

BAR & BENCH

SALT LAKE COUNTY BAR ASSOCIATION

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WINTER 2019-2020

President's Message

by Lauren Shurman

Salt Lake County Bar Association President

Welcome to the latest edition of the Bar & Bench! I am delighted and humbled to serve as your SLCBA President this year. I first joined the SLCBA Board over twelve years ago, when I was a young associate, new to the Salt Lake legal community. The SLCBA quickly made me feel at home. The professional and personal relationships I have developed through working with the SLCBA have continually inspired me to become a better lawyer, bar member, and ambassador for the legal profession. My colleagues on the SLCBA Board are truly remarkable people, dedicated to ensuring that the SLCBA continues to serve its members through networking opportunities, continuing legal education, and member engagement.

As a voluntary bar association, we want to know how we can serve you better. Much has been written in recent years about the role of voluntary bar associations in today's legal landscape. Such associations across the country are debating how to effectively engage members of a profession that now spans five generations, from traditionalists and baby boomers to millennials and Generation Z'ers. How can voluntary bar associations meet the needs of more seasoned attorneys while addressing the changing proclivities of the younger millennial crowd? There is

no magic answer to this question, but it is one that we continue to debate.

In addressing this issue, voluntary bar associations such as ours have noted some distinct differences between the younger and older generations of lawyers. It is frequently noted that younger lawyers, often saddled with significant student loan debt, like to see concrete value from their membership organizations. Unlike the older generations, younger generations tend to place less value on face-to-face networking opportunities, finding greater value in online opportunities. Younger lawyers can have greater demands on their time and finances, making it difficult to attract these lawyers to bar functions. And, an ever-increasing array of options, both real and virtual, from mandatory and voluntary bar associations, such as practice-group sections and affinity groups, compete for lawyers' attentions.



Lauren Shurman

Ultimately, I view the role of the local bar association as providing a sense of belonging, camaraderie, and values that make practicing law in Salt Lake County more than just a job. Yes, you may be able to obtain CLE credits more conveniently or less expensively through an online portal, but there is no substitute for face-to-face interactions with colleagues outside the

President's Message

Continued

walls of your office. There is no substitute for getting to know your opposing counsel in a social setting, where you may find areas of common ground. There is no substitute for that informal interaction with an older, more experienced practitioner who just may have a nugget or two of career advice.

I encourage all of you reading this newsletter to attend our events and become engaged in the SLCBA's programming. I especially encourage each of our longtime members to bring a newer attorney with them to an event and make an introduction. Undoubtedly, we will all benefit from the mentorship of our experienced members and the new, fresh ideas of our youngest members. To borrow a phrase from Justice Sandra Day O'Connor, "We don't accomplish anything in the world alone." Do you have suggestions for ways that we can better engage our members, or benefits you would like to see us offer? Please email them to us at saltlakecountybar@gmail.com. We would love to hear from you.

Dear Justice Tongue,

This is a question from left field and likely out of your wheelhouse, but you seem to know something about damn near everything remotely touching the practice of law.

I have been in practice for the better part of a decade, and while I have had pretty good success in the courtroom, my office is a mess. The employees don't seem to give a damn, are Balkanized and it is difficult to get anything done amidst the squabbling. What's more, it is clear that they are more interested in not being there than being there, and no one takes pride in their work or position. Any suggestions?

Yours,
Admittedly Clueless

Dear Clueless,

Frankly, *I* am clueless as to why your letter finds its way into my chambers, with a request from my Clerk (currently on leave) to respond. Presumably it is her attempt at a practical joke. However, on the off chance that she was serious, I am responding for her sake rather than yours.

I do not intend to address in the nitty gritty of running a law firm, though I did so prior to putting it aside in favor of service to the judiciary. I will just say that if it is your ambition to run a cohesive, efficient and successful law firm with enduring and regenerating esprit de corps, I suggest you introduce yourself to the concept of "culture." Here is a short primer. To begin, there are as many definitions of culture as there are opinions expressed of its essence. Each however, touches on common themes. In my studies of this vital characteristic and asset (or liability) of families, civic groups, communities, villages, towns, cities, counties, states and nations (not to mention the enumerable religions that have animated the human species through time) one of the better definitions I have found is the following:

Culture therefore, is moral, intellectual, and spiritual discipline for advancement, in accordance with the norms and values based upon accumulated heritage. It is imbibing and making our own the lifestyle and social pattern of the group one belongs to. Culture is a system of learned behavior shared by and transmitted among the members of the group.

Culture is typically cited as a positive aspect in any family, group or organization, but, as you may discern from my comments above, it can be either an asset or a liability. Cultures are delicate, are long in development, require constant reinforcement, can be destroyed precipitously by calamitous events, or degrade slowly by disregard.

Let us take as an example the brethren with whom I mingle in my sabbaticals at the monastery. The brethren share common beliefs and values in their mission. Each takes pride and ownership in the welfare of all and of the organization in which they function. In the production of exquisite wines, they function effectively with a

Justice Tongue

Continued

spirit of singular purpose. Each participant has ownership of his role, and pride in the common effort and the results achieved. Each has real personal investment in the common goals, aspirations, successes, setbacks, and the welfare of each other. The rewards are shared and the recognitions accepted by each for all.

So how does that happen?

Simply stated, it starts at the top and it starts from the beginning. First, and most importantly, boot out all committed malcontents. As you may have already come to suspect, some people are self-involved narcissists and will simply never be team players.

Next (assuming the “committed malcontents” did not include you personally, and assuming you still have a crew left to work with when this uncomfortable first task is complete), you can begin to create a positive culture.

It must be continuously nurtured and renewed. It must be cultivated and reinforced with such things as open and interactive dialogue, establishment and embrace of common values, the fostering of mutual respect, recognition of contribution, and appreciation genuinely expressed. There is more, of course, but that is how it starts.

By the way, has any of this resonated with you? How many one-on-one meetings have you had with your employees in which you expressed your appreciation and genuinely asked for their input? How many joint meetings have you held where your staff could comfortably and openly discuss issues, problems, concerns, conflicts? What efforts have you made to demonstrate appreciation for projects well done or successes your firms have achieved? What steps have you taken to ensure that all of the staff understand the nature of the cases to which the firm’s efforts are directed, such that each could take a personal interest in the disposition or outcome? Have you been a mentor of their skills and a minister to their wounds? Are the employees treated in a manner distinct from the furniture? What activities do you plan and sponsor outside of the firm context where individuals can deal with one another on a personal basis and see each other outside of their prescribed role in the firm?

In a few words, the answer to your question may lie in the questions you answer.

Fondly,

Justice J. Learned Tongue

Recent Precedents

New Lawyers and Judges Reception

On October 24, the SLCBA held its annual New Lawyers and Judges Reception. We would like to extend a big thank you to all those who came to welcome the new admittees to the Bar and thank our esteemed judges for their continued service. Also, special thanks to Judge Michele Christiansen Forester for her remarks.



Recent Precedents

By: Kate Conyers and Clem Landau

This last summer, two SLCBA board members, Judge Clem Landau and Kate Conyers taught a course at the Utah State Prison as part of University of Utah’s Prison Education Project (UPEP). The mission of UPEP is “to transform the field of higher education in prison through quality education, research, and outreach We work to create lasting impact in our state and communities by investing in people and providing them the tools necessary for empowerment and lifelong learning.” UPEP runs yearlong at the prison, and courses are offered on a two-semester schedule. Each semester is sixteen weeks, and classes meet one day a week for 2.5 hours from 5:10-7:45 pm. At minimum, one course per semester is offered. At this time, UPEP is a non-credit program. It is actively fundraising to cover costs associated with enrollment. Incarcerated students are not asked to financially pay for participation in UPEP.

Clem and Kate taught a class called “Law and Literature” with the objective to provide students an opportunity to explore the meaning and value of the law and of creative writing. There were seven male students in the class, all from different racial and cultural backgrounds. The primary text used was *Law in Literature: Legal Themes in Short Stories* by Elizabeth Villiers Gemmette. The text includes stories from Edgar Allen Poe, Kurt Vonnegut, Jr., Jack London, and Leo Tolstoy. Each week, class



Utah Prison Education Project

conversations focused on the themes discussed in the anthology, including “Punishment and Justice,” and “Equality, Standards and Presumptions.” Clem and Kate introduced caselaw and current legal concepts to enhance the conversations and make them more relevant to the current state of the justice system.

One of the most interesting conversations, Kate said, was one the class had about the “beyond a reasonable doubt” standard and what percentage students assigned to that standard: 51%. As a criminal defense lawyer, Kate puts this percentage closer to 80%, so it was interesting—and maybe not surprising—that the

students believed it to be much lower considering their experiences with the criminal justice system.

The class also read Sophocles’ *Antigone*, and Kamila Shamsie’s novel that reimagines *Antigone* for our day, *Home Fire*. Students were given written assignments; comparing two readings; a diary entry for a

character in one of the readings; and for the final project, writing a short story.

Kate and Clem anticipate teaching the same or similar class to female students for the Spring Semester, and they welcome other attorneys who may be interested in the project.

For more information on UPEP, volunteer opportunities, and ways to give, visit <https://prisoneducationproject.utah.edu/>.

Recent Precedents

2019 Holliday Dinner Dance

SLCBA's annual Holiday Dinner Dance was a huge success, even if the Utes didn't win. Thank you to all of those who attended!



More photographs from this event are available online!



@slcba



SLCBA_utah (new - follow us!)

Judicial Profile

Judge Katherine Peters

By: Bronwen Dromey

Judge Katherine Peters was chosen by Mayor Biskupski to fill a seat on the Salt Lake City Justice Court and was sworn in June of 2019. Judge Peters is originally from Salt Lake City and earned her bachelor's degree at the University of Utah. During the last year of her undergraduate degree, Judge Peters traveled to Greece through a University of Utah Honors program and studied language and history. Between her undergraduate and law degrees, Judge Peters returned to Greece to continue to study Greek language and to volunteer with her church, teaching youth about the history, culture, and religion. Judge Peters attended and graduated from the Chicago-Kent College of Law in Illinois.

Judge Peters returned to Utah after law school to work in tax litigation for about a year. It was during this time that she realized her passion for trial advocacy and decided to join the Salt Lake County District Attorney's Office in 2002. During Judge Peters' seventeen-year tenure at the District Attorney's Office, she had the opportunity to prosecute a wide variety of misdemeanor and felony cases, including gang, drug, special victims, and homicide cases. Judge Peters especially valued her experiences prosecuting homicide and special victims cases, and while prosecuting special victims crimes learned that she should keep a notebook in each room of her home so that she could jot down thoughts and ideas as they came to her throughout her day.

Judge Peters "never thought that she would be anything but a trial attorney, because [she] loved doing trial work," but she was inspired to become a

judge because of her strong belief that the changes that are needed in the criminal justice system can and should start in the justice court. She sees her role in justice court as an opportunity to educate the public about the criminal justice system, and hopefully keep offenders from re-entering at more serious levels in the future.

Judge Peters believes that a large part of her role in the criminal justice system extends beyond the bench through community outreach. She believes that for systematic changes to be made, justice court judges should work together with community partners to get the right resources to the right people. She believes that attorneys should be innovative in their resolution of criminal cases so that defendants get the treatment and services that they need to keep from re-offending. She thinks that the best work in the criminal justice system can be accomplished when prosecutors and defense attorneys work collaboratively to tailor resolutions and sentencing recommendations to meet the needs of the defendant and public safety.



Judge Katherine Peters

She noted, "You have to be open to hearing the other person's side. You have to think about why they want what they want, and how that will affect the case" in determining a resolution. "The goal is for this person to be successful. To issue a goal that is completely unattainable in the first place doesn't help anybody. The goal of our criminal justice system is to get these people assimilated back into society, and that is lost if prosecutors and defense attorneys are not willing to work together."

Scholarship Recipients

Kenneth Nelson
and Kiyan Banuri

By: Bronwen Dromey

The Salt Lake County Bar Association sponsored two West High School students' participation in the Tournament of Champions at the University of Kentucky in April of this year. Kenneth Nelson and Kiyan Banuri participated in other national competitions in order to qualify for the Tournament of Champions, and both were thrilled to learn that they would be eligible to compete in Kentucky.

Kenneth and Kiyan both expressed their gratitude to the SLCBA for its sponsorship. When asked about the competition, both stated it was an incredible learning experience and an honor to debate across from some of the most talented speakers in the country. Kenneth and Kiyan both received awards for "best speaker," ranking 22nd and 19th respectively. They also enjoyed the opportunity to cheer on other teams and learn from other debaters.

Kenneth has since graduated from West High and is currently studying at Trinity University in San Antonio, Texas. While he has not yet declared a major, Kenneth hopes to study Political Science or Economics. Kenneth noted that debate was extremely helpful in preparing him for his study at Trinity. From it, he learned how to synthesize information quickly and accurately, and how to perform well under a deadline.

After his undergraduate degree, Kenneth hopes to attend law school. He is particularly interested in

immigration law because of his study of related topics for debates that he has participated in. He had the opportunity to intern at an immigration law firm over the summer and hopes to continue learning more about the field as he progresses in his studies.

Kiyan also graduated from West High and is now studying at Tufts University in Boston, Massachusetts, where he studies International Relations and Japanese. He is especially interested in

East Asia and China and wants to learn more about that area of the world. In part, he attributes this interest to his participation in debate, as he researched and prepared for debate topics relating to East Asia.

Like Kenneth, Kiyan noted that debate was helpful in preparing him for his undergraduate studies. While participating in some of the most competitive tournaments nationally, he studied for hours each day and learned discipline and time management. These skills have

transferred into habits as a student, and he now handles a large homework load and utilizes notetaking systems he learned while training for debate. He participates in extra-curricular activities including the Student Consultant club. He hopes that one day he will pursue a career in either law or consulting.

SLCBA congratulates both Kenneth and Kiyan on their success at the Tournament of Champions and wishes them the best of luck with their future studies.



Kenneth Nelson and
Kiyan Banuri

Book Review

By: Sam Meziani

A Republic, if You Can Keep It, by Justice Neil M. Gorsuch is as much about the life of the law as it is about his views on the Constitution.

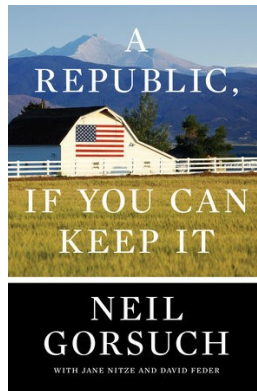
As a legal ethics teacher, then Judge Gorsuch assigned his students the task of writing their own obituaries. He notes the obituaries never mentioned great reputation, billable hours or wealth. Instead, each student “spoke of hoping to be remembered as kind; loved by family and friends; someone who left the world a little better, or at least no worse off, for their presence.” He assigned this task after discovering the majority of his students admitted they would withhold a damning document if they thought it was necessary to win the case. Never mind the fact law students were apparently willing to admit to a federal judge their willingness to break the rules; Justice Gorsuch believes such sentiments are representative of a general corrosion of ethics in the legal profession. Through a collection of speeches on the lives of Justice Anthony Kennedy, Justice Byron White (for whom he clerked), and Judge Alfred P. Murrah, Justice Gorsuch makes the case that lawyers need guiding principles to deal with the inevitable ethical conflicts and personal struggles inherent in the profession. For his part, Justice Gorsuch was inspired as a law student by the headstone of Increase Sumner in Boston’s Old Granary burial ground:

AS A LAWYER, HE WAS FAITHFUL AND
 ABLE;
 AS A JUDGE, PATIENT, IMPARTIAL, AND
 DECISIVE...
 IN PRIVATE LIFE, HE WAS AFFECTIONATE
 AND MILD;

A Republic, if You Can Keep It

IN PUBLIC LIFE, HE WAS DIGNIFIED AND
 FIRM.
 PARTY FEUDS WERE ALLAYED BY THE
 CORRECTNESS OF HIS CONDUCT;
 CALUMNY WAS SILENCED BY THE
 WEIGHT OF HIS VIRTUES;
 AND RANCOR SOFTENED BY THE AMENITY
 OF HIS MANNERS.

He now keeps these words on his desk as “a daily reminder of the law’s integrity, that a useful life can be led in its service, of the hard work it takes, and an encouragement to good habits when I fail and falter.”



Although Justice Gorsuch writes of his high ideals for the profession, he has some biting words for the numerous ways current legal practice falls short. Justice Gorsuch likens current civil practice to *Bleak House*, and lays much of the blame on civil discovery. He notes the irony the “modern” discovery amendments to the Federal Rules were intended to “achieve fairer and cheaper merits-based resolutions” but have now rendered many civil suits simply too expensive to pursue. “Now, how is *that* working out for you.”

Justice Gorsuch also raises familiar questions on the role civil discovery has had in the demise of the trial, but hones his most severe criticism on the damage discovery litigation has had on practitioners: “[W]e’ve now trained generations of attorneys as discovery artists rather than trial lawyers. They are skilled in the game of imposing and evading costs and delays; they are poets of the nasty gram, able to write interrogatories in iambic pentameter. Yet they are terrified of trial.”

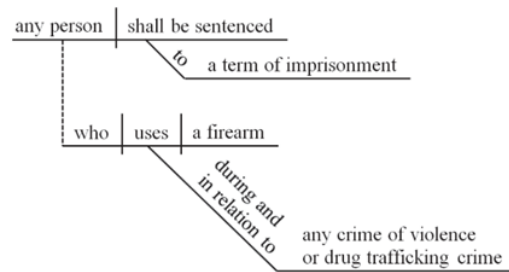
Book Review

Continued

The book contains a thorough discussion on the separation of powers, which for Justice Gorsuch, has everything to do with the proper role of a judge in expounding legal texts. Writing for a lay audience—his book is expressly directed to citizens interested in the Constitution—Justice Gorsuch explains why he believes “an assiduous focus on text, structure and history is essential to the judicial function.” He is critical of doctrines that defer to administrative agencies in the interpretation of statutes (*Chevron*) and regulations (*Auer*), which he believes are core judicial functions. In a chapter entitled “The Judge’s Tools” he defends his textualist approach to statutory construction. Justice Gorsuch is consciously aware the word “textualism” is a flash point, so he uses a series of case studies to respond to the critique that interpreting statutes according to the ordinary rules of grammar, rather than in service of the broader concept of legislative purpose, necessarily leads to “conservative” outcomes or does not protect individual rights.

For example, his dissent in *United States v. Games-Perez*, (10th Cir. 2012) responded to the argument a defendant could be found guilty for “knowingly” violating a statute that prohibits a convicted felon from knowingly possessing a firearm, where the defendant did not know he was a felon. A state judge told Mr. Games-Perez his conviction would be deferred and would not constitute a felony, so Mr. Games-Perez genuinely believed he was not barred from possessing a firearm. Although the federal statute prohibits a defendant from “knowingly” possessing a firearm, the government argued the “intent” of Congress was simply to prohibit all felons from possessing firearms. Then Judge Gorsuch concluded “leapfrogging over the first statutorily specified element and touching down only at the second listed element—defies grammatical gravity

and linguistic logic.” In *United States v. Rentz*, (10th Cir. 2015) (en banc), from the District of Utah, Judge Gorsuch considered the bizarre question of whether a single gunshot that injured one victim and killed another was a single, or double, “crime of violence.” To resolve the thorny interpretation question, Judge Gorsuch did not look to the legislative history; he diagrammed the sentence:



Enlightened by the diagram, he concluded the total number of charges cannot exceed the number of “uses” therefore the defendant did not commit two offenses and was not required to serve additional time in prison.

Just as he loves the law, Justice Gorsuch writes lovingly of his family, including his mother who was the first female lawyer in the Denver District Attorney’s Office where she prosecuted child support offenders, and later served in the Colorado State Legislature and in the Environmental Protection Agency in Washington, D.C. He expresses his love for the West, not only its natural wonders, but also its people, including its Native American tribes, “the grit and resilience of the Kansas farmer and the state’s bloody civil war history” and “the Mormons’ inspirational migration against all the odds and much prejudice.”

While there may be some utility in writing one’s own obituary, the model of a life in the law well-lived provided by Justice Gorsuch is likely to be much more effective.

Bar Review

Manny's Too

By: Michael Langford

Manny's Too is a neighborhood bar on Main Street, seventeen blocks south of the Temple. It's that place you've driven by but never thought—or had the nerve—to stop in. Fear not, you and your thirst are always welcome at Manny's. Folks come to Manny's for a drink and comradely conversation. It is not a place to see and be seen. Regulars like it that way, and they have a point. The staff are friendly but reserved. A friendly demeanor—not tips—earn their attention. And if you are friendly, it is a place where they will always know your name.

There are several televisions placed throughout the spacious and carpeted bar. Monday Night Football was on most of the screens during my last visit, but they're usually happy to switch the screen closest to your seat for your viewing preference. Despite the availability of viewing options, the volume is never on, which encourages conversation, and there was plenty of comradely discussion among strangers of all walks on the evening of my visit. Once the game is over, the welcoming, and for me, the all too refreshing, sounds of Johnny Cash, Def Leppard, and Aerosmith began to reverberate.

Everything at Manny's is reasonably priced, with a full bar and several beers. Coors Light and Jameson for \$5.50 is perfect for the thrift saver. Keep in mind, that's the regular price, not a special. The bartender informed me with pride, "We don't have specials. All of our drinks are special and so is everyone here.

That said, Manny's isn't the place for the designer cocktails you'll find in tonier highbrow places. No house-made bitters, aromatic flower extracts, or other high-faulting ingredients; but if you're looking for something special for the house, try the Flaming Dr. Pepper, a shot of Amaretto topped with 151 Rum lit on fire and dropped inside a partially-filled pint of beer. It is not a libation—it is an adventure. A perfect prescription for a good time and a morning headache. (Advil was invented for a reason.)

Top shelf alcohol is available, but if you come to this bar looking for a shot of bank-breaking Pappy Van Winkle, you will be disappointed. However, the staples, Jack, Seagrams, Southern Comfort, and Cuervo, are free-flowing and cheap.

Manny's may not have drink specials, but they do offer food specials beyond the ubiquitous and available fries, onions rings, and mozzarella sticks. The \$8.00 Steak and Corn on the Cob proved both tasty and fulfilling. It paired wonderfully with the Coors Light and Whiskey.

The patrons of other bars in the area thumb their nose at Manny's and its patrons. I say emphatically, their loss.

If you're looking for cheap beer and a shot mixed with a humble atmosphere and good conversation, stop in. Our city now has many bars that will charge you \$12 for a cocktail but, if you want to relax while making some good memories on a budget, Manny's is your place.

*If sometimes you
want to go
where everybody
knows your name,
and they're always
glad you came...
Manny's Too is for
you*

Dicta

Creating a Well-Being Movement

By: Dani Cepernich

Earlier this year, the Utah State Bar formed a permanent Well-Being Committee for the Legal Profession (WCLP) to implement the recommendations of the Utah Task Force on Attorney and Judge Well-Being. The Task Force issued its report, *Creating a Well-Being Movement in the Utah Legal Community*, in February providing recommendations for Utah lawyers, judges, regulators, legal employers, law schools, and the Bar. Those recommendations include (1) hiring independent researchers to measure the well-being levels of Utah lawyers and law students; (2) providing high quality education and training on how to develop well-being both at the individual and organizational level; (3) assisting law firms in creating policies and practices to support well-being; (4) adopting regulatory objectives that prioritize well-being; (5) modifying the rules of professional responsibility to endorse well-being as part of a lawyer's duty of competence; and (6) working to reduce the stigma attached to substance abuse and mental health disorders, and to encourage help-seeking behavior.

In order to understand these recommendations and the WCLP's efforts, it is important to first identify what "well-being" is. As the Task Force's report explains, "Well-being is a broad concept. It is more than the absence of substance abuse or mental health disorders. It is a continuous process toward thriving in all dimensions of life." These include emotional, occupational, intellectual, physical, spiritual, and social dimensions.

In order to identify the current state of Utah legal professionals' well-being and obtain a baseline, the WCLP, working with Dr. Matthew S. Thiese of the University of Utah School of Medicine, began by conducting a scientific—and confidential—study of Utah lawyers. Thus far, 515 Utah lawyers spanning Utah's geographic regions, practice areas, and types of employers, and representing a diverse range of ages and years of practice, have participated in the study. On November 15, during the Fall Forum, Dr. Thiese presented preliminary findings from that study. This data—which, again, is preliminary—highlights the importance of the WCLP's work.

As many of us know, the practice of law can be all at once stressful, taxing, intellectually interesting, rewarding, and a million other things. It thus may surprise some, and make perfect sense to others, that of the 515 respondents, 418 (81%) reported being satisfied or very satisfied with their job. This represents a significantly higher rate of job satisfaction than among other industries that have been studied.

Yet, job satisfaction does not provide a complete, or even full, picture of well-being.

When comparing Utah's legal professionals' responses to national data, taken from the National Health and Nutrition Survey and adjusted to account for employment status, age, and gender, one can see some reason for concern about legal professionals' well-being. The respondents reported being diagnosed with a psychological disorder at a statistically-significant higher rate than the national data. Approximately one-half of respondents met the classification for minimal or more severe depression.



The respondents reported a statistically-significant higher—and a meaningfully higher—rate of trouble concentrating; trouble sleeping; feeling down, depressed, or hopeless; feeling bad about oneself; and experiencing feelings that they would be better off dead or considering self-harm than the national data. While these results may seem bleak, it is important to keep in mind that they do not represent temporality or causation; that is, the data does not reflect whether the respondents' responses would have been different *before* they became lawyers, or if there is something about being a lawyer that created the condition being reported on.

Regardless of temporality or causation, the preliminary data suggests that Utah's legal professionals can benefit from a focus on well-being. Improved well-being can have positive impacts not only on individuals, but also improve the functionality of the organizations in which we work.

To help foster this improved well-being, the WCLP is compiling best practices for both legal professionals and employers. Phase I of these best practices—now available on the WCLP website—focuses on establishing a foundation for well-being. The publications identify four relatively simple steps that legal professionals and employers can take to get started. For legal professionals, (1) understand well-being and why it matters; (2) assess your own well-being levels; (3) build healthy habits; and (4) seek out support. And, for organizations, (1) form a well-being council or appoint a champion; (2) understand well-being and why it matters; (3) measure the organization's well-being baseline; and (4) audit policies, practices, and culture. The publications have helpful worksheets and a draft agenda for your organization's first committee meeting to help with these initial steps.

The WCLP will additionally be posting relevant articles and information on its website; providing updates through the Utah Bar Journal and e-bulletin; and hosting podcasts, also available on its website.

With the new year approaching, now is a perfect time to evaluate and focus on your own well-being, and to encourage your friends, colleagues, and employers to do the same. The National Well-Being Committee has designated May 4-8, 2020, as well-being week, and Utah is already planning some great events and educational opportunities to celebrate. Why not set that week as your own personal goal to accomplish the four steps of Phase I, or to help your organization to do so?!

If you are looking for ideas on how to start building your own healthy habits or seeking support, the Young Lawyers Division's Fit2Practice initiative is a great place to get started. YLD hosts monthly events providing opportunities for Utah lawyers—of all ages—to focus on positive personal growth. Recent past events include a day at the pool, a family-friendly summer hike, an introduction to mantra meditation, and morning yoga. Watch for future events, which are expected to include a craft night (think paint night) and a nutrition class.

For more information on the WCLP and how you can improve your well-being, check out the WCLP website, <https://www.utahbar.org/well-being/>, or contact Martha Knudsen, the Executive Director of the WCLP, martha.knudson@utahbar.org.

Dicta

Master of Legal Studies Program— a Foundation for Business Leaders

By: Melanie Grayson

This year marks the University of Utah's S.J. Quinney College of Law's second year offering a non-legal degree. In the fall of 2018, the law school opened its doors to students interested in obtaining a Master in Legal Studies, (MLS) joining in a national trend of students enrolled in law school as part of non-J.D. programs. Such programs are on the rise, in part due to the 2008 recession, after which law schools saw application and enrollment numbers decline. In response, many accredited law schools began offering new programs, like an MLS. "One out of seven students in law school is in a non-J.D. program now," explained Jacqueline Morrison, an attorney and the Program Director for the U's MLS program.

Though not a new concept, the MLS program is the first in Utah and enables students to learn about the law without obtaining a J.D. Morrison explained the U's MLS program differs from others across the country: "What makes it unique is the curriculum that has been specifically designed for MLS students." Many such programs simply place non-J.D. students in J.D. classes; but, such an approach does not fill the specific needs or desires of students enrolled in an MLS program. "Most students in non-J.D. programs do not want to be lawyers or practice law," Morrison explained. "We looked at the curriculum through the lens of a non-lawyer—for people in HR, accounting and small business owners. These are people that interface with the law but do not intend to practice." The U designed the MLS program for this type of learner and adopted an executive format.

Courses in the MLS program are taught by S.J. Quinney's regular faculty. MLS students take courses in a variety of areas, designed to provide them a solid foundation in the U.S. legal system and a deeper dive into certain areas like contracts, property, the regulatory system, and litigation. In the lawsuits

and litigation course, for instance, students learn how to work effectively with outside counsel.

The U's MLS program has thought carefully about the relationships between MLS students and practitioners, including potential naysayers in the bar, who might worry the program will make students less likely to contact an attorney. Morrison emphasized the MLS students do *not* want to be attorneys, cannot sit for the bar, and cannot provide legal advice. The U's program strives to build connections between the business and legal communities by matching each MLS student with a practicing attorney mentor. Most attorney-mentors have experience in the field that relates to the student's career.

Morrison described a broad range of students that participated in the first two years of the MLS program, with students hailing from higher-ed, the Governor's office, human resources, accounting, manufacturing, medical research, social work, and food regulation. Many sought out the MLS program to broaden their exposure to legal issues, others to advance their career. Feedback from students has been positive, with students readily able to apply their learnings to the field.

The MLS program spans three semesters, during which students will earn 30 credits. Designed for working professionals, the class meets every other Friday and Saturday for 12 months. While much of the coursework is preset, students are able to substitute one class per semester for a J.D. elective, such as Employment Law with Lauren Scholnick, Natural Resources with Robert Keiter, or Mediation with James Holbrook. In the end, students walk away with a Master's degree and a richer understanding of the legal system and its nexus with business and daily operations. To learn more about the MLS program, visit <https://mls.utah.edu/>.

Dicta

University of Utah Tailgate

By: Michael Langford

There was a time when tailgating was literally charcoal-grilled burgers, a dropped tailgate for eating, and the complementary and competing sound of transistor radios—with Bill Marcroft talking about his beloved Utes or the voice and banter of Paul James calling a Cougar game—on a golden fall day. The University of Utah Tailgate holds magic memories of a simpler time.

It looks different nowadays. It's larger. Plushier. More accommodating. There are tents and bars, custom-painted motor homes, and trailers accommodating thousands of people across acres of the campus, parking lots, and grassy knolls near the stadium. You can find foldout lounges, multiple TVs showing games across the county, sofas, chairs, carpets, and at least one disco ball. There is—truly—something for everyone: whether you're a Utah Man (or Woman), know someone who is, or even belong the tribe of the opponent.

There is revelry, of course. Top shelf, bottom shelf, and everything in between. Ski shots of the ever-present Fireball; Jell-O shots; and beer bong. Or, play a game of spot the flasks that impeccably-dressed old alumni stash in a well-heeled pocket for a discreet sip.

But, the food is central. Brisket slow cooked on the Tragger, a roll stuffed with Miss Essies' pulled pork, or maybe Frog Legs in honor of a vanquished foe. (Forget the little detail that the horned frogs are actually horned toads.) Families and friends coming

together to break bread over hot dogs, burgers, or brats. Memories of chili verde and street tacos right before dispatching BYU on the way to the Fiesta Bowl.

The food, drink, sights, and sounds are part of a bonding; a tradition that brings the community together. A 1940s Red Fire truck, perfectly restored pulling into the tailgate lot with the siren blaring and four generations of family holding on for dear life. Small children throwing footballs or playing tag. Overpriced jerseys of present and past heroes on the gridiron. Cornhole and dancing. The Ute Marching Band. Folks mingling and enjoying each other and celebrating their shared present and past.

The University of Utah Tailgate remains a comradely celebration of community, pride, and shared identity, driven by the Holy Trinity of food, family, and football.



Dicta

By: James Sorenson

[The Utah Center for Legal Inclusion \(UCLI\)](#) recently unveiled the UCLI Certification Program and is inviting Utah's law firms and other legal employers to enroll. UCLI is also inviting the legal community to support its important programs and invest in UCLI's mission by way of volunteering, sponsorship or donation.

UCLI is a collaborative, state-wide effort among representatives from firms, courts, law schools, and the business community to engage our diverse populations in the legal profession. UCLI seeks to realize this mission by creating a strong pipeline of diverse legal talent and helping make Utah's legal institutions more inclusive and equipped to attract, retain, and advance that talent.

The latest data from 2011 and 2016 show that, while 22.8% of Utahns identified as a racial or ethnic minority, only 7% of Utah's legal practitioners were racially or ethnically diverse. Similarly, while women have been graduating from law school at equal, if not greater numbers than men for several years in Utah, only about 24% of women practiced law in 2011. As such, our profession remains homogenous and unable to adequately respond to our changing society's demands.

As the demographics of Utah are changing, Utah's legal employers are increasingly experiencing demands from the business community to have diverse and inclusive legal teams. Similarly, younger generations of students and lawyers are seeking employers that show commitment to diversity and inclusion in the workplace.

UCLI's Certification Program is designed to enhance

Open Enrollment for the UCLI Certification Program

legal employers' diversity and inclusion efforts; assist the employers with attracting, retaining, and advancing women and other diverse attorneys; and engage employers in the common goal of creating a robust pipeline of diverse legal talent.

The enrollment period for the Certification Program is open until January 31, 2020. Employers will then have until December 31, 2020, to complete the following:

- Designate a UCLI representative from their organization's leadership as primary UCLI contact;
- Adopt and start implementing a Diversity & Inclusion Policy (sample list is available on UCLI's website) within the organization;
- Host a one-hour UCLI CLE presentation at the organization on UCLI's purposes, the importance of D&I, and related issues;
- Have at least two members of senior management (at least one of whom is a male) complete at least three hours of D&I related CLEs or training by Dec. 31, 2020;
- Become a UCLI Sponsor or host/volunteer at a UCLI or D&I related event; and
- Complete a 2020 UCLI survey to allow UCLI to track progress toward achieving its objectives (confidential reporting permitted).

Representatives from firms, courts, law schools and the business community participated in the creation of the Certification Program, as they are keenly interested in seeing change in the legal profession

UCLI Certification

Continued

with regards to diversity and inclusion issues. The UCLI 2020 Certification Oversight Committee is comprised of three members from the business community who will oversee each of the enrollee's completion of the Certification requirements throughout 2020. The Chair of the 2020 Oversight Committee is Melanie Grayson (melanie-grayson@pluralsight.com). Being UCLI Certified demonstrates to the broader Utah community, including the existing and potential employees and clients, an organization's intentional effort to engage in this important quest for the legal profession to be more inclusive of different backgrounds and traditionally underrepresented voices.

UCLI gives a special recognition to the Utah Attorney General's Office as the first organization and Parr Brown Gee & Loveless as the first law firm to enroll in the Certification Program. Additional enrollees deserving of recognition for their early commitment are: Ballard Spahr, Holland & Hart, Lear & Lear, Parsons Behle & Latimer, Ray Quinney & Nebeker, Snell & Wilmer, and Stoel Rives LLP.

To enroll or for more information, visit <http://www.utahcli.org/certification> or contact James Sorenson (jsorenson@rqn.com or ucli@utahcli.org). UCLI also invites participation on its committees and sponsorship for our programs (www.utahcli.org).



UCLI UTAH CENTER FOR
LEGAL INCLUSION

Upcoming Events

Join us for the following upcoming events!

Feb.
13

Appealalooza

When: Thursday, February 13 at 12:00 p.m.

Where: Matheson Courthouse jury room (450 State St.)



Please join us for SLCBA's annual Appealalooza. This event provides an opportunity for attorneys to have an informal lunch discussion with a number of distinguished appellate judges. This year, we are excited to have many the Utah appellate judges and justices participating. One hour of CLE credit, pending approval.

More information will be available on the SLCBA website in early January, along with an link to register for the event. RSVP early, as this event sells out quickly!

Feb.
19

Domestic Violence Treatment Symposium

When (tentatively): Wednesday, February 19 at 12:00-3:00 p.m.

Where: Episcopal Center Escalante room

SLCBA is working with the Domestic Violence Offender Taskforce to host a CLE with various presentations regarding domestic violence treatment. It is expected to include some wonderful panelists, including from the Utah legal community and a research team based in New York.

More information will be available on the SLCBA website in January, along with an link to register for the event.

Feb.

Rocky Mountain Innocence Center Panel Discussion

When: TBD

Where: TBD

SCLBA will host a panel discussion with and benefitting the Rocky Mountain Innocence Center. This will be a great opportunity to learn about the important work RMIC does. More information will be available on the SLCBA website in early January, along with an link to register for the event.

ROCKY MOUNTAIN
INNOCENCE CENTER

Looking for information about our upcoming events? Want to connect with other members, see pictures of our past events, or re-read your favorite editions of *Bar & Bench*? You can do all this and more by following the Salt Lake County Bar Association online!



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