

Summary of Utah State Bar Operations 2008–2009

Vision of the Utah State Bar

The vision of the Utah State Bar is to lead society in the creation of a justice system that is understood, valued, respected, and accessible to all.

Mission of the Utah State Bar

The Mission of the Utah State Bar is to represent lawyers in the State of Utah and to serve the public and the legal profession by promoting justice, professional excellence, civility, ethics, respect for and understanding of the law.

Introduction and Grants of Authority

The Utah State Bar operates under authority granted by the Utah Supreme Court through orders which restate the Court's inherent authority under the Utah Constitution to regulate the practice of law. Those orders confirm the specific purposes, duties and responsibilities of the Utah State Bar as:

Advancing the administration of justice according to law;

Aiding the courts in carrying on the administration of justice;

Regulating the admission of persons seeking to practice law;

Regulating and disciplining persons practicing law;

Fostering and maintaining integrity, competence and public service among those practicing law,

Representing the Bar before legislative, administrative and judicial bodies;

Preventing the unauthorized practice of law;

Promoting professionalism, competence and excellence in those practicing law through continuing legal education and by other means;

Providing service to the public, to the judicial system and to members of the Bar;

Educating the public about the rule of law and their responsibilities under the law; and,

Assisting members of the Bar in improving the quality and efficiency of their practice.

The Court has acknowledged that it exercises its authority to govern the practice of law without engaging in the daily management and operations of the Bar and has granted the Board of Bar Commissioners all powers necessary and proper to carry out the duties and responsibilities of the Bar and the purposes of the Rules and that they should have all authority not specifically reserved to the Court.

The Bar's internal operations are governed by **By-laws**; and through the establishment of a variety of administrative **policies and procedures**. Other rules necessary to regulate and manage the practice of law have been promulgated by the Bar and approved by the Court and have been amended from time to time as needs have changed and demands have increased. These other rules include the **Rules Governing Admission, Rules of Lawyer Discipline and Disability, Rules of Professional Conduct, Rules for Lawyers' Fund for Client Protection, the Law Student Assistance Rule and the Rules of the Utah State Bar Fee Dispute Resolution Committee**. The Court has also established rules governing mandatory continuing legal education. These rules may be found at www.utahbar.org.

Bar Leadership

The Bar is a 501 (c) (6) non-profit Utah corporation governed by a fifteen-member Board of Bar Commissioners, which includes eleven elected lawyer representatives, two elected officers and two court-appointed public members. The Commission also includes nine non-voting *ex officio* members. The Commission hires an Executive Director to carry out the operations of the Bar and the policies of the Commission. The Executive Director employs and supervises the activities of operations staff, which numbers twenty-six full-time and six part-time employees.

During the 2008–2009 year, the Bar Commission included the following:



...in their Friday casual.

Elected Officers:

Nathan D. Alder, *President*
Christensen & Jensen, Salt Lake City

Stephen W. Owens, *President-Elect*
Epperson & Owens, Salt Lake City

Elected Lawyers and Geographic Area:

Herm Olsen, *1st Division – Box Elder, Cache and Rich Counties*
Hillyard, Anderson & Olsen, Logan

Felshaw King, *2nd Division – Weber, Morgan and Davis Counties*
King & King, Farmington

Christian W. Clinger, *3rd Division – Tooele, Salt Lake and Summit Counties*
Clinger Lee Clinger, Salt Lake City

Yvette Donosso, *3rd Division – Tooele, Salt Lake and Summit Counties*
Jones, Waldo, Holbrook & McDonough, Salt Lake City

James D. Gilson, *3rd Division – Tooele, Salt Lake and Summit Counties*
Callister Nebeker & McCullough, Salt Lake City

Lori W. Nelson, *3rd Division – Tooele, Salt Lake and Summit Counties*
Jones, Waldo, Holbrook & McDonough, Salt Lake City

Scott R. Sabey, *3rd Division – Tooele, Salt Lake and Summit Counties*
Fabian & Clendenin, Salt Lake City

Rodney G. Snow, *3rd Division – Tooele, Salt Lake and Summit Counties*
Clyde, Snow, Sessions & Swenson, Salt Lake City

E. Russell Vetter, *3rd Division – Tooele, Salt Lake and Summit Counties*
Salt Lake City Attorney's Office, Salt Lake City

Rob Jeffs, *4th Division – Millard, Juab, Utah and Wasatch Counties*
Jeffs & Jeffs, Provo

Curtis M. Jensen, *5th Division – Washington, Iron, Beaver, Sanpete, Sevier, Piute, Wayne, Garfield, and Kane Counties*
Snow, Jensen & Reece, St. George

Public Members Appointed by the Supreme Court:

Steven R. Burt, *AIA, Public Member*
Entelen Design-Build, Salt Lake City

Mary Kay Griffin, *CPA, Public Member*
Mayer, Hoffman, McCann, Salt Lake City

Ex Officio Members, Appointed by the Commission

for One Year Terms:

V. Lowry Snow, *Immediate Past Bar President*
Snow, Jensen & Reece, St. George

Hiram E. Chodosh, *Dean, S. J. Quinney College of Law*

Karthik Nadesan, *Young Lawyers Division President*
Nadesan Beck PC, Salt Lake City

Charlotte L. Miller, *Utah State Bar's Delegate to the ABA*
Kirtan & McConkie, Salt Lake City

J. Simón Cantarero, *Minority Bar Association Representative*
Holland & Hart, Salt Lake City

Paul T. Moxley, *State ABA Members' Delegate*
Parsons, Kinghorn & Harris

Evelyn J. Furse, *Women Lawyers of Utah Representative*
Salt Lake City Attorney's Office, Salt Lake City

Julie L. Eriksson, *Paralegal Division Representative*
Christensen & Jensen, Salt Lake City

Kevin Worthen, *Dean, J. Reuben Clark School of Law*

Other Representatives:

Marilyn Branch, *Utah Supreme Court Liaison*

2008–2009 Commission Priorities

The Bar Commission annually reviews its long range planning objectives and sets specific goals for the upcoming year within the plan. For the 2008–2009 year, those goals included the following:

New Lawyer Training Program

The Utah Supreme Court approved a New Lawyer Training Program in December, 2008 to match new lawyers with more experienced volunteer lawyer mentors for training during their first year of practice in professionalism, ethics, and civility; to assist them in acquiring the practical skills and judgment necessary to practice in a highly competent manner. Mentors are approved by the Court's Advisory Committee on Professionalism and then appointed by the Court.

The *New Lawyer Training Steering Committee* consisted of **Rod Snow**, **James Backman**, **Margaret Plane** and **Matty Branch**.

A *Mentor Training and Resource Committee* is co-chaired by **Annette Jarvis** and **Jeffrey J. Hunt**. Its members include **Judge Clark Waddoups**, **Judge Claudia Laycock**, **Mara Brown**, **V. Lowry Snow**, **Stephanie Pugsley**, **Merrilyn Diaz**, **Carlie Christensen**, **Rob Hyde**, **Fran Wikstrom**, **George Haley**, **Troy Booher** and **Michael Patrick O'Brien**. The committee is charged to meet periodically with mentors, firms, and government offices to provide training on effective mentor relationships and institutionalizing mentor programs.

Four hundred mentors have been approved so far to participate in the New Lawyer Training Program and 48 of the new lawyers passing the February Bar Exam were eligible for the program and have been matched with mentors.

Operations Reviews

The Commission completed year-long substantive reviews of the Office of Professional Conduct; Continuing Legal Education; Fee Dispute Resolution Program; the Fund for Client Protection; and Law & Justice

Center Operations. Those reviews, conclusions and recommendations are available at <http://www.utahbar.org/documents/>.

Public Relations and Lawyer Communications

Monthly e-Bulletins were sent to all lawyers, as well as individual e-bulletins on matters of immediate concern, like judicial nominations and judicial budgets. Ten surveys were sent electronically, on topics including: The 2008 conventions; Solo, Small and Rural Practice Members; Corporate Counsel Survey; Bar Group Health Insurance; the Office of Professional Conduct; and an Annual Survey of Bar Activities, Programs and Services.

Bar leadership met with the *Salt Lake Tribune*, the *Deseret News*, and the *Spectrum* editorial boards and solicited and responded to many requests for information on judicial issues, conventions, legislative issues and professional initiatives. The papers ran stories on mentoring, judicial budgets and nomination issues, the changing nature of the legal profession, Wills for Heroes, the Find a Utah Lawyer Directory and access to justice programs.

Bar leadership engaged in significant work on individual bills and judicial nomination issues and the judiciary's budget and sponsored breakfasts with legislators. We worked to involve other professional groups in raising awareness about the study of a proposed professional services tax. Bar leadership also paid courtesy calls to Governor Huntsman, House Speaker Clark and Senate President Waddoups and detailed our positions on judicial budgets, fee increases, nominating issues and the professional services tax. Staff organized a successful first Utah State Bar Day at the Legislature during the session bringing a packed house to the Hill for free CLE and exposure to their representatives.

Licensing Statistics

	2007–2008	2008–2009	Change
Active Status	7,399	7,596	197
Active Lawyers	6,320	6,568	248
Active Under 3 Years	922	858	(64)
Emeritus	135	141	6
In House Counsel	22	29	7

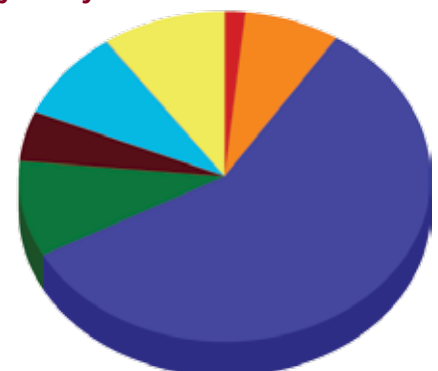
	2007–2008	2008–2009	Change
Inactive Lawyers	2,119	2,287	168
Inactive, Full Service	752	687	(65)
Inactive, No Service	1,165	1,391	226
Inactive, Emeritus	202	209	7
Total Active & Inactive	9,518	9,883	365

By Location

1st Judicial District	125	123	(2)
2nd Judicial District	579	571	(8)
3rd Judicial District	4,438	4,402	(36)
4th Judicial District	721	714	(7)
5th – 8th Judicial Districts	374	371	(3)
Out of State	757	672	(85)
Out of Country	7	2	(5)
No Division Designated	398	741	343
	7,399	7,596	197

Active Lawyers by Location – 2009

1st District	1.62%
2nd District	7.52%
3rd District	57.95%
4th District	9.40%
5th–8th Districts	4.88%
Out of State	8.84%
Out of Country	.026%
No Designation	9.76%



Bar Programs and Services

Regulatory Services

Special Admissions

Special admissions include reviewing and processing Military Lawyers, House Counsel, Admission on Motion and *Pro Hac Vice* applications. During the Fiscal 2008–2009 year, we had the following special admissions applications:

	Applications	Admitted	Pending	Denied	Withdrawn
Military	0				
House Counsel	9	8	1		
Motion	57	43	11	1	2
<i>Pro Hac Vice</i>	379				

Admissions

Admissions includes the application process, character and fitness file reviews and hearings, Bar exam question drafting and selection, preparation and administration, grading essay exams, the Admissions Ceremonies and all reciprocal admissions. Committees include the *Admissions Committee* (**Steven T. Waterman** and **Judge James Z. Davis**, Co-chairs), *Character and Fitness Committee* (**Bryon J. Benevento** and **Frank J. Carney**, Co-chairs), *Bar Examiner Committee* (**Russell C. Fericks** and **David M. Eckersley**, Co-chairs), and the *Bar Examination Administration Committee* (**Jennifer L. Falk**, Chair).

July 2008 Bar Examination Statistics

335 Took the July Bar Exam.

291 Passed the July Bar Exam.

Pass Rate for the July 2008 Bar Exam: 87%

February 2009 Bar Examination Statistics

126 Took the February Bar Exam.

92 Passed the February Bar Exam.

Pass Rate for the February 2009 Bar Exam: 73%

Essay Scores	Multistate Scores	Combined Scores
60 Points Possible Average Score: 35	200 Points Possible Utah Average: 146 National Average: 146 (50,011 tested)	Utah Median Score: 294 Passing Score: 270

Essay Scores	Multistate Scores	Combined Scores
60 Points Possible Average Score: 35	200 Points Possible Utah Average: 141 National Average: 136 (18,868 tested)	Utah Median Score: 289 Passing Score: 270

Professional Conduct Enforcement

The Office of Professional Conduct investigates complaints of unethical conduct; provides ethics education seminars; formal and informal advisory opinions; makes presentation to hearing panels; and either resolves or prosecutes cases. Committees include the *Ethics and Discipline Committee of the Utah Supreme Court* (**Arthur B. Berger**, Chair), *Ethics Advisory Opinion Committee* (**Allen Sims**, Chair), and involvement with *Supreme Court Rules of Professional Conduct Committee* (**Robert A. Burton**, Chair), *Supreme Court Advisory Committee on Professionalism* (**Justice Jill N. Parrish**, Chair). The office has prepared a separate report on its operations, which is available at http://www.utahbar.org/opc/Assets/2009_OPC_Annual_Report_for_2008_2009.pdf

Continuing Legal Education Seminars

In the past year, the CLE Department coordinated or presented 177 events in 35 general practice areas, for a total of 386.5 total credit hours at a charge to lawyers of about \$30 per credit hour.

In addition, 3,972 hours of CLE were viewed online in a total of 27 different practice areas. The CLE Department coordinates with and assists the *New Lawyer CLE Committee* (**Kevin M. Sheff** and **Steven J. Vuyovich**, Co-chairs)

General Bar Management and Operations

General Bar management includes annual licensing, maintenance of databases, personnel, financial controls, inventory, equipment, governance organization and support, long range and planning. Bar staff manages policy implementation and operations through various voluntary leadership committees, including: *Bar Commission*, *Bar Commission Executive Committee*, and the *Bar Commission Budget & Finance Committee*, Chair, **Ray O. Westergard**, CPA; **Nathan D. Alder**; **Marilyn M. Branch**; **Jonathan K. Butler**; **Cynthia J. Crass**; **Peter K. Ellison**; **Mary Kay Griffin**, CPA; **Louise T. Knauer**; **Stephen Owens**; **Jeff Einfeldt**, CPA; and, **John C. Baldwin**. A copy of the 2008–2009 audit by Deloitte and Touch is available at http://www.utahbar.org/documents/2008_09_usb_audit.pdf

"Group " Services

Fall Forum, Summer & Spring Conventions

Conventions provide opportunities for lawyers to network in congenial, social and informal settings to renew friendships; to learn and to facilitate the administration of justice, foster professionalism and engender a collective identity through familiarity with fellow professionals. These events provide unique seminars and speakers, educate lawyers about issues facing the Bar, the profession and the judiciary, permit interaction with judges, and are budgeted to break even.

Events are coordinated by staff with assistance from the *Fall Forum* (**Karin S. Hobbs** and **Grant R. Clayton**, Co-chairs), *Summer Convention* (**Sarah Elizabeth Spencer** and **Brian D. Cunningham**, Co-chairs), and *Spring Convention Committee* (**Judge Wally A. Lee** and **Tiffany N. Blanchard**, Co-chairs).



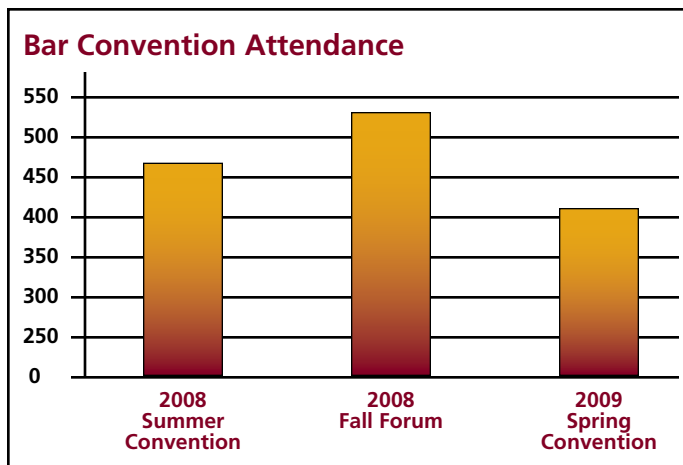
2008 Summer Convention
in Sun Valley, Idaho:
461 lawyers; 16 CLE hours.



2008 Fall Forum
in Salt Lake City:
535 lawyers; 9 CLE hours.



2009 Spring Convention
in St. George:
410 lawyers; 9.0 CLE hours.



Member Benefit Programs

The Group Benefits department works with numerous companies to provide a list of goods and services to Utah State Bar lawyers and the legal community. The Bar has negotiated group benefit discounts with 33 different partners, including free legal research through **Casemaker**, free professional counseling through **Blomquist Hale Consulting** and peer-to-peer assistance through **Lawyers Helping Lawyers**. The Bar was able to add affordable group medical insurance to the list of benefits. The *Member Resource Committee* (**Grant R. Clayton** and **Blake D. Miller**, Co-chairs) meets regularly to review and promote benefits. A link to group benefits is available at <http://www.utahbar.org/members/>

Committee Support – Unrelated to Other Programs

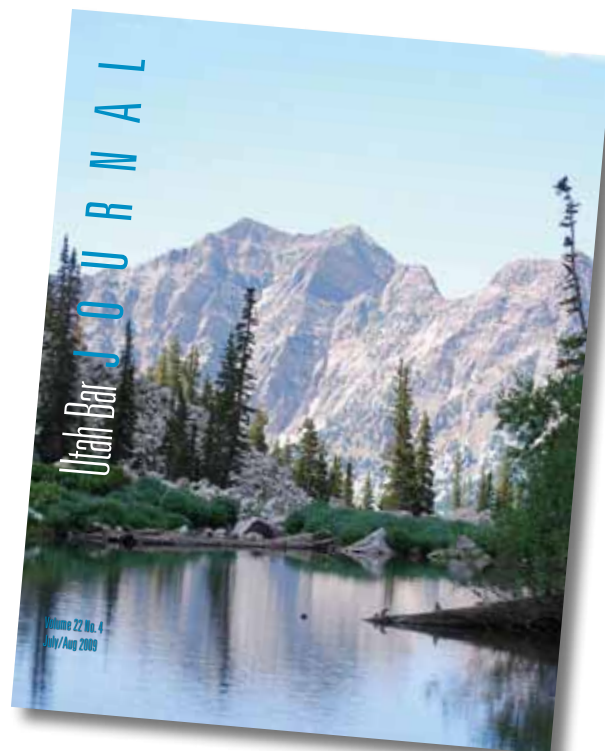
Stand-alone committees charged to provide professional leadership and study of issues include the *Courts and Judges Committee* (**Kim S. Colton**, Chair) and the *Committee on Law and Aging* (**J. RobRoy Platt**, Chair). All other committees support specific Bar operations and activities. A listing of all Bar committees can be found at http://www.utahbar.org/directories/committee_chairs.html.

Section & Division Support

Staff provides support services to 34 *Sections* and 2 *Divisions* which are independent and financially self-sustaining. Activities include section meetings, CLE luncheons, social events, dues collection, general administrative and financial services, email and newsletter communications, and the maintenance of websites and blogs. A listing of all Bar sections and divisions can be found at http://www.utahbar.org/directories/section_chairs.html

Communications Programs

The Bar provides information on professional issues, law office management, legal education and law related opportunities. The *Utah Bar Journal*, which was published six times this past year by the *Bar Journal Committee* (**William D. Holyoak**, Chair) was provided to members. In addition a current and interactive web site, monthly *E-bulletins*, regular mailings, posters, banners, convention and seminars and surveys kept members and public informed. Access to past e-bulletins and issues of the *Bar Journal* can be found at <http://www.utahbar.org/barjournal/>



Access to Justice Programs

During fiscal 2008–2009, increased time was spent recruiting, retaining and recognizing *pro bono* lawyers. Two free CLE events to train and provide pools of available volunteers were provided. The Bar’s relationships with other providers of services to the poor and indigent in Utah were re-energized. Legislation was spearheaded to provide a license plate to raise funds for related organizations.

Due to budgetary issues, the *pro bono* position was suspended in June 2009. The Bar maintains Tuesday Night Bar and will continue to place *Habeas Corpus* cases referred by the Courts. The Bar also participates in the activities of the statewide Access to Justice Commission.

Fund for Client Protection

The *Fund for Client Protection Committee* (David R. Hamilton, Chair) conducted hearings during fiscal 2008–2009, resulting in Commission awards of \$55,637 to clients harmed by the inappropriate activities of their lawyers.

Tuesday Night Bar

Each Tuesday night, lawyers organized by the Young Lawyers Division provide free legal advice to approximately 1,200 members of the public at the Law & Justice Center. Other Tuesday Night Bar activities occur each week in various other locations around the state. Utah State Bar staff makes Tuesday Night Bar appointments and staffs the desk.

Young Lawyers Division

The Young Lawyers have produced video mentoring on their web site; promote Law Day Activities, and provide numerous service projects, including Wills for Heroes. Their web site is www.utahbar.org/sections/yld.

Unauthorized Practice of Law Committee

During the 2008–2009 fiscal year, the *Unauthorized Practice of Law Committee* (Victoria K. Kidman, Chair) and staff received 49 complaints about the unauthorized practice of law. The Committee is actively investigating 9 cases; 2 of which are formal complaints. Every complaint was thoroughly investigated by the Committee and of the 42 closed complaints (2 of which were carried over from previous years for further investigation and hence closed during the 2008–2009 fiscal year):

11 cases were determined not to be the unauthorized practice of law

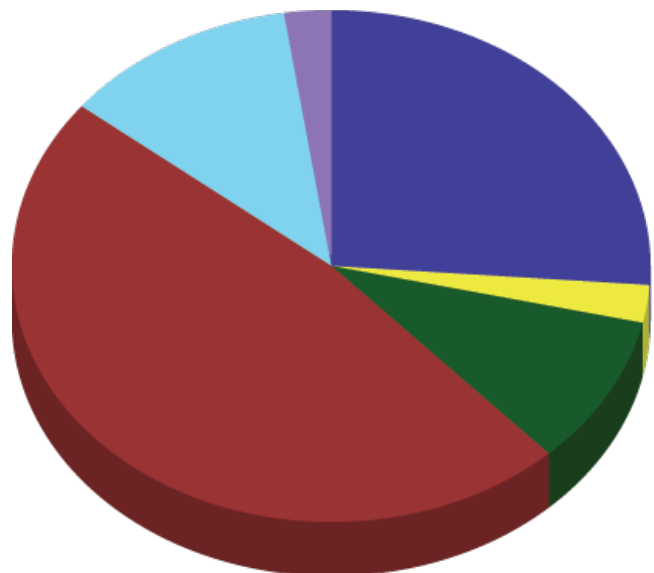
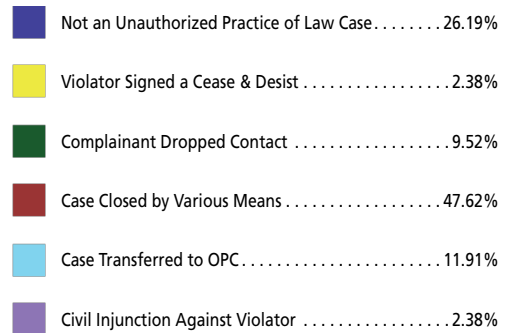
1 alleged UPL violator(s) signed a Cease & Desist Agreement

4 cases were closed because the Bar received no further information from the complainant to complete the investigation

20 cases were closed by various means (e.g., letter of admonishment, violator moved out of state, etc)

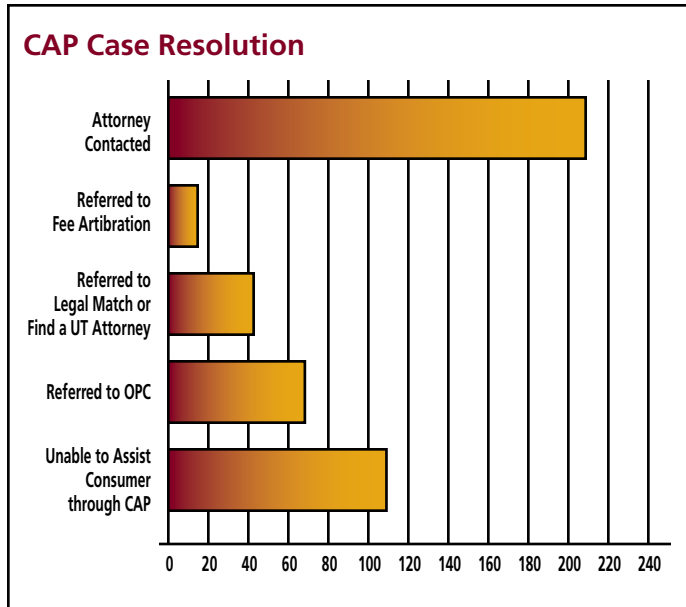
5 cases were transferred to OPC because the violator was a disbarred/suspended or inactive status Utah attorney.

1 case the Bar received a civil injunction against the violator.



Consumer Assistance Program

The Bar offers support to both consumers and attorneys who need assistance in their communication with each other. Work performed eases the load for the OPC by dealing with minor complaints submitted by consumers, whose main concerns usually include not getting return telephone calls from their attorneys; not receiving regular billing statements; and not receiving regular updates about their cases. Complaints which rise to the level of ethical concerns are handled exclusively by OPC, which has more time and resources to spend attending to the more serious problems.



The Bar's staff lawyer handled 1,223 telephone conferences with consumers who had questions about the management of their legal matters and concerns about their lawyers, opened 625 files, and contacted lawyers about their clients' concerns in 209 (33%) of those matters. Of the remaining files, 17 (3%) were referred to the Fee Arbitration Program, 41 (6.5%) were referred to Legal Match or the new Find a Utah Attorney online listing, and 68 (11%) were referred to the Office of Professional Conduct. In 109 (17%) matters, the CAP attorney was not able to assist the consumers. In those cases, the CAP attorney tried to clarify for the consumers how their concerns are best addressed through means other than those offered by the Utah State Bar's various programs.

Fee Dispute Resolution Program

In the last fiscal year the *Fee Dispute Resolution Committee* (**Steven G. Johnson**, Chair) and staff prepared and conducted hearings with a volunteer lawyer or panels of volunteer lawyers, judges and lay people to resolve disputes about legal fees in a process through which parties voluntarily agree to be bound. Last year, the committee opened 60 cases; settled 6; arbitrated 11 and mediated 5. The committee and staff were unable to resolve 20 cases because parties refused to participate. Sixteen cases are still pending and 2 cases have been deemed ineligible. A link to more information may be found at www.utahbar.org/public/fee_arbitration_service.

Law & Justice Center Operations

The Utah State Bar owns and operates the 33,000 square foot building known as The Utah Law & Justice Center. The Center provides low cost meeting room space and services for mediations, arbitrations, continuing education seminars and other charitable, non-profit,



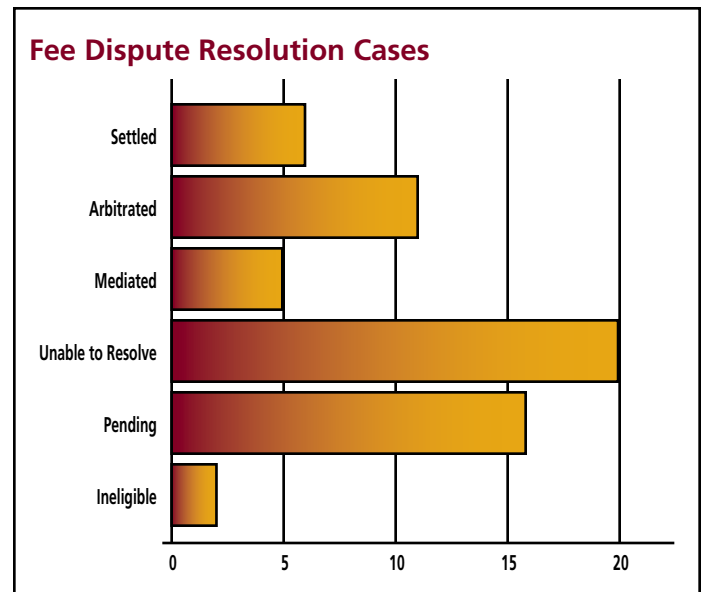
educational and public purposes. Services by the Center staff include audio-visual rental, catering, low cost leases, tenant support, interior and exterior grounds maintenance and security. There were 659 meetings in the building during the year. Bar-related sections, committees, divisions, seminars, and associated meetings constituted 408 of that total and 251 meetings were non-Bar related charitable, educational, public and commercial groups.

Public Education, Services and Special Projects

The Bar Commission regularly provides public education projects including participation with the American Bar Association; makes appointments to Utah State Boards and Committees, helps to fund the Law Related Education Project; and sponsors the Law Day Celebration with the *Law Day Committee* (**Richard F. Ensor** and **Robyn Volk**, Co-chairs); among other things.

Governmental Relations

The Bar hires a legislative representative and supports the activities of the *Governmental Relations Committee* (**Lori W. Nelson** and **Matthew L. Anderson**, Co-chairs) which makes recommendations for action on bills and provides assistance to legislators with specific questions on legislation. This was also mentioned as one of the priorities listed and outlined above.



2008 – 2009 Section Leadership

Gary R. Thorup, Chair
Administrative Law Section

Mark Moffat, Chair
Criminal Law Section

Julie V. Lund, Chair
Juvenile Law Section

Justin Toth, Chair
Antitrust & Unfair Competition Section

Benjamin T. Wilson, Chair
Cyber Law Section

Katherine Kendall Hudman, Chair
Labor & Employment Law Section

Jeanne B. Inouye, Chair
Appellate Practice Section

Joshua King, Chair
Dispute Resolution Section

Mike Petrogeorge, Chair
Litigation Section

Nathan S. Dorius, Chair
Banking & Finance Section

G. Richard Hill, Chair
Education Law Section

Jon W. Jepperson, Chair
Military Law Section

John T. Morgan, Chair
Bankruptcy Section

Steven J. Christiansen, Chair
Natural Resources Law Section

Brent A. Andrewsen, Chair
Non-Profit/Charitable Law Section

Paul King, Chair
Business Law Section

David R. York, Chair
Estate Planning Law Section

David P. Hirschi, Chair
Real Property Law Section

Jonathan Jaussi, Chair
Collection Law Section

Richard A. Hummell, Chair
Family Law Section

Bradley R. Jacobsen, Chair
Securities Law Section

Troy L. Booher, Chair
Constitutional Law Section

C. Jeffrey Thompson, Chair
Franchise Law Section

Craig G. Adamson, Chair
Senior Lawyers Section

Doug Griffith, Chair
Construction Law Section

Nicole Cottle, Chair
Government Law Section

Dale B. Kimsey, Chair
Solo, Small Firm &
Rural Law Practice Section

Sarah J. Beck, Chair
Corporate Counsel Section

Michael E. Mangelson, Chair
Intellectual Property Section

Rebecca L. Rockwell, Chair
Tax Law Section

Damian C. Smith, Chair
International Law Section

2008 – 2009 Division Leadership

Stephanie W. Pugsley
Chair, Young Lawyers Division

Julie Eriksson
Chair, Paralegal Division

2008 – 2009 Awards

Judge of the Year
Hon. Glenn K. Iwasaki

Community Member
Carma J. Harper

Dorothy Merrill Brothers Award
for the Advancement of Women
in the Legal Profession
Hon. Carolyn B. McHugh

Lawyer of the Year
Charles R. Brown

Bar Professionalism Award,
Ellen M. Maycock and Donald J. Winder

Raymond S. Uno Award
for the Advancement of Minorities
in the Legal Profession
Cheryl Miyuki Mori

Committee of the Year
Admissions Committee

Heart and Hands Award
Troy L. Booher

Section of the Year
Young Lawyers Division

Pro Bono Lawyer of the Year
Scott H. Martin