

BAR & BENCH

SALT LAKE COUNTY BAR ASSOCIATION

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FALL 2008

President's Message

by Diana Hagen
Salt Lake County Bar President

While the Salt Lake County Bar may be known for throwing great parties, we do so much more than that. Our membership consists of approximately 1800 lawyers with diverse backgrounds, interests and personalities. Our programs are designed to serve the needs of all our members as well as serving the community as a whole.

Bar & Bench. As you no doubt already know, the *Bar & Bench* is not your ordinary bar association newsletter. Sure, we give you all the handy local bar information, like profiles of Salt Lake County judges and announcements of upcoming events, but we don't take ourselves too seriously. The *Bar & Bench* is known for its Justice Tongue advice column, unconventional restaurant reviews, quizzes and contests, and other entertaining features. Our newsletter editor Anneliese Booher (S.J. Quinney College of Law), and roving reporters Trystan Smith (Snow Christensen & Martineau), Lauren Shurman (Stoel Rives), and Mark E. Kittrell (Fabian & Clendenin) provide an off-kilter view of the Salt Lake lawyer lifestyle.

CLE Luncheons. The Salt Lake County Bar hosts informative and entertaining CLE luncheons that get the attention of Salt Lake County lawyers and the media. Ranging from last spring's timely CLE "From Hilldale to Eldorado: A Panel Discussion on Polygamy and State Intervention" to the upcoming "Debate Between Candidates for Utah Attorney General: Mark Shurtleff and Jean Hill" (see page 6), our CLEs are always sure to draw a crowd and some lively discussion. Our CLE committee, Mark Pugsley (Ray Quinney & Nebeker), Chris Hogle (Holme Roberts & Owen), and the Honorable Michele M. Christiansen (Third Judicial District Court), are working on the next hot topic.

Charity Golf Tournament. Another Salt Lake County Bar tradition is the annual charity golf tournament, organized

by Shane Hillman (Parsons Behle & Latimer), Bart J. Johnsen (VanCott Bagley Cornwall & McCarthy), and John Pearce (Jones Waldo Holbrook & McDonough). This

is a guilt-free day on the course to benefit a great cause. For the last several years, the Salt Lake County Bar has donated the proceeds from the golf tournament to the Children's Justice Center, which provides a comfortable, child-friendly atmosphere for children to receive coordinated services during the child abuse investigative process. Be sure to check out the winners of the 2008 tournament on page 6 and plan to join us in 2009.

Art & the Law Project. The "Art & the Law" project is designed to provide a forum for Salt Lake County elementary and junior high students to express their artistic visions of what the law means to them in connection with Law Day. The winning

entries are framed and displayed in courtrooms and other judicial facilities throughout Salt Lake County and the winners and their parents are invited to attend the Law Day luncheon to receive their cash prizes. Our Art & the Law committee members, Elizabeth Hruby-Mills (Richards, Brandt, Miller & Nelson) and Rita Cornish (Parr Waddoups Brown Gee & Loveless), reap the reward of seeing the law through the innocent eyes of children. Our favorite entry last year bore this inspiring caption: "Justice is blind . . . and it comes from behind."

Pro Bono Project. The Salt Lake County Bar has donated to the Pro Bono Initiative at the University of Utah's S.J. Quinney College of Law since its inception in 2001. The Pro Bono Initiative is a voluntary program designed to emphasize the fundamental role of public service in the legal profession and to increase access to legal services for all members of our community. Two years ago, the Salt Lake County Bar, through the work of Kristin Erickson (S.J. Quinney College of Law), established a scholarship awarded



Diana Hagen

Justice Tongue

Five Most Important Propositions

Dear Justice Tongue:

I am a newly admitted lawyer anticipating circulation through many sections of a large firm. It is my perception that your sage advice usually graces the trial bar, but was I wondering if you could direct some of your wisdom more broadly to all young lawyers.

Young and Restless

Dear Young and Restless:

When I first scanned your letter without my glasses, I thought you sought advice for all “young lovers,” not “young lawyers.” For a moment, I was all atwitter at the prospect of writing something I knew nothing about. I could then better fit into the mold of the contemporary analyst.

Nevertheless, I would be only too happy to oblige your request, but first let me focus on the audience. Let’s see, “young lawyers.” Ah, yes, that is the group that would include an overabundant supply of pampered, directionless, underachievers who would conceive that “managing partner” is a “entry level position.” Alright then, let’s begin.

I will convey my advice as the five most important propositions to embrace when entering the practice of law.

Proposition 1. **The practice of law is a profession, not a business.** It is true that one must attend to certain business functions associated with the practice of law, but it is not, I repeat, not a business. The profession of law is endowed with a virtual monopoly in the prosecution and defense of causes before the judicial branch of government. That is one of the sufficient reasons the law practice is and must always be a profession and the reason one must adhere to a code of conduct and performance far beyond the written rules and regulations governing the practice. You have embraced the privileges and obligations of a long and honored profession steeped in tradition of duty and integrity. Therefore, it is your sacred responsibility when you take on the affairs of a client to put that client’s interest first and ensure that the best possible representation is provided under that client’s circumstances. And by that I do

not mean “depending how much the client can pay.” To be called a professional, you must adhere to the notion that there are unwritten duties and responsibilities far beyond the common exchange of time for money.

Proposition 2. **You must always be proactive.** It is your non-delegable duty to give a damn at all times. Clients will bring you problems that they have not or cannot solve for various reasons including, but not limited to, the lack of intellectual process and energy and/or force of will required to move the problem to a solution. While clients seek, of course, guidance through the lattice work of legal rules and regulations, ninety percent of the problem will be a lack of direction, strategy, and fortitude to ensure their voice is

heard, their needs addressed, and the matter resolved appropriately. Accordingly, the greatest sins in the practice of law are sins of omission. You will be forgiven for making missteps here and there provided they are in good faith and do not have catastrophic results. You should never expect forgiveness for inaction or indolence.

Proposition 3. **You will be paid for thinking, planning, researching, studying and effectively communicating.** Do not confuse tapping on computer keys with any of the above. If clients needed typists, the practice of law would be occupied by word processors. Sadly, more and more, it may seem to be so. That needs to stop. Let it stop with you.

Proposition 4. **Your rewards and satisfaction in the practice of law will be in direct proportion to your commitment and effort.** If you were hoping to make easy money, you picked the wrong path. If you are looking to win the lottery, this is not your ticket. The practice of law (and life in general), will return to you “in like measure that which you have to it devoted.”

Proposition 5. **Above all, retain your integrity.** You must be honest and forthright in all of your dealings and there should be no concern on the part of any colleague other than the formidability of your skill, the insight of your analysis and the compelling force of your arguments.

Welcome and above all be worthy.

Fondly,

Tongue

...you must adhere to the notion that there are unwritten duties and responsibilities far beyond the common exchange of time for money.

Judicial Profile

Judge Judith Atherton

By Mark Kittrell

Toledo native and Mud Hens fan Judge Judith Atherton, like most of us, stumbled into the practice of law, and unlike some of us, has enjoyed her career within it. Before law school, Judge Atherton attended Wellesley College and earned an Art History degree, with a focus on 19th Century works. She then came to the University of Utah and earned a Masters in Early American History. Not content with simply having two degrees, Judge Atherton enrolled at the University of Utah College of Law and earned her law degree in 1983.

With the exception of her first legal job after graduating from law school, Judge Atherton has followed a distinctly public service-oriented career path over the past twenty-five years. After graduating from law school, she worked at Hugh C. Garner & Associates, handling oil and gas matters. In 1986, Judge Atherton moved to the Legal Aid Society where she became versed in domestic law, as well as issues involved with public access to the courts. In 1989, she joined the Attorney General's office, in the criminal appeals division. She practiced in this division for two-and-a-half years before she was named as a Third District Court Commissioner. She spent three years as a Commissioner, handling preliminary hearings, misdemeanors, and domestic relations matters. In 1995, then-Governor Leavitt appointed Judge Atherton to the bench. Judge Atherton sees her appointment to the bench as an extension of the legal public interest work that has defined her career.

Currently, Judge Atherton handles primarily criminal matters. She views her role on the bench as that of a problem solver, which might explain her development and involvement with the Third District Court's Mental Health Court. Judge Atherton's mental health court is a specialized

court that provides treatment to mentally ill defendants to prevent those defendants from re-offending. This specialty court is staffed by Judge Atherton, Salt Lake City Prosecutor Sim Gill, Salt Lake Legal Defender Association Assistant Director Patrick Anderson, as well as staff from probation and mental health agencies. Both the prosecution and the defense must work together to provide an appropriate course of treatment for the mental health court participants. A recent study by the Utah Criminal Justice Center at the University of Utah found that Judge Atherton's Mental Health Court cut recidivism rates among the participants in the mental health courts.

This problem solving focus has emphasized to Judge Atherton the importance of civility in the courtroom. While she understands the roles advocates play, she also believes advocacy and civility are not mutually exclusive endeavors. She has never been influenced by an ad hominem attack from one counsel to another, and believes that these attacks undermine an attorney's position. Furthermore, civility should extend past counsel and judges to staff, clerks, and bailiffs. Word of incivility toward any of these essential court personnel usually makes it back to a judge's chambers and reflects poorly on the offending attorney.

Judge Atherton says, "The point [of a judge's role] is fairness in the justice system. This notion of fairness is what makes it run." Judge Atherton's career has brought more participants into the judicial system, and her work from the bench ensures that fairness is brought along with that increased access.

For more information about Salt Lake County Mental Health Courts visit http://www.law.utah.edu/_studyfiles/94/94.pdf.



Judge Judith Atherton

Who Am I?



Colin King



Gary Johnson



Jefferson Gross



Thanks to our panel of attorneys for being good sports about the desecration of their portraits.

Restaurant Review

Baxter's American Restaurant

by **Lauren Shurman**
Baxter's American Restaurant
400 W. South Temple
www.baxtersamerican.com

Baxter's is the latest restaurant to open at the Gateway, replacing the Butterfly at the far northern end of the mall. I'm not really sure why the Butterfly failed (I liked it), but according to many, it was too cutting-edge and intimidating to diners. Baxter's strives to succeed where the Butterfly failed, offering a variety of comfort foods while stripping away the pretentiousness that seemed to scare diners away from the Butterfly.

Next to The Depot at the corner of 400 West and South Temple, Baxter's is less than a block from the EnergySolutions Arena Trax stop. The interior of the restaurant is cozy, yet sophisticated, offering a mix of booths, tables, and bar seating. Certain touches such as the fountain at the entrance, the glazed tiled wall behind the bar, and the copper ceiling tiles glam the space up a bit, while the club chairs and sofa surrounding the bar ensure that diners will feel comfortable. Baxter's is open seven days a week for lunch and dinner, with brunch served on Sundays. Baxter's also hosts and caters private events, so keep this place in mind when deciding where to hold your next event.

Baxter's is the sort of place that you'd choose when your group has diverse tastes and can't commit, say, to sushi or Italian food. There is something here for everyone. You will find basic American offerings, such as burgers, salads, pastas, and sandwiches. Although most of these menu items are basic, they are not ordinary. Baxter's gives each of its menu items a little extra pizzazz; for example, the tomato soup is served with goat cheese and basil oil, and the basic veggie wrap comes with white bean hummus and ginger dressing. In short, this food is a notch above anything you are going to get at some of the chain restaurants down at the other end of the Gateway.

Overall, Baxter's offers above-average food to satisfy everyone from kids, to vegetarians, to the most ardent meat-eaters. As is so often the case, however, trying to please everyone leaves little room for Baxter's to truly excel in any one particular area. For example, Baxter's cast iron pan

pizza is good, but if you are in the mood for pizza, you'd be better off heading to Settebello's, a few blocks away, for excellent pizza. Same goes for the pasta—although Baxter's offers a few basic pasta dishes, there are plenty of nearby Italian restaurants, such as Café Molise, that offer a better selection for about the same price.

Lunch entrees at Baxter's range in price from about \$8 to \$14. One of the best lunch deals in town has to be Baxter's "express lunch": three courses plus a drink for \$9.95. Choose among tomato soup or a salad, a BLT, chicken salad sandwich, or veggie wrap, and cheesecake, apple pie, or a brownie, and you will have a satisfying lunch for just under \$10. Dinner at Baxter's is a bit pricier, with entrees ranging

between \$10 and \$20. With a full bar, Baxter's offers reasonably priced cocktails, making it an ideal spot to meet up for after-work drinks and appetizers. Finally, brunch offerings range in price between \$5 and \$11 and include omelets, benedicts, and waffles, along with standard brunch cocktails.

In sum, although Baxter's is unlikely to make it onto your short-list of fine dining options, it is a place to keep in mind for your next business lunch, Gateway shopping endeavor, or pre-game meet-up before heading over to the EnergySolutions Arena. Baxter's offers an elegant yet comfortable space in which to enjoy drinks and satisfying comfort food.

Baxter's is the sort
of place that
you'd choose
when your group
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say, to sushi or
Italian food.

Ben's Cookies

(801) 456-BENS (2367)

While on the subject of dining options at the Gateway, I thought I'd mention my latest fixation: Ben's Cookies. Located at the southern end of the mall across the street from Z Tejas, Ben's Cookies serves over ten varieties of deliciously warm and gooey cookies, sold by the pound. Ben's is a British company, and there are only ten stores in the world, located in England, Saudi Arabia and Salt Lake City (yes, really). Simply put, we should all be thanking our lucky stars that the first and only Ben's location in the United States is right here in downtown Salt Lake City. If your firm is anything like mine, you are ordering cookies on a weekly or semi-weekly basis for some lunch meeting, birthday, or anniversary celebration. So, the next time cookies are on the agenda, I highly recommend Ben's. Good for office morale if not for the waistline.

On the Docket

S o c i a l s & C L E

*Please come to the Salt Lake County Bar Association's
New Lawyers and Judges Reception to welcome the
2008 Utah State Bar admittees*

Wednesday, October 29, 5:30 p.m. to 8:00 p.m.

The Alta Club

100 East South Temple, Salt Lake City

There is no cost to attend

Hors d'oeuvres and drinks will be served.

Parking available northeast of The Alta Club.

*Please RSVP to Dana Schanuel at
dschanuel@bmgtrial.com or 355-6677*

SLCBA
SALT LAKE COUNTY BAR ASSOCIATION

**The Salt Lake County Bar Association
and Women Lawyers of Utah present:**

***A DEBATE BETWEEN THE CANDIDATES
FOR ATTORNEY GENERAL:
MARK SHURTLEFF & JEAN HILL***

Lunch and 1 hour CLE CREDIT

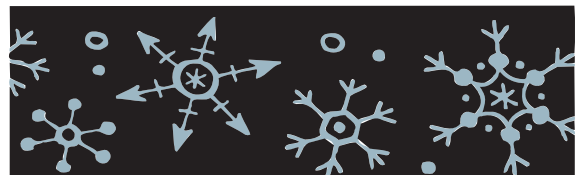
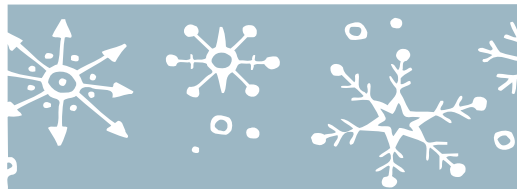
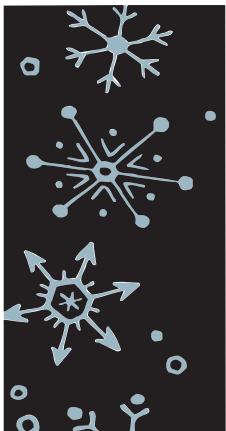
**Thursday, October 30, 2008 at 12:00 p.m.
Downtown Marriott (across from Salt Palace)**

**\$30 for Women Lawyers of Utah or
Salt Lake County Bar Members**

\$40 for all others

(Please make your check payable to the SLCBA)

Please RSVP by email by to Doris at:
dvandenakker@rqn.com or (801) 322-3418



*Mark your calendar and watch for your
invitation in the mail*

Holiday Dinner Dance

of the

Salt Lake County Bar Association

at

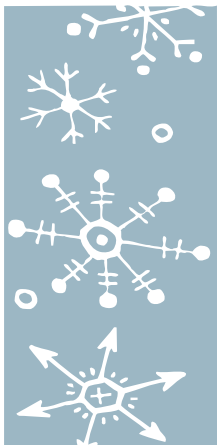
The Country Club

Twenty-Four Hundred East Country Club Drive

Salt Lake City, Utah

on

Friday, the Fifth of December, Two Thousand and Eight



Recent Precedents

2008 Spring Dinner



Recent Precedents S L C B A C h a r i t y G o l f T o u r n a m e n t

On June 9th 2008, dozens of attorneys and guests descended upon the beautiful Jeremy Golf and Country Club in Park City to compete in the annual Salt Lake County Bar Association Charity Golf Tournament, benefitting the Salt Lake County Children's Justice Center. Lexis-Nexis, as Tournament Sponsor, made the event possible with its generous support. Other sponsors included Iron Mountain Government Services, Inc.; Jones Waldo Holbrook & McDonough; Litigation Document Group; Parr Waddoups Brown Gee & Loveless; Sage Forensic Accounting, Inc.; Thacker and Co.; and Wachovia Financial. We also had raffle prizes donated by: Buzz Baseball; The Jazz; Momentum; Nailed Boutique; Paradise Café; Park City Ski Resort; Red Rock Brewing Co.; Ruth's Chris Steak House; South Valley Motorsports; and Texas Roadhouse.

First place and the tournament trophy went to a foursome from Parr Waddoups Brown Gee & Loveless comprised of Dan Barnett, Kent Collins, Randy Sargent, and Steve Sargent. Second place went to VanCott, while Ray Quinney & Nebeker took third place honors. Thanks to all who participated.



Second Place Team from VanCott: left to right: Kenneth Atkin, Glen Richman, Bart Johnsen, Douglas Smith



First Place Team from Parr Waddoups Brown Gee & Loveless: Left to right: Dan Barnett, Randy Sargent, Steve Sargent and Kent Collins (not pictured).



Third Place Team from Ray Quinney & Nebeker: Ira Rubinfeld, Dana Nelson, Matt Lewis and John Mackay



Dicta

Top 10 Sessions Offered at Recent Plaintiff's Bar Convention

1. Pitfalls of Faking a Limp at a Bench Trial
2. How to Quickly Pour Your \$6.00 Starbucks Latte into a 7-Eleven Cup When Meeting with Clients
3. Pros and Cons of Cowboy Boots
4. Creating Your Own TV Ad
5. The Filmography of Wilford Brimley
6. Esquires, not Lawyers
7. It's Not Paranoia if It's True
8. Listening to Your Inner Plaintiff's Lawyer
9. Your Worst Nightmare: Photocopying Fees
10. Ethics, Smethics

T o p T e n L i s t s

Top 10 Sessions Offered at Recent Defense Bar Convention

1. Litigation and Other Wars of Attrition
2. What to Wear? Navy, Black, or Grey?
3. Turning Off Your Guilt Switch
4. How to Write a \$10,000 Brief When a \$1,000 Brief Will Do
5. Shortcuts to the Big Corner Office
6. It's Not a Lie if You Believe It
7. Introduction to CYA Letters
8. Giving and Receiving Hugs
9. Apologies that Don't Admit Wrongdoing
10. The Poetry of Orrin Hatch

by Scott Smith

President's Message

C o n t i n u e d

each year to a University of Utah law student dedicated to pro bono work. This year's recipient, Tadd Dietz, was the coordinator for the Guadalupe Clinic and has performed countless hours of pro bono work as a law student.

Film Festival. For many years, Leslie Lewis has hosted the Salt Lake County Bar film festival at the Utah Bar Annual and Mid-Year Conventions. There couldn't be a better way to earn 2 hours of CLE than watching and discussing a good legal film. Don't miss the screening of *Presumed Innocent* at the Mid-Year Convention in St. George.

Socials. And, of course, our famous social events. This year, our long-time SLCBA socialite Laura Scott (Parsons Behle & Latimer) became our Treasurer, leaving the Social committee in the capable hands of Robert Shelby (Burbidge & Mitchell), Jonathan Pappasideris (Ray Quinney & Nebeker) and Sam Harkness (Snow Christensen & Martineau). Our first social event in the Fall will be the popular New Lawyers and Judges Reception at the Alta Club on October 29th (see page 6). All Salt Lake County Bar members and judges are invited to attend this free event to greet the newest admittees to the bar and appointees to the bench. Join us after work for drinks and hors d'oeuvres and a chance to socialize with your fellow attorneys and judges.

On December 5th, the Salt Lake County Bar will host our annual Holiday Party at the Salt Lake Country Club (see

page 6). Get dressed up and celebrate the season in style with a social hour, dinner, live music and dancing. If you have not attended this event before, come see why the most fun-loving members of the bar and bench have made this a holiday tradition.

Our aptly-named Spring Dinner is held on Tuscany's beautiful patio (unless it's pouring rain) and features a social hour, dinner, and live entertainment. Last spring's event included an after-dinner performance by the Dueling Pianos of the Tabernacle with all tip proceeds donated to "And Justice For All." If you need a reason to join us next year, I offer the photos on page 4 as Exhibit A.

Website. Amy Sorenson (Snell & Wilmer) posts all of our upcoming events and other important information on our scintillating website. While you're waiting for Britney's latest YouTube video to load, stop by www.utahbar.org/bars/slcbbar.

We hope that our programs offer something for all of our members. Please feel free to contact me, Vice-President David Reymann (Parr Waddoups Brown Gee & Loveless), Secretary Trina Higgins (U.S. Attorney's Office), or any of the committee members with comments or suggestions. An email form and individual contact information is posted on our website.

Thank you for your support of the Salt Lake County Bar. We hope to see you at all of our events throughout the year.