the court's jurisdiction;

(g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(h) jurisdiction is otherwise specifically provided by law.

~~[(6)]~~ (5) A justice court judge may transfer a criminal matter in which the defendant is a child to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the minor would be served by the continuing jurisdiction of the juvenile court.

~~[(7)]~~ (6) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

Section 19. Section **78A-10-301** is amended to read:

**78A-10-301. Creation.**

(1) There is created a Trial Court Nominating Commission for each geographical division of the trial courts of record.

(2) The Trial Court Nominating Commission shall nominate judges of the district court, the circuit court, and the juvenile court within its geographical division.

Section 20. Section **78A-11-102** is amended to read:

**78A-11-102. Definitions.**

As used in this chapter:

(1) "Commission" means the Judicial Conduct Commission established by Utah Constitution Article VIII, Section 13 and this chapter.

(2) (a) "Complaint" includes:

(i) a written complaint against a judge; or

(ii) an allegation based on reliable information received in any form, from any source, that alleges, or from which a reasonable inference can be drawn that a judge is in violation of any provision of Utah Constitution Article VIII, Section 13.

(b) "Complaint" does not include an allegation initiated by the commission or its staff.

(3) "Investigation" means an inquiry into an allegation of misconduct, including a search for and examination of evidence concerning the allegations, which begins upon the receipt of a complaint and is completed when either the complaint is dismissed by a majority vote of the commission or when an order is sent to the Supreme Court for its review in accordance with Utah Constitution Article VIII, Section 13.

(4) "Judge" includes the chief justice of the Supreme Court, a justice of the Supreme Court, an appellate court judge, a district court judge, a circuit court judge, an active senior judge, a juvenile court judge, a justice court judge, an active senior justice court judge, and a judge pro tempore of any court of this state.

# BLOMQUIST HALE

## EMPLOYEE ASSISTANCE

September 17, 2013

Curtis Jensen  
912 W. 1600 S. Suite B-200  
St. George, Utah 84770

### Utah State Bar Commissioners:

Since 2006 Blomquist Hale has partnered with the Utah State Bar in providing the Lawyers Assistance Program (LAP) to Utah Bar members and their dependents. We are honored to be recognized by the Bar as the organization who can help Bar members face and overcome stressful life challenges.

Lawyers are notorious for working extra-long hours as their day to day work is often stressful and demanding. Due to this lawyers often have a difficult time finding balance between their personal and professional lives. Stressed out lawyers become less effective both at work and at home, this can also have a negative impact on their families. At Blomquist Hale we take our role seriously in providing the LAP to help reduce these real life challenges. The LAP provides professionally licensed counselors free of charge. It provides face-to-face help to resolve life issues such as stress, anxiety, depression, marital issues, family problems, parenting challenges, elder care concerns, personal problems, and various addictions. In addition to being available for personal and family challenges, the LAP is also a resource to help law firms and their leadership with consultations on personnel and organizational issues. Blomquist Hale is available to consult, advise and provide trainings for firms and the Utah State Bar community. Key elements of the LAP include:

- Free of charge
- A short-term, solution-focused counseling resource with no set limit on the number of session
- A resource for recommendations when longer term care is appropriate
- Available 24/7 to help with crisis and emergency situations
- Available for critical incident and stress debriefings
- A resource for free multi week courses on relationship skills, parenting, personal growth, finances, and health and wellness
- Onsite trainings
- Consultation resource for firms and their leadership

# BLOMQUIST HALE

EMPLOYEE ASSISTANCE

These valuable services can also be made available to non-bar staff members for a reduced per employee per month fee made available through the partnership that Blomquist Hale has with the Utah State Bar. Some firms have already made these wonderful benefits available to their non-bar members giving all their employees valuable help in overcoming distressful life challenges. If your firm or other firms would be interested in picking up this benefit for all employees, please have them give us a call.

Again we are honored to have this partnership with the Utah State Bar to provide these valuable resources to the legal community. Thank you for your ongoing support.

Sincerely,



**Sean M. Morris, MS, LMFT**  
**CEO**

cell: 801-971-4401  
sean@blomquisthale.com



## Lawyer Assistance Program (LAP)

### Assistance With Life's Challenges

The Blomquist Hale Lawyer Assistance Program provides direct, face-to-face guidance to address virtually any type of problem. Typical problem areas include marital difficulties, family problems, personal and emotional difficulties, financial problems, and overcoming addictions.



24/7 Crisis Service

No Set Session Limits

100% Confidential

#### **Brief, Solution-Focused Therapy**

Our licensed clinicians use a brief, solution-focused therapy model to resolve problems quickly. Using this approach, you learn to identify core issues and how to create and participate in a long-term solution.

#### **Guaranteed Confidentiality**

Blomquist Hale practices strict adherence to all professional, state and federal privacy guidelines. Confidentiality is guaranteed to all participants.

#### **Direct Care – No Set Session Limits**

There is no set limit on the number of sessions provided through our counselors. However, cases which require longer-term care are referred to appropriate community providers. Traditionally, over 90% of all problems are handled by Blomquist Hale.

#### **Simple 24/7 Accessibility**

LAP Counselors are available during extended hours, and Crisis Line support is available 24/7. Simply call the office nearest you to set up an appointment. No paperwork or approval needed.

**Need help? Call us today  
to set up an appointment.**

**801-262-9619**

# Lawyer Assistance Program Specifics

Convenient local offices • Professional, friendly team • Extended hours

## Services Include:

- Stress, Anxiety or Depression
- Personal and Emotional Issues
- Marital, Relationship and Family Counseling
- Grief or Loss
- Financial Challenges
- Substance Abuse and Other Addictions
- Senior Care Assistance

## Eligibility

Services are offered to all current Utah State Bar Members and their dependents.

## No Co-Pay Required

Through your membership with the Utah State Bar, the services provided by Blomquist Hale are FREE, with no co-payment, deductible or insurance approval required.

## Setting an Appointment

Meeting with our team is simple. Call us today to set up an appointment.



*The Lawyer  
Assistance Program  
(LAP) through Blomquist  
Hale is your resource  
for resolving stressful  
life issues.*

**801-262-9619 | [blomquisthale.com](http://blomquisthale.com)**

Utah State Bar 10294  
645 South 200 East  
Salt Lake City, UT 84111

Quarterly Report 7/1/2013 to 9/23/2013  
Year to Date 1/1/2013 to 9/23/2013

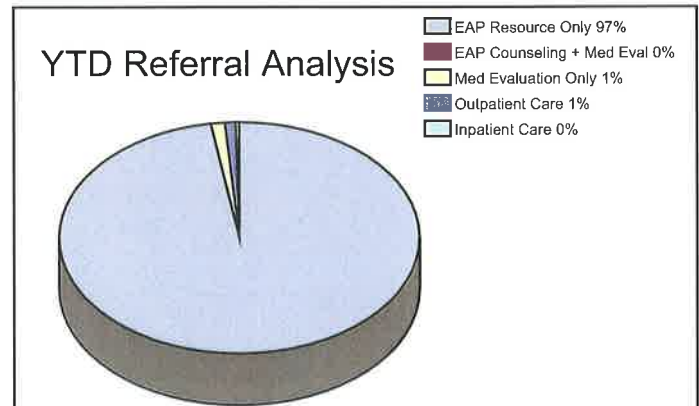
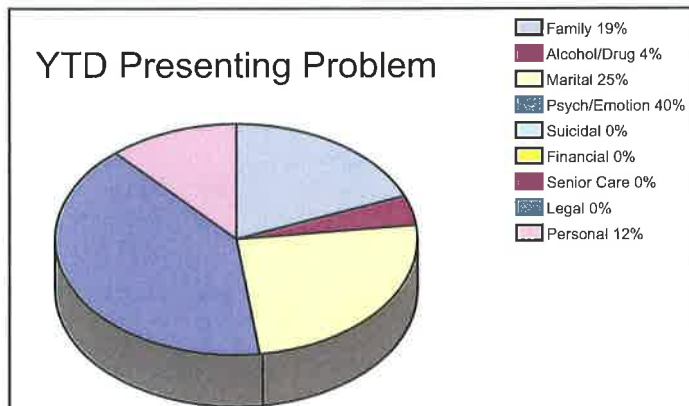
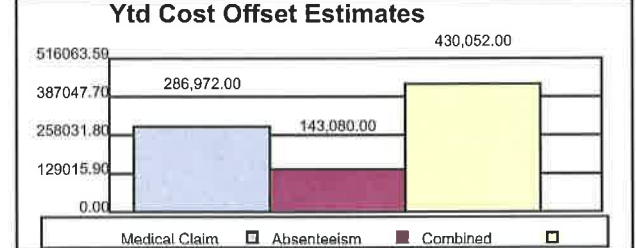
Presenting Problems	Current		YTD	
	Emp	Dep	Emp	Dep
Family	8	4	26	27
Alcohol/Drug	2	0	5	6
Marital	6	6	34	34
Psychological/Emotional	34	10	82	29
Suicidal	0	0	0	0
Financial	0	0	0	0
Senior Care	0	0	0	0
Legal	0	0	0	0
Personal	2	3	28	6
Wellness	0	0	0	0
<b>Totals</b>	<b>52</b>	<b>23</b>	<b>175</b>	<b>102</b>
<b>Total Individuals</b>	<b>75</b>		<b>277</b>	
<b>Total Cases</b>	<b>58</b>		<b>196</b>	

	Current	YTD
New Cases	58	196
Referral Type		
Self	58	196
Supervisor	0	0
<b>Totals</b>	<b>58</b>	<b>196</b>
Case Status		
Active	40	57
Inactive	18	139
<b>Totals</b>	<b>58</b>	<b>196</b>
Number of Employees	7672	
Annualized Utilization		
By Cases	3.51	
By Individuals	4.96	

Referral Actions	Current		YTD	
	Emp	Dep	Emp	Dep
In house EAP counseling	57	27	194	111
In house Group	2	2	2	2
Rx for Psych Meds - pcp	0	1	2	1
Rx for Psych Meds - psy	0	1	0	3
Outpatient Psychiatric	0	1	2	2
Outpatient A & D	0	0	0	0
Inpatient Psychiatric	0	0	0	1
Financial	0	0	0	0
Attorney	0	0	0	0
Self Help Group	0	0	0	0
<b>Totals</b>	<b>59</b>	<b>32</b>	<b>200</b>	<b>120</b>

Clinical Hours	Current	YTD
Therapy Time	206.00	586.75
Group Time	10.00	10.00
Follow-up Time	17.00	36.25
<b>Total Clinical</b>	<b>233.00</b>	<b>633.00</b>
Service Time		
Company Contacts		
Customer Service	33.00	50.50
Emp/Sup Training	0.00	0.00
Seminars/Training	0.00	3.00
<b>Total Service</b>	<b>33.00</b>	<b>53.50</b>
# of Crises	1	

Referral Analysis Individual Status	Current		YTD	
	Count	%	Count	%
EAP Resource Only	74	98.67	269	97.11
EAP Counseling + Med Eval	0	0.00	0	0.00
Med Evaluation Only	1	1.33	4	1.44
Outpatient Care	0	0.00	3	1.08
Inpatient Care	0	0.00	1	0.36
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# BLOMQUIST HALE

EMPLOYEE ASSISTANCE

Utah State Bar 10294  
645 South 200 East  
Salt Lake City, UT 84111

Quarterly Report 7/1/2013 to 9/23/2013  
Year to Date 1/1/2013 to 9/23/2013

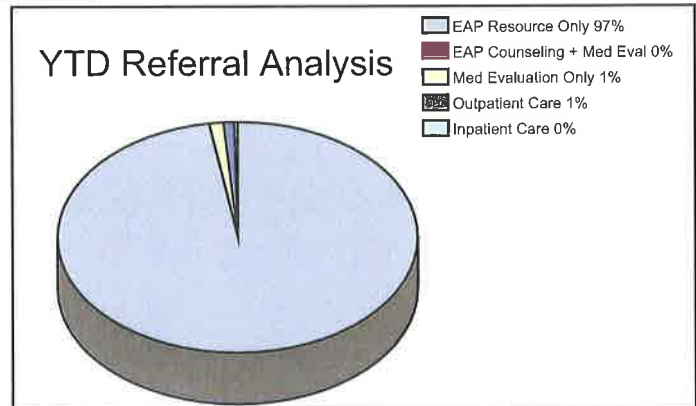
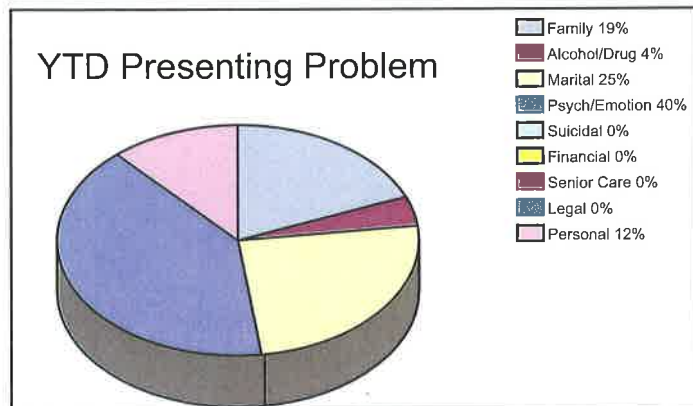
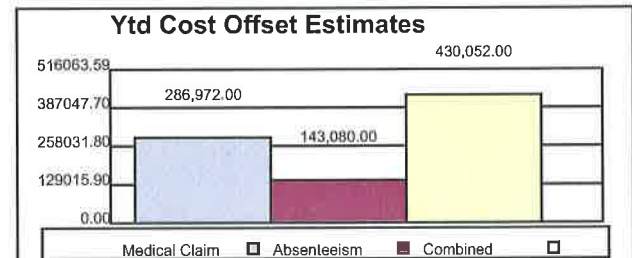
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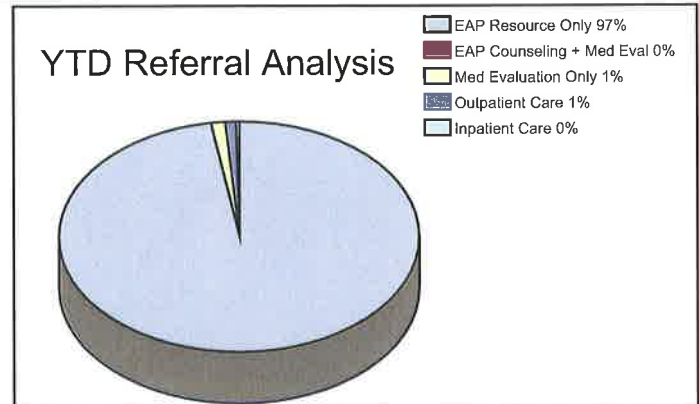
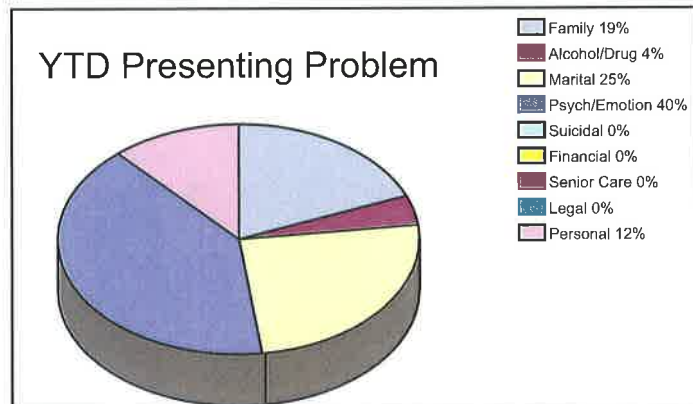
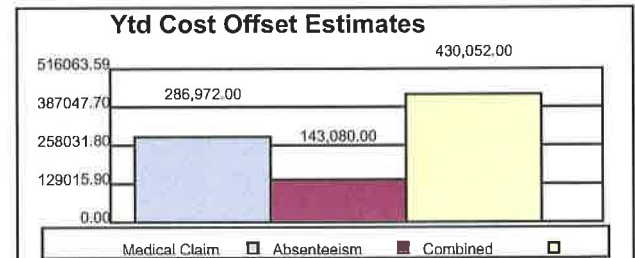
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**Media Coverage, September 20 to October 21, 2013**

Print (copies follow):

10/04/13, *The Record*, Underemployed Attorneys

10/14/13, *The Salt Lake Tribune*, Bar Complaint

10/14/13, *Deseret News*, Bar Complaint (On-line version printed; was also in paper)

10/18/13, *The Record*, YLD Seniors

TV (copies of on-line text follow):

10/02/13, KSL-TV, How to find a pro bono attorney  
<http://www.ksl.com/index.php?sid=27087084>

See KSL-TV, KUTV, Fox 13, and CW30 below.

TV & Online on Bar Declining to Prosecute Swallow

No copies included (too much repetition). For online links on utahbar.org, select Bar Operations at top, Commission Meetings from Resources in the middle, then "D" for October.

Below each link are selected quotes from the Alliance for a Better Utah, the organization that attempted to file a complaint (never notarized their statement).

[http://www.ksl.com/?nid=148&sid=27232843&title=case-against-swallow-dropped-by-state-bar&fm=home\\_page&s\\_cid=featured-2](http://www.ksl.com/?nid=148&sid=27232843&title=case-against-swallow-dropped-by-state-bar&fm=home_page&s_cid=featured-2)

"She said she hoped the bar would conduct its own investigation into the allegations, rather than "sidestepping" until another investigating entity arrives at a conclusion."

[http://www.kutv.com/news/top-stories/stories/vid\\_7453.shtml](http://www.kutv.com/news/top-stories/stories/vid_7453.shtml)

We're extremely disappointed and disheartened, said Isaac Holyoak, communications director for Alliance for a Better UTAH, the group that brought the complaint to the Utah State Bar. This seems like just another instance of the Utah Bar protecting their own. In this case, John Swallow.

But the Bars decision, which Holyoak said the organization only learned of from the Salt Lake Tribune, was based on what it considered a lack of documentation from Alliance for a Better Utah and reliance on media reports as evidence.

Were a small organization. We can't go out, investigate and subpoena and supply this information, Holyoak said. That's really the role of the Bar Association. They have the resources to do that and the time to do that.

Maryann Martindale, executive director of the group, also conceded the organization is not an investigative body and claimed the Bar shirked its responsibilities.

Because we didn't have any great smoking gun or any secret evidence, and we didn't wrap it up in a nice, neat package with a bow on top, they declined to do anything about it, Martindale said. And it just doesn't feel like they did what they should be doing.

<http://fox13now.com/2013/10/13/utah-state-bar-dismisses-complaints-against-swallow/>

Holyoak: "We are not an investigative body." "OPC is shirking its responsibilities." "We don't have subpoena power. We can't call on people and say "did this happen or did this not happen." That's the Bar's job and the Bar has declined to do their job.

[http://www.cw30.com/content/news/top\\_stories/story/Utah-State-Bar-closes-case-against-Attorney/IH2m0R7IhEaLArpttH2eNw.csp](http://www.cw30.com/content/news/top_stories/story/Utah-State-Bar-closes-case-against-Attorney/IH2m0R7IhEaLArpttH2eNw.csp)

Martindale told ABC 4 Utah. "Honestly when you read the letter it feels as though they wanted us to do the case for them and hand them a signed, sealed, delivered case."

[http://www.sltrib.com/sltrib/news/56994023-78/swallow-bar-state-complaint.html.csp?utm\\_source=iContact&utm\\_medium=email&utm\\_campaign=The%20Salt%20Lake%20Tribune&utm\\_content=](http://www.sltrib.com/sltrib/news/56994023-78/swallow-bar-state-complaint.html.csp?utm_source=iContact&utm_medium=email&utm_campaign=The%20Salt%20Lake%20Tribune&utm_content=)

"It really feels like it's a lot of protecting your own." "Let's hope they take the other complaint more seriously," said Martindale. "They obviously chose not to take ours seriously."

<http://legalnewsline.com/news/244826-utah-state-bar-declines-to-prosecute-ag>

Martindale said she is disappointed with the bar's decision not to investigate. "We have only one agenda: bringing balance, transparency and accountability to Utah political institutions and elected officials. This is an agenda that, apparently, the Utah Bar Association does not share with us," she said in a statement.

"Though the bar association castigated us for discussing our complaint with the media, we did not learn that the bar had dismissed our complaint except through the media. Such administrative incompetence should be deeply concerning for the people of Utah."

Martindale said the alliance is "still waiting" to receive the Oct. 8 letter. "The state bar should have properly alerted us to the letter and the contents of the letter before engaging in their own media campaign to protect their own," she said.

"But news that the bar has dismissed the complaint is only one facet of this troubling issue. The other, more crucial concern, is that there are apparently no ethical prohibitions on public attorneys' fund-raising practices and the conflicts of interest they may create —

and that the bar apparently has no independent investigative authority even if such rules existed.”

She contends the bar should revisit its own procedures for determining ethical conduct on the part of its attorneys and revise the rules that currently excuse unethical behavior.

<http://utahpolicy.com/index.php/features/today-at-utah-policy/783-bryan-schott-s-political-bs-i-ve-got-a-crazy-feeling>

The Alliance for a Better Utah, which has been a consistent champion of Utah’s political minority, has called into question the Bar Association’s own ethics since they declined to go after Swallow on his. ABU brought the original complaint to the Bar, and now they’re castigating that organization for not agreeing with them.

“Today’s announcement by the Utah Bar Association may not be an indictment of the Attorney General, but it is certainly an indictment of the Bar itself. This is an unfortunate day for Utah,” said executive director Maryann Martindale [in a press release](#).



UTAH STATE BAR / UTAH LAW REVIEW ONLAW

# Panel discusses solutions to underemployed attorney problem

*"We are in a market that is saturated with entry level attorneys, and some cannot make the income to meet the demand of their law school debt."* —Megan Green

Allcia Knight Cunningham, Esq.

The Utah State Bar teamed with Utah Law Review OnLaw to host a panel discussion on the problem of underemployed attorneys in the State of Utah, Friday September 27, at the Utah Law and Justice Center in Salt Lake City.

Megan Green, University of Utah, moderated the panel. Beth A. Hansen, director of Career Services at Brigham Young University's J. Reuben Clark Law School; Abby M. Dizon-Maughan, Arnold & Wadsworth; and Jacque M. Ramos, J. Ramos Law Firm made up the panel.

## Low Salaries

The panel's opening discussion revolved around the topic of why law school graduates choose 'JD Advantage Jobs', a category of jobs for which bar passage is not required but for which a JD degree provides a distinct advantage, rather than enter a traditional legal market. All panel participants agreed that starting salary was a significant consideration.

Panel members said that new law school graduates were looking for jobs that would not only cover their living expenses but would also allow them to pay down debt accrued while studying law for three years.

"We are in a market that is saturated with entry level attorneys, and some cannot make the income to meet the demand of their law school debt," Green said.

Dizon-Maughan agreed. "When you graduate from law school with a massive amount of debt, it limits your opportunities. Looking at the market, you see dollar signs and bills, payments and personal debt."

To show attendants the disparity between actual and expected starting salaries, Hansen displayed a 'double bell curve' chart prepared by the National Association of Law Placement (NALP). "No one makes the average salary,"

Hansen said. "For most attorneys, their starting salary is between \$40,000 and \$65,000. That makes the first bell. But then there are some entry level jobs that start at \$165,000 that make up the second bell, but these are with the large law firms and are highly competitive."

## Fewer Opportunities

Green asked the panel why more law school graduates were not starting their own law firms after they graduate and striking out on their own.

Continued on page A-16



## Appeals court revives Microsoft claim against Google

WASHINGTON (Reuters) - A federal appeals court on Thursday instructed the U.S. International Trade Commission to reconsider a ruling that gave Google Inc a victory over Microsoft Corp in a patent dispute.

Continued on page A-16

# Panel discusses solutions to underemployed attorney problem

Continued from page A-1

Hansen believes it is because law school graduates feel unprepared to start out on their own. "I think that we are a risk adverse profession," she said. "You have people graduating without the entrepreneurship spirit. We need to do a better job to create a mentality that is more entrepreneur-focused. More students should consider doing it themselves, but they are too afraid."

A member of the panel, Dizon-Maughan, did plan to begin her own law firm and studied Business Management before law school so that she would have the ability to open her own practice. But she found many barriers to doing so after she graduated from law school in 2012. She understands why new attorneys would choose to not start their own practice.

"They may not have the money to start it

up. They may not have developed networks in the community," Dizon-Maughan said. "They also have to worry about advertising expenses and litigation fees. They also have student loan debt."

Ramos recently opened her own firm and said new attorneys need help to get over the intimidation factor. "I was terrified," she said.

"But I started my career at a small law firm and was fortunate enough to have colleagues instruct me and really allow me to do a case from start to finish immediately. I had a little more confidence going out on my own." Nevertheless, opening her own law firm as a seasoned attorney has still been a difficult process.

## Smaller Profit Margins

"I run a two-fold practice," Ramos said.

"One part is personal injury and the other half is commercial based. We had to expand into the commercial sector in order to cover more operational expenses." Even by branching out, Ramos watches costs and fees. "It directly impacts my ability to hire other people to help me. I run everything on my own from top to bottom."

New attorneys especially do not have the luxury of choosing their clients and face a difficult market. To get by, Dizon-Maughan has had to cut her fees in a tight economy.

"Most of my clients are flat fee clients," she said. "Depending on the case, I might charge a \$6,000 flat fee. Most people don't have \$6,000, and I've been in situations where I've reduced that to \$2,000, with \$1,000 upfront. But we exhaust that retainer quickly and end up work-

ing for free."

## Nontraditional Opportunities

Hansen wanted to clarify that many new attorneys were entering nontraditional fields not because there were no other options but because that was always the plan.

"And I think that is fine," Hansen said. "I work in a nontraditional field. I do not want to practice law, and the assumption that they are taking second tier jobs is false. There is a group that is coming in that want to study law, but it is not a passion. I entered law school with the understanding that I did not want to be in a court room. But the longer you stay in JD Advantage jobs, the more difficult it is to move into the more traditional forms of law."

UTAH'S INDEPENDENT VOICE SINCE 1871

# The Salt Lake Tribune

OCT. 14, 2013 « MONDAY » SLTRIB.COM



Tribune file photo

**Attorney General John Swallow said in a statement Sunday that he is "grateful" that the Utah State Bar has closed one of two cases against him.**

## Utah Bar closes one of two A.G. probes

**Politics »** Alliance director disappointed complaint alleging ethical violations was rejected.

**By ROBERT GEHRKE**

*The Salt Lake Tribune*

John Swallow's office announced Sunday that the Utah State Bar has closed one of its two cases against the embattled state attorney general.

In a statement, Swallow's office said

the bar sent him a letter on Tuesday saying it has thoroughly reviewed the allegations and "must decline to prosecute the matter and the case will be closed."

"I am grateful to the bar for its careful consideration of the allegations and for its reasoned analysis in closing the case,"

Swallow said in a statement. "Despite

the early rush to judgment, it is now becoming clear that people with an agenda have made unsubstantiated allegations."

The complaint, filed by Maryann Martindale, executive director of the liberal-leaning Alliance For A Better Utah, and board member David Irvine alleged

*Please see SWALLOW, A4*



# Swallow

» Continued from A1

that Swallow may have violated five sections of the Rules of Professional Conduct and potentially other state laws and the Utah Public Officers' and Employees' Ethics Act.

The complaint focused on whether \$23,500 in payments Swallow said he received for consulting work on a Nevada cement plant were actually for helping Jeremy Johnson — founder of the company I Works and a prominent donor to Swallow's predecessor, Mark Shurtleff — thwart a federal investigation into his business.

It also alleged that Swallow violated the attorney-client relationship when he had conversations with a potential donor who was a target of an investigation by the state's Division of Consumer Protection.

The Oct. 8 letter from Sharadee Fleming, assistant counsel in the bar's Office of Professional Conduct, said the alliance's complaint did not provide adequate documentation to support the allegations.

"Although you alleged that Mr. Swallow violated ethical rules regarding confidentiality, conflicts of interest and diligence (to name a few), you did not provide a sufficient basis for these claims."

Without those details, Fleming wrote that the office "must decline to prosecute this matter and the case will be closed."

Martindale said she felt as if the complaint pointed out detailed, specific violations of the Code of Professional Conduct and it is hard to comprehend why the bar wouldn't act.

“

*It seems that all the things that are public knowledge are more than enough [to act on]. It just seems like [the Utah State Bar] didn't really want to pursue [allegations against Swallow]."*

**MARYANN MARTINDALE**

*executive director of the Alliance For A Better Utah who filed a complaint against John Swallow*

"It really feels like it's a lot of protecting your own," she said. "I don't know if they wanted some smoking gun, some secret thing. But it seems that all the things that are public knowledge are more than enough [to act on]. It just seems like they didn't really want to pursue it."

A second bar complaint, filed by Traci Gundersen, former head of the state's Division of Consumer Protection, also focuses on Swallow's conversation with the business owner who was under investigation. The complaint is still pending.

"Let's hope they take the other complaint more seriously," said Martindale. "They obviously chose not to take ours seriously."

In Fleming's letter to Martindale, there is a possible indication the bar will dismiss that complaint as well. Fleming wrote that conversations with a target of an investigation and Swallow expressing his intent to move the Division

of Consumer Protection into the attorney general's office "do not, in and of themselves, rise to the level of ethical violations."

The Utah Constitution requires the attorney general to be a licensed lawyer, so disbarment could have meant Swallow's removal from office.

Last month, the U.S. Department of Justice's Public Integrity Division notified Swallow and Shurtleff that, after months of investigation, it would not file federal criminal charges against Swallow.

The FBI is continuing to investigate in conjunction with two county attorneys to see if Swallow may have broken any state laws.

And on Friday, Swallow and the attorney general's office provided an initial response to a pair of subpoenas issued by a House investigative committee conducting a fact-finding probe that could ultimately serve as the basis for impeachment proceedings.

Rep. Jim Dunnigan, R-Taylorsville, chairman of the House inquiry, called the documents a "good-faith effort" to comply with the subpoena.

"We know it's not complete, but we expect, in talking to the office of the attorney general, more will be forthcoming," Dunnigan said. "So we discussed that with them, and we appreciate their cooperation."

Investigators have interviewed more than 60 witnesses as part of the probe.

Some representatives have called for the House to put its investigation, which may cost as much as \$3 million, on hold to refocus the investigation.

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## Utah State Bar drops case against Attorney General John Swallow

By Benjamin Wood, Deseret News

Published: Sunday, Oct. 13 2013 5:25 p.m. MDT

Updated: Sunday, Oct. 13 2013 11:39 p.m. MDT

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2



The Utah State Bar has closed one of its two investigations into the state's attorney general, declining to prosecute John Swallow on allegations of professional misconduct.

Tom Smart, Deseret News

[Enlarge photo»](#)

### Summary

The Utah State Bar has closed one of its two investigations into the state's attorney general, declining to prosecute John Swallow on allegations of professional misconduct.

SALT LAKE CITY — The Utah State Bar has closed one of its two investigations into the state's attorney general, declining to prosecute John Swallow on allegations of professional misconduct, Swallow's office announced Sunday.

"I am grateful to the bar for its careful consideration of the allegations and for its reasoned analysis in closing the case," Swallow said in a prepared statement. "Despite the early rush to judgment, it is now becoming clear that people with an agenda have made unsubstantiated allegations.

"I am happy to report the attorney general's office is running well, and I am looking forward to the resolution of these unfounded complaints so I can continue to do the work I was elected to do by the people of this state," he said.

The case closed this week by the Utah State Bar was prompted by a complaint filed in January by the Alliance For a Better Utah. Maryann Martindale, the alliance's executive director, said the state bar's decision does little to exonerate Swallow from the allegations surrounding him.

"If you look at the scope and the breadth of all the things

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that Attorney General John Swallow is dealing with right now, that's just one piece in a bigger, messier puzzle," Martindale said.

The Utah State Bar's decision to close its case follows the [announcement last month](#) that the U.S. Department of Justice Public Integrity Section had completed its investigation into Swallow's activities and would not seek an indictment.

Swallow continues to face separate investigations by a committee of the Utah House of Representatives, which as of last week had interviewed as many as 60 witnesses, the Salt Lake and Davis county attorneys' offices and the Utah Lieutenant Governor's Office.

Much of the allegations against Swallow stem from his dealings with indicted businessman Jeremy Johnson, who claims Swallow helped arrange a payoff of Senate Majority Leader Harry Reid to end a federal investigation into Johnson's company. Reid has denied any involvement.

Swallow also faces allegations of improper fundraising and deal-making from other businessmen, including Marc Jensen, who is currently serving a 10-year prison term for failing to pay \$4.1 million in restitution from an earlier case.

Martindale said the state bar's letter does not dispel the allegations against Swallow, but instead finds the evidence against him insufficient for prosecution. She said she hoped the bar would conduct its own investigation into the allegations, rather than "sidestepping" until another investigating entity arrives at a conclusion.

"Our complaint was based on everything that was known in the public," Martindale said. "We felt it incumbent to file this, really on behalf of all the citizens of Utah."

She also took issue with Swallow's description of the allegations being an agenda-fueled attack on him and his office. The Alliance For a Better Utah's only goal is to establish ethical behavior among elected officials, Martindale said, and there is reason for concern regarding the attorney general when so many allegations have come out against him.

"Our agenda is ethics, good ethics, and that we should be able to expect better than this from our elected officials," she said. "I just don't see this as an agenda anyone should have a problem with."

In the letter that accompanied the state bar's decision, a caveat is expressed that the case against Swallow could be reopened if the other investigating entities determine that criminal acts or ethical violations occurred.

On Sunday, Swallow said he and his office would continue to cooperate with investigators, including those from the Utah State Bar should his case be reopened.

"I believe that the bar always has the right to investigate anyone for any allegation that's legitimate," he said. "At the end of the day, if they want to do something, they

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[Utah medical device company figuring...](#) 19



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have every right to do that. We're going to be very open with any of the investigations that remain open."

Swallow said the months of suspicion surrounding his activities has made for a time of trial for himself, his family and the state. With two investigations against him now suspended, he said he hopes the Utahns recognize the allegations were made by people with motives and "axes to grind."

"I'm confident that I haven't broken any ethical rules personally or professionally, and I'm confident and hopeful that when (the Utah State Bar) finishes the second complaint, the result will be the same," he said.

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### DN Subscriber 2 SLC, UT

So far, the federal government and the state bar association have conducted thorough investigation and found no conduct warranting even an attempt at prosecution.

However, Swallow's name and reputation have been permanently destroyed [More..](#)

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### Pat Salt Lake , UT

I am not surprised that the Utah Bar dropped its case against John Swallow and that the federal government has refused to indict. John is an honorable person, and I feel bad for he and his family considering the trashing he has received the past [More..](#)

10:19 p.m. Oct. 13, 2013 | ★ Top comment

### SP Salt Lake City, UT

Swallow is selfish and self-deceived by nature. He is willing to drag the AG office's reputation and the state's time and resources through a lengthy process so that he can keep his power. He wants to keep making deals and keep one step [More..](#)

6:11 p.m. Oct. 13, 2013 | ★ Top comment

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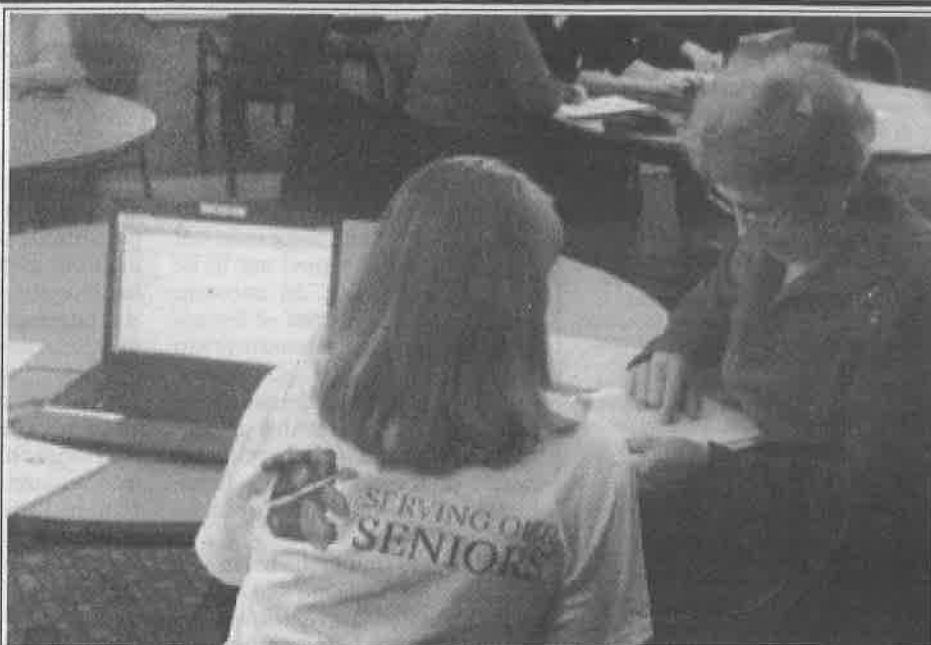
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Salt Lake City, Utah

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## Young Lawyers Serve Senior Citizens with Free Documents October 26

*Advanced Health Care Directives and Durable Powers of Attorney for people 55+.*

SALT LAKE CITY—The Young Lawyers Division of the Utah State Bar is Serving Our Seniors with free Advanced Health Care Directives and Durable Powers of Attorney for people aged 55 and older. This free seminar will be held from 10 a.m. to 2 p.m. on Saturday, October 26 at the Utah State Bar at 645 South 200 East (parking in rear). No appointment is necessary.

Continued on page A-17



# Young Lawyers Serve Senior Citizens with Free Documents October 26

Continued from page A-1

An Advanced Health Care Directive allows a person to document basic end-of-life choices in case they are unable to communicate their desires when decisions are needed, and to designate other people who can make additional health care decisions if necessary. A Durable Power of Attorney allows one to designate people to manage finances in the event of disability or incapacitation, without the need of more complex arrangements like a trust or a court-appointed guardian or conservator.

Sarah Elizabeth Spencer, co-chair of the Young Lawyers Division Serving Our Seniors committee said, "You can avoid uncertainty and conflict with these crucial documents. You can help your family, friends, and doctors help

you: share your wishes about life-sustaining care and designate who should make medical and financial decisions if you are unable."

With the statutory Utah Advance Health Care Directive form, many seniors are able to navigate the options and complete the form on their own: [aging.utah.edu](http://aging.utah.edu). However, because the choices and language are sometimes confusing, other seniors appreciate the guidance an experienced attorney can offer. And because both documents deal with similar contingencies, it makes sense to complete them at the same time.

Utah does not have a statutory form for a Durable Power of Attorney. However, people should be careful with on-line or off-the-shelf

documents. Troy T. Wilson, Chair of the Bar's Elder Law Section said, "POAs are one of the most misunderstood documents, and also one of the most abused, leading to financial exploitation of Utah seniors. Because significant authority can be conferred upon an agent using a POA, a qualified attorney experienced with estate planning and elder law issues should be consulted to draft a document appropriate for you and your unique circumstances."

With approximately 2,000 members, the Young Lawyers Division prides itself as being one of the most active organizations within the Utah State Bar, and includes members less than 36 years of age, as well as members who

have been admitted to their first state bar for less than five years. The Young Lawyers Division is service-oriented, offering Wills for Heroes: helping police officers, firefighters, and other first responders, supplying the Cinderella Boutique, loaning Prom dresses to high school students, and providing extensive pro bono legal help to those in need.

*The Utah State Bar was established in 1931 and regulates the practice of law under the authority of the Utah Supreme Court. The 11,000 lawyers of the Bar serve the public and legal profession with excellence, civility, and integrity. They envision a just legal system that is understood, valued, and accessible to all.*

## *In the News*

# ***KSL – How to find a pro bono attorney***

Posted on **October 2, 2013** by **admin**

FROM KSL NEWS: <http://www.ksl.com/index.php?sid=27087084>

By Bill Gephardt October 2nd, 2013 @ 6:58am



SALT LAKE CITY — If you're in trouble with the law and can't afford an attorney, the court will appoint you one. But if it's a civil matter you're on your own.

That's why one Utah woman asked how to get legal help if you can't afford it.

In Latin, "pro bono" means "for the public good." In legalese, it means "for free."

There are roughly 11,500 practicing attorneys in Utah and the state bar asks each of them to put in 50 hours pro bono every year. The bar said more than 70 percent of attorneys do give out free help to people who don't have the means to hire them.

"Jane" didn't want her face shown. She said she lost everything when she walked out of 15-year, physically abusive relationship. Now, she wants some of it back.

"I don't want to take this person's security and life from them. I just need mine back so that I can start building a new life," she explained.

However, Jane had no money and no job. She couldn't afford the retainer to hire an attorney.

"When you have no money, how do you come up with it?" she asked.

Curtis Jensen is the president of the Utah State Bar.

"Right now, the legal needs of the community exceed what the supply is," he said. "Courts have tight calendars. They're backed up. There's a lot of activity going on in court."

A 2006 study from the non-profit group "And Justice For All" says only 13 percent of very poor Utahns get legal help. Hundreds have to take on civil legal problems without help. Jensen said it's a problem the state bar is still trying to fix.



*Curtis Jensen, President, Utah State Bar*

"The kind of oath we take and kind of the criteria we govern ourselves with, and the duty, is to provide services to look out for these folks," Jensen said.

In September 2012, the state bar launched its Pro Bono Program. Lawyers across the state donate their time and expertise to represent people living at poverty level.

"It's just now getting it going and the numbers are increasing," Jensen said.

So how do we tap into pro bono resources? Jensen said start by going to a free legal clinic. The State Bar hosts one every Tuesday night. There are several others across the state (get a list at [www.utahbar.org](http://www.utahbar.org)).

"A lot of the times attorneys will be there, give them directions, can make a referral," Jensen said.

You won't walk out with representation. For that, the state bar can put you in touch with non-profits set up to help people at 125 percent of poverty level.

"Hopefully it goes from there to where they can be matched up with an attorney or sit down with an attorney and get some direction there," Jensen said.

Mike Bulson is a senior attorney for Utah Legal Services, one of the non-profits that connect people to pro bono

attorneys. "It takes time, it takes persistence to get it through," he said.

The group gets 15,000 calls every year requesting help. Seven-thousand get representation.

*How many people like me got shoved off into the shadows because there was no one there to represent them?*

*—Jane*

"You can talk to the judges and they'll tell you an unrepresented client is a headache for the court system," he said.

It's because courts are complicated. The procedures are complicated. And when people make mistakes, it can become more costly than it would have been with legal aid at the start.

"Some of them get discouraged and simply drop out, left on their own to resolve matters that people do when they don't have access to justice," Bulson said.

"Jane" said she's still fighting for her access.

"How many people like me got shoved off into the shadows because there was no one there to represent them?" she asked.



## **Media Coverage, September 20 to October 21, 2013**

### Print (copies follow):

10/04/13, *The Record*, Underemployed Attorneys

10/14/13, *The Salt Lake Tribune*, Bar Complaint

10/14/13, *Deseret News*, Bar Complaint (On-line version printed; was also in paper)

10/18/13, *The Record*, YLD Seniors

### TV (copies of on-line text follow):

10/02/13, KSL-TV, How to find a pro bono attorney  
<http://www.ksl.com/index.php?sid=27087084>

See KSL-TV, KUTV, Fox 13, and CW30 below.

### TV & Online on Bar Declining to Prosecute Swallow

No copies included (too much repetition). For online links on utahbar.org, select Bar Operations at top, Commission Meetings from Resources in the middle, then "D" for October.

Below each link are selected quotes from the Alliance for a Better Utah, the organization that attempted to file a complaint (never notarized their statement).

[http://www.ksl.com/?nid=148&sid=27232843&title=case-against-swallow-dropped-by-state-bar&fm=home\\_page&s\\_cid=featured-2](http://www.ksl.com/?nid=148&sid=27232843&title=case-against-swallow-dropped-by-state-bar&fm=home_page&s_cid=featured-2)

"She said she hoped the bar would conduct its own investigation into the allegations, rather than "sidestepping" until another investigating entity arrives at a conclusion."

[http://www.kutv.com/news/top-stories/stories/vid\\_7453.shtml](http://www.kutv.com/news/top-stories/stories/vid_7453.shtml)

We're extremely disappointed and disheartened, said Isaac Holyoak, communications director for Alliance for a Better UTAH, the group that brought the complaint to the Utah State Bar. This seems like just another instance of the Utah Bar protecting their own. In this case, John Swallow.

But the Bars decision, which Holyoak said the organization only learned of from the Salt Lake Tribune, was based on what it considered a lack of documentation from Alliance for a Better Utah and reliance on media reports as evidence.

Were a small organization. We can't go out, investigate and subpoena and supply this information, Holyoak said. That's really the role of the Bar Association. They have the resources to do that and the time to do that.

Maryann Martindale, executive director of the group, also conceded the organization is not an investigative body and claimed the Bar shirked its responsibilities.

Because we didn't have any great smoking gun or any secret evidence, and we didn't wrap it up in a nice, neat package with a bow on top, they declined to do anything about it, Martindale said. And it just doesn't feel like they did what they should be doing.

<http://fox13now.com/2013/10/13/utah-state-bar-dismisses-complaints-against-swallow/>

Holyoak: "We are not an investigative body." "OPC is shirking its responsibilities." "We don't have subpoena power. We can't call on people and say "did this happen or did this not happen." That's the Bar's job and the Bar has declined to do their job.

[http://www.cw30.com/content/news/top\\_stories/story/Utah-State-Bar-closes-case-against-Attorney/IH2m0R7IhEaLArpttH2eNw.csp](http://www.cw30.com/content/news/top_stories/story/Utah-State-Bar-closes-case-against-Attorney/IH2m0R7IhEaLArpttH2eNw.csp)

Martindale told ABC 4 Utah. "Honestly when you read the letter it feels as though they wanted us to do the case for them and hand them a signed, sealed, delivered case."

[http://www.sltrib.com/sltrib/news/56994023-78/swallow-bar-state-complaint.html.csp?utm\\_source=iContact&utm\\_medium=email&utm\\_campaign=The%20Salt%20Lake%20Tribune&utm\\_content=](http://www.sltrib.com/sltrib/news/56994023-78/swallow-bar-state-complaint.html.csp?utm_source=iContact&utm_medium=email&utm_campaign=The%20Salt%20Lake%20Tribune&utm_content=)

"It really feels like it's a lot of protecting your own." "Let's hope they take the other complaint more seriously," said Martindale. "They obviously chose not to take ours seriously."

<http://legalnewsline.com/news/244826-utah-state-bar-declines-to-prosecute-ag>

Martindale said she is disappointed with the bar's decision not to investigate. "We have only one agenda: bringing balance, transparency and accountability to Utah political institutions and elected officials. This is an agenda that, apparently, the Utah Bar Association does not share with us," she said in a statement.

"Though the bar association castigated us for discussing our complaint with the media, we did not learn that the bar had dismissed our complaint except through the media. Such administrative incompetence should be deeply concerning for the people of Utah."

Martindale said the alliance is "still waiting" to receive the Oct. 8 letter. "The state bar should have properly alerted us to the letter and the contents of the letter before engaging in their own media campaign to protect their own," she said.

"But news that the bar has dismissed the complaint is only one facet of this troubling issue. The other, more crucial concern, is that there are apparently no ethical prohibitions on public attorneys' fund-raising practices and the conflicts of interest they may create —

and that the bar apparently has no independent investigative authority even if such rules existed.”

She contends the bar should revisit its own procedures for determining ethical conduct on the part of its attorneys and revise the rules that currently excuse unethical behavior.

<http://utahpolicy.com/index.php/features/today-at-utah-policy/783-bryan-schott-s-political-bs-i-ve-got-a-crazy-feeling>

The Alliance for a Better Utah, which has been a consistent champion of Utah’s political minority, has called into question the Bar Association’s own ethics since they declined to go after Swallow on his. ABU brought the original complaint to the Bar, and now they’re castigating that organization for not agreeing with them.

“Today’s announcement by the Utah Bar Association may not be an indictment of the Attorney General, but it is certainly an indictment of the Bar itself. This is an unfortunate day for Utah,” said executive director Maryann Martindale [in a press release](#).

UTAH STATE BAR / UTAH LAW REVIEW ONLAW

# Panel discusses solutions to underemployed attorney problem

*"We are in a market that is saturated with entry level attorneys, and some cannot make the income to meet the demand of their law school debt."* —Megan Green

Allcia Knight Cunningham, Esq.

The Utah State Bar teamed with Utah Law Review OnLaw to host a panel discussion on the problem of underemployed attorneys in the State of Utah, Friday September 27, at the Utah Law and Justice Center in Salt Lake City.

Megan Green, University of Utah, moderated the panel. Beth A. Hansen, director of Career Services at Brigham Young University's J. Reuben Clark Law School; Abby M. Dizon-Maughan, Arnold & Wadsworth; and Jacque M. Ramos, J. Ramos Law Firm made up the panel.

## Low Salaries

The panel's opening discussion revolved around the topic of why law school graduates choose 'JD Advantage Jobs', a category of jobs for which bar passage is not required but for which a JD degree provides a distinct advantage, rather than enter a traditional legal market. All panel participants agreed that starting salary was a significant consideration.

Panel members said that new law school graduates were looking for jobs that would not only cover their living expenses but would also allow them to pay down debt accrued while studying law for three years.

"We are in a market that is saturated with entry level attorneys, and some cannot make the income to meet the demand of their law school debt," Green said.

Dizon-Maughan agreed. "When you graduate from law school with a massive amount of debt, it limits your opportunities. Looking at the market, you see dollar signs and bills, payments and personal debt."

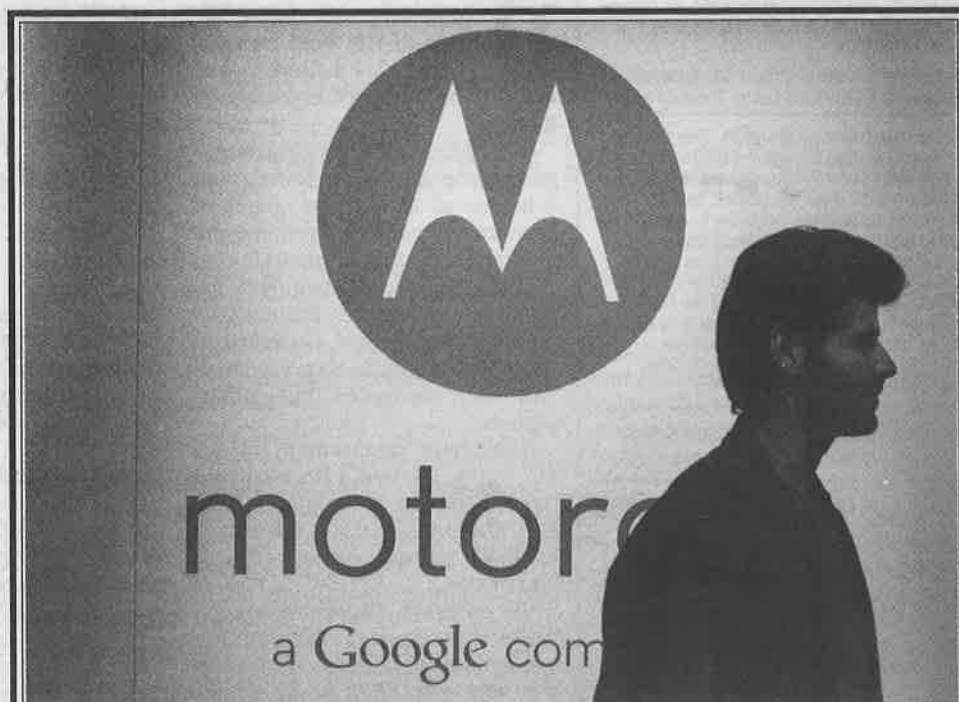
To show attendants the disparity between actual and expected starting salaries, Hansen displayed a 'double bell curve' chart prepared by the National Association of Law Placement (NALP). "No one makes the average salary,"

Hansen said. "For most attorneys, their starting salary is between \$40,000 and \$65,000. That makes the first bell. But then there are some entry level jobs that start at \$165,000 that make up the second bell, but these are with the large law firms and are highly competitive."

## Fewer Opportunities

Green asked the panel why more law school graduates were not starting their own law firms after they graduate and striking out on their own.

Continued on page A-16



## Appeals court revives Microsoft claim against Google

WASHINGTON (Reuters) - A federal appeals court on Thursday instructed the U.S. International Trade Commission to reconsider a ruling that gave Google Inc a victory over Microsoft Corp in a patent dispute.

Continued on page A-16

# Panel discusses solutions to underemployed attorney problem

Continued from page A-1

Hansen believes it is because law school graduates feel unprepared to start out on their own. "I think that we are a risk adverse profession," she said. "You have people graduating without the entrepreneurship spirit. We need to do a better job to create a mentality that is more entrepreneur-focused. More students should consider doing it themselves, but they are too afraid."

A member of the panel, Dizon-Maughan, did plan to begin her own law firm and studied Business Management before law school so that she would have the ability to open her own practice. But she found many barriers to doing so after she graduated from law school in 2012. She understands why new attorneys would choose to not start their own practice.

"They may not have the money to start it

up. They may not have developed networks in the community," Dizon-Maughan said. "They also have to worry about advertising expenses and litigation fees. They also have student loan debt."

Ramos recently opened her own firm and said new attorneys need help to get over the intimidation factor. "I was terrified," she said.

"But I started my career at a small law firm and was fortunate enough to have colleagues instruct me and really allow me to do a case from start to finish immediately. I had a little more confidence going out on my own." Nevertheless, opening her own law firm as a seasoned attorney has still been a difficult process.

## Smaller Profit Margins

"I run a two-fold practice," Ramos said.

"One part is personal injury and the other half is commercial based. We had to expand into the commercial sector in order to cover more operational expenses." Even by branching out, Ramos watches costs and fees. "It directly impacts my ability to hire other people to help me. I run everything on my own from top to bottom."

New attorneys especially do not have the luxury of choosing their clients and face a difficult market. To get by, Dizon-Maughan has had to cut her fees in a tight economy.

"Most of my clients are flat fee clients," she said. "Depending on the case, I might charge a \$6,000 flat fee. Most people don't have \$6,000, and I've been in situations where I've reduced that to \$2,000, with \$1,000 upfront. But we exhaust that retainer quickly and end up work-

ing for free."

## Nontraditional Opportunities

Hansen wanted to clarify that many new attorneys were entering nontraditional fields not because there were no other options but because that was always the plan.

"And I think that is fine," Hansen said. "I work in a nontraditional field. I do not want to practice law, and the assumption that they are taking second tier jobs is false. There is a group that is coming in that want to study law, but it is not a passion. I entered law school with the understanding that I did not want to be in a court room. But the longer you stay in JD Advantage jobs, the more difficult it is to move into the more traditional forms of law."



UTAH'S INDEPENDENT VOICE SINCE 1871

# The Salt Lake Tribune

OCT. 14, 2013 « MONDAY » SLTRIB.COM



Tribune file photo

**Attorney General John Swallow said in a statement Sunday that he is "grateful" that the Utah State Bar has closed one of two cases against him.**

## Utah Bar closes one of two A.G. probes

**Politics »** Alliance director disappointed complaint alleging ethical violations was rejected.

**By ROBERT GEHRKE**

*The Salt Lake Tribune*

John Swallow's office announced Sunday that the Utah State Bar has closed one of its two cases against the embattled state attorney general.

In a statement, Swallow's office said

the bar sent him a letter on Tuesday saying it has thoroughly reviewed the allegations and "must decline to prosecute the matter and the case will be closed."

"I am grateful to the bar for its careful consideration of the allegations and for its reasoned analysis in closing the case,"

Swallow said in a statement. "Despite

the early rush to judgment, it is now becoming clear that people with an agenda have made unsubstantiated allegations."

The complaint, filed by Maryann Martindale, executive director of the liberal-leaning Alliance For A Better Utah, and board member David Irvine alleged

*Please see SWALLOW, A4*

# Swallow

» Continued from A1

that Swallow may have violated five sections of the Rules of Professional Conduct and potentially other state laws and the Utah Public Officers' and Employees' Ethics Act.

The complaint focused on whether \$23,500 in payments Swallow said he received for consulting work on a Nevada cement plant were actually for helping Jeremy Johnson — founder of the company I Works and a prominent donor to Swallow's predecessor, Mark Shurtleff — thwart a federal investigation into his business.

It also alleged that Swallow violated the attorney-client relationship when he had conversations with a potential donor who was a target of an investigation by the state's Division of Consumer Protection.

The Oct. 8 letter from Sharadee Fleming, assistant counsel in the bar's Office of Professional Conduct, said the alliance's complaint did not provide adequate documentation to support the allegations.

"Although you alleged that Mr. Swallow violated ethical rules regarding confidentiality, conflicts of interest and diligence (to name a few), you did not provide a sufficient basis for these claims."

Without those details, Fleming wrote that the office "must decline to prosecute this matter and the case will be closed."

Martindale said she felt as if the complaint pointed out detailed, specific violations of the Code of Professional Conduct and it is hard to comprehend why the bar wouldn't act.

“

*It seems that all the things that are public knowledge are more than enough [to act on]. It just seems like [the Utah State Bar] didn't really want to pursue [allegations against Swallow]."*

**MARYANN MARTINDALE**

*executive director of the Alliance For A Better Utah who filed a complaint against John Swallow*

"It really feels like it's a lot of protecting your own," she said. "I don't know if they wanted some smoking gun, some secret thing. But it seems that all the things that are public knowledge are more than enough [to act on]. It just seems like they didn't really want to pursue it."

A second bar complaint, filed by Traci Gundersen, former head of the state's Division of Consumer Protection, also focuses on Swallow's conversation with the business owner who was under investigation. The complaint is still pending.

"Let's hope they take the other complaint more seriously," said Martindale. "They obviously chose not to take ours seriously."

In Fleming's letter to Martindale, there is a possible indication the bar will dismiss that complaint as well. Fleming wrote that conversations with a target of an investigation and Swallow expressing his intent to move the Division

of Consumer Protection into the attorney general's office "do not, in and of themselves, rise to the level of ethical violations."

The Utah Constitution requires the attorney general to be a licensed lawyer, so disbarment could have meant Swallow's removal from office.

Last month, the U.S. Department of Justice's Public Integrity Division notified Swallow and Shurtleff that, after months of investigation, it would not file federal criminal charges against Swallow.

The FBI is continuing to investigate in conjunction with two county attorneys to see if Swallow may have broken any state laws.

And on Friday, Swallow and the attorney general's office provided an initial response to a pair of subpoenas issued by a House investigative committee conducting a fact-finding probe that could ultimately serve as the basis for impeachment proceedings.

Rep. Jim Dunnigan, R-Taylorsville, chairman of the House inquiry, called the documents a "good-faith effort" to comply with the subpoena.

"We know it's not complete, but we expect, in talking to the office of the attorney general, more will be forthcoming," Dunnigan said. "So we discussed that with them, and we appreciate their cooperation."

Investigators have interviewed more than 60 witnesses as part of the probe.

Some representatives have called for the House to put its investigation, which may cost as much as \$3 million, on hold to refocus the investigation.



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## Utah State Bar drops case against Attorney General John Swallow

By Benjamin Wood, Deseret News

Published: Sunday, Oct. 13 2013 5:25 p.m. MDT

Updated: Sunday, Oct. 13 2013 11:39 p.m. MDT

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2



The Utah State Bar has closed one of its two investigations into the state's attorney general, declining to prosecute John Swallow on allegations of professional misconduct.

Tom Smart, Deseret News

[Enlarge photo»](#)

### Summary

The Utah State Bar has closed one of its two investigations into the state's attorney general, declining to prosecute John Swallow on allegations of professional misconduct.

SALT LAKE CITY — The Utah State Bar has closed one of its two investigations into the state's attorney general, declining to prosecute John Swallow on allegations of professional misconduct, Swallow's office announced Sunday.

"I am grateful to the bar for its careful consideration of the allegations and for its reasoned analysis in closing the case," Swallow said in a prepared statement. "Despite the early rush to judgment, it is now becoming clear that people with an agenda have made unsubstantiated allegations.

"I am happy to report the attorney general's office is running well, and I am looking forward to the resolution of these unfounded complaints so I can continue to do the work I was elected to do by the people of this state," he said.

The case closed this week by the Utah State Bar was prompted by a complaint filed in January by the Alliance For a Better Utah. Maryann Martindale, the alliance's executive director, said the state bar's decision does little to exonerate Swallow from the allegations surrounding him.

"If you look at the scope and the breadth of all the things

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that Attorney General John Swallow is dealing with right now, that's just one piece in a bigger, messier puzzle," Martindale said.

The Utah State Bar's decision to close its case follows the [announcement last month](#) that the U.S. Department of Justice Public Integrity Section had completed its investigation into Swallow's activities and would not seek an indictment.

Swallow continues to face separate investigations by a committee of the Utah House of Representatives, which as of last week had interviewed as many as 60 witnesses, the Salt Lake and Davis county attorneys' offices and the Utah Lieutenant Governor's Office.

Much of the allegations against Swallow stem from his dealings with indicted businessman Jeremy Johnson, who claims Swallow helped arrange a payoff of Senate Majority Leader Harry Reid to end a federal investigation into Johnson's company. Reid has denied any involvement.

Swallow also faces allegations of improper fundraising and deal-making from other businessmen, including Marc Jensen, who is currently serving a 10-year prison term for failing to pay \$4.1 million in restitution from an earlier case.

Martindale said the state bar's letter does not dispel the allegations against Swallow, but instead finds the evidence against him insufficient for prosecution. She said she hoped the bar would conduct its own investigation into the allegations, rather than "sidestepping" until another investigating entity arrives at a conclusion.

"Our complaint was based on everything that was known in the public," Martindale said. "We felt it incumbent to file this, really on behalf of all the citizens of Utah."

She also took issue with Swallow's description of the allegations being an agenda-fueled attack on him and his office. The Alliance For a Better Utah's only goal is to establish ethical behavior among elected officials, Martindale said, and there is reason for concern regarding the attorney general when so many allegations have come out against him.

"Our agenda is ethics, good ethics, and that we should be able to expect better than this from our elected officials," she said. "I just don't see this as an agenda anyone should have a problem with."

In the letter that accompanied the state bar's decision, a caveat is expressed that the case against Swallow could be reopened if the other investigating entities determine that criminal acts or ethical violations occurred.

On Sunday, Swallow said he and his office would continue to cooperate with investigators, including those from the Utah State Bar should his case be reopened.

"I believe that the bar always has the right to investigate anyone for any allegation that's legitimate," he said. "At the end of the day, if they want to do something, they

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have every right to do that. We're going to be very open with any of the investigations that remain open."

Swallow said the months of suspicion surrounding his activities has made for a time of trial for himself, his family and the state. With two investigations against him now suspended, he said he hopes the Utahns recognize the allegations were made by people with motives and "axes to grind."

"I'm confident that I haven't broken any ethical rules personally or professionally, and I'm confident and hopeful that when (the Utah State Bar) finishes the second complaint, the result will be the same," he said.

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

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So far, the federal government and the state bar association have conducted thorough investigation and found no conduct warranting even an attempt at prosecution.

However, Swallow's name and reputation have been permanently destroyed [More..](#)

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### Pat Salt Lake, UT

I am not surprised that the Utah Bar dropped its case against John Swallow and that the federal government has refused to indict. John is an honorable person, and I feel bad for he and his family considering the trashing he has received the past [More..](#)

10:19 p.m. Oct. 13, 2013 | ★ Top comment

### SP Salt Lake City, UT

Swallow is selfish and self-deceived by nature. He is willing to drag the AG office's reputation and the state's time and resources through a lengthy process so that he can keep his power. He wants to keep making deals and keep one step [More..](#)

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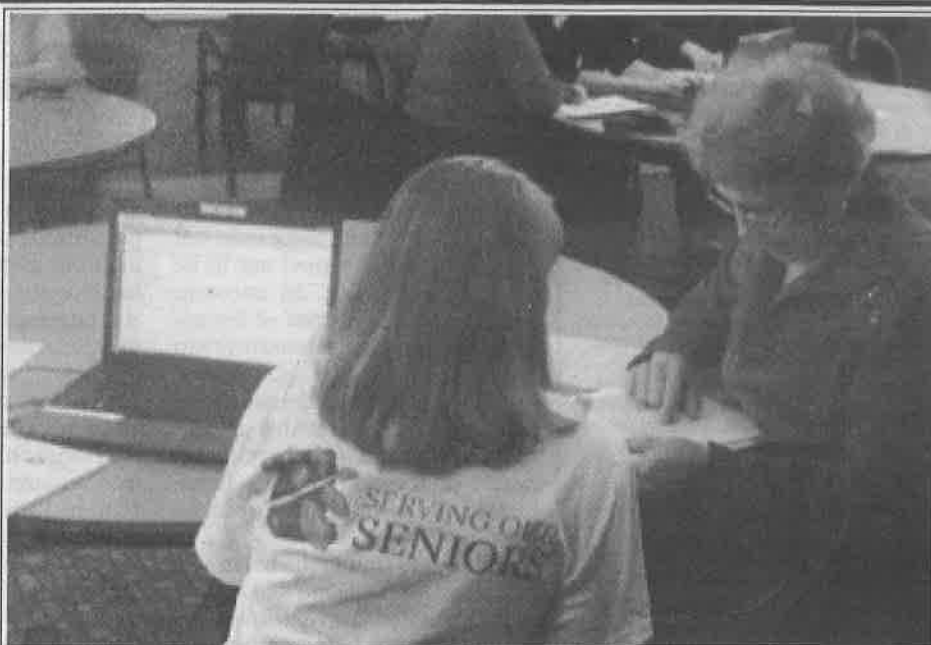
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Salt Lake City, Utah

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## Young Lawyers Serve Senior Citizens with Free Documents October 26

*Advanced Health Care Directives and Durable Powers of Attorney for people 55+.*

SALT LAKE CITY—The Young Lawyers Division of the Utah State Bar is Serving Our Seniors with free Advanced Health Care Directives and Durable Powers of Attorney for people aged 55 and older. This free seminar will be held from 10 a.m. to 2 p.m. on Saturday, October 26 at the Utah State Bar at 645 South 200 East (parking in rear). No appointment is necessary.

Continued on page A-17

# Young Lawyers Serve Senior Citizens with Free Documents October 26

Continued from page A-1

An Advanced Health Care Directive allows a person to document basic end-of-life choices in case they are unable to communicate their desires when decisions are needed, and to designate other people who can make additional health care decisions if necessary. A Durable Power of Attorney allows one to designate people to manage finances in the event of disability or incapacitation, without the need of more complex arrangements like a trust or a court-appointed guardian or conservator.

Sarah Elizabeth Spencer, co-chair of the Young Lawyers Division Serving Our Seniors committee said, "You can avoid uncertainty and conflict with these crucial documents. You can help your family, friends, and doctors help

you: share your wishes about life-sustaining care and designate who should make medical and financial decisions if you are unable."

With the statutory Utah Advance Health Care Directive form, many seniors are able to navigate the options and complete the form on their own: [aging.utah.edu](http://aging.utah.edu). However, because the choices and language are sometimes confusing, other seniors appreciate the guidance an experienced attorney can offer. And because both documents deal with similar contingencies, it makes sense to complete them at the same time.

Utah does not have a statutory form for a Durable Power of Attorney. However, people should be careful with on-line or off-the-shelf

documents. Troy T. Wilson, Chair of the Bar's Elder Law Section said, "POAs are one of the most misunderstood documents, and also one of the most abused, leading to financial exploitation of Utah seniors. Because significant authority can be conferred upon an agent using a POA, a qualified attorney experienced with estate planning and elder law issues should be consulted to draft a document appropriate for you and your unique circumstances."

With approximately 2,000 members, the Young Lawyers Division prides itself as being one of the most active organizations within the Utah State Bar, and includes members less than 36 years of age, as well as members who

have been admitted to their first state bar for less than five years. The Young Lawyers Division is service-oriented, offering Wills for Heroes: helping police officers, firefighters, and other first responders, supplying the Cinderella Boutique, loaning Prom dresses to high school students, and providing extensive pro bono legal help to those in need.

*The Utah State Bar was established in 1931 and regulates the practice of law under the authority of the Utah Supreme Court. The 11,000 lawyers of the Bar serve the public and legal profession with excellence, civility, and integrity. They envision a just legal system that is understood, valued, and accessible to all.*

## *In the News*

### ***KSL – How to find a pro bono attorney***

Posted on **October 2, 2013** by **admin**

FROM KSL NEWS: <http://www.ksl.com/index.php?sid=27087084>

By Bill Gephardt October 2nd, 2013 @ 6:58am



SALT LAKE CITY — If you're in trouble with the law and can't afford an attorney, the court will appoint you one. But if it's a civil matter you're on your own.

That's why one Utah woman asked how to get legal help if you can't afford it.

In Latin, "pro bono" means "for the public good." In legalese, it means "for free."

There are roughly 11,500 practicing attorneys in Utah and the state bar asks each of them to put in 50 hours pro bono every year. The bar said more than 70 percent of attorneys do give out free help to people who don't have the means to hire them.

"Jane" didn't want her face shown. She said she lost everything when she walked out of 15-year, physically abusive relationship. Now, she wants some of it back.

"I don't want to take this person's security and life from them. I just need mine back so that I can start building a new life," she explained.

However, Jane had no money and no job. She couldn't afford the retainer to hire an attorney.

"When you have no money, how do you come up with it?" she asked.

Curtis Jensen is the president of the Utah State Bar.

"Right now, the legal needs of the community exceed what the supply is," he said. "Courts have tight calendars. They're backed up. There's a lot of activity going on in court."

A 2006 study from the non-profit group "And Justice For All" says only 13 percent of very poor Utahns get legal help. Hundreds have to take on civil legal problems without help. Jensen said it's a problem the state bar is still trying to fix.





*Curtis Jensen, President, Utah State Bar*

"The kind of oath we take and kind of the criteria we govern ourselves with, and the duty, is to provide services to look out for these folks," Jensen said.

In September 2012, the state bar launched its Pro Bono Program. Lawyers across the state donate their time and expertise to represent people living at poverty level.

"It's just now getting it going and the numbers are increasing," Jensen said.

So how do we tap into pro bono resources? Jensen said start by going to a free legal clinic. The State Bar hosts one every Tuesday night. There are several others across the state (get a list at [www.utahbar.org](http://www.utahbar.org)).

"A lot of the times attorneys will be there, give them directions, can make a referral," Jensen said.

You won't walk out with representation. For that, the state bar can put you in touch with non-profits set up to help people at 125 percent of poverty level.

"Hopefully it goes from there to where they can be matched up with an attorney or sit down with an attorney and get some direction there," Jensen said.

Mike Bulson is a senior attorney for Utah Legal Services, one of the non-profits that connect people to pro bono

attorneys. "It takes time, it takes persistence to get it through," he said.

The group gets 15,000 calls every year requesting help. Seven-thousand get representation.

*How many people like me got shoved off into the shadows because there was no one there to represent them?*

*—Jane*

"You can talk to the judges and they'll tell you an unrepresented client is a headache for the court system," he said.

It's because courts are complicated. The procedures are complicated. And when people make mistakes, it can become more costly than it would have been with legal aid at the start.

"Some of them get discouraged and simply drop out, left on their own to resolve matters that people do when they don't have access to justice," Bulson said.

"Jane" said she's still fighting for her access.

"How many people like me got shoved off into the shadows because there was no one there to represent them?" she asked.