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Proceedings of the 2000 Wyoming State Bar Annual Meeting

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PROCEEDINGS OF THE 2000 WYOMING STATE BAR ANNUAL MEETING

WYOMING STATE BAR OFFICERS

Paul J. Drew, President
Catherine MacPherson, President-Elect
Timothy C. Day, Vice President
Mark W. Harris, Secretary-Treasurer

WYOMING STATE BAR COMMISSIONERS

Vicci M. Colgan, First District
Warren A. Lauer, Second District
Richard H. Honaker, Third District
Anthony T. Wendtland, Fourth District
Michael D. Greear, Fifth District
Thomas E. Lubnau II, Sixth District
Ann M. Rochelle, Seventh District
Kari Jo Gray, Eighth District
William H. Twichell, Ninth District

OFFICERS ELECTED AT THE 2000 ANNUAL MEETING

Catherine MacPherson, President
Timothy C. Day, President-Elect
Richard H. Honaker, Vice-President
Mark W. Harris, Secretary-Treasurer

NEWLY ELECTED COMMISSIONERS

Joseph B. Bluemel, Third District

Patrick Dixon, Seventh District

Ray I. Hoopman, Eighth District

The 2000 Annual Meeting of the Wyoming State Bar was convened by President Paul J. Drew at 10:30 a.m. on September 15, 2000, in Gillette. The following reports were delivered to those in attendance by Wyoming Supreme Court Justice Larry L. Lehman, University of Wyoming College of Law Dean Jerry Parkinson, and Wyoming State Bar President Paul J. Drew.

REPORT OF THE CHIEF JUSTICE OF THE WYOMING
SUPREME COURT

Chief Justice Larry L. Lehman

Mr. President, officers, and members of the Wyoming State Bar.
Good morning.

It is my privilege to present on behalf of the Wyoming Judiciary my third report to you. As I reviewed my two previous reports to you, I found them full of optimism and goals, but reported mainly work in progress, and asked for your support.

In this report, along with continued optimism and ever-present goals to strengthen the judiciary, I am able to report on goals we have achieved.

I first want to note the contributions made to the court and the citizens of Wyoming by Justice Macy who retired in June of 1999 after 14 years of service on the Supreme Court. Justice Macy, as you all know, brought to the court an unflagging sense of timeliness with his opinions. We will miss his conviction to do the right thing, and sense of fairness to all litigants.

The passing of the torch from one justice to another is always bittersweet because, while you miss the collegiality and bond developed with the retiring justice, you welcome the energy and enthusiasm of his replacement.

Justice Kite is a welcome addition to the court and has impressed us all with her hard work and keen insight to the many legal issues we grapple with on a regular basis. Her personality has continued a very positive collegial attitude on the court, and we are all energized by her contributions.

Last year I asked for your support of the Court Consolidation Bill. As of July 1, 2000, that concept is a reality. We have now established a circuit court system which, over time, will allow counties with justice of the peace courts to assimilate into a statewide system. Hot Springs County has already tested the concept by joining the circuit court system when their justice of the peace resigned. Without having to appoint another judge, Hot Springs is being served by Judge Skar who previously had duties only in Big Horn County.

Last year I asked for your support in legislating a court automa-

tion fund. As of July 1, 2000, our courts are collecting an additional \$10 fee which is to be used exclusively for court automation. Our court technology task force has been working nonstop. We will be installing our first new court software in Albany County as a pilot court in November, and at the same time have chosen the 4th judicial district of Johnson and Sheridan counties as a pilot for system-wide implementation involving all of the courts and justice agencies.

Additionally, we have joined with Governor Geringer in statewide strategic planning for the justice system technology. In summary, while we are taking small steps to prove the system will work, we are planning for statewide implementation.

Last year I spoke to you of a rather fractured administrative design within the judiciary. There was a lack of communication, little to no institutional memory, and a constant change of priorities.

Since last year, I report to you the following. By rule, the Office of Court Administration has been established. Duties attributable to that office are firmly in the hands of those who understand and appreciate the importance of our budget process, employment issues, and training to name just a few, leaving to judges the responsibility for which they were appointed.

Without question the most significant change has been the establishment of the Board of Judicial Policy and Administration. The Supreme Court has delegated all of its supervisory authority to this Board.

The Board has a total of ten members. It is made up of three justices—myself as chair, Justice Thomas, and Justice Hill; three district court judges including Judge Hartman, Judge Voigt, and Judge Donnell; three circuit court judges including Judge Denhardt, Judge Zebre, and Judge Waldrip; and a Justice of the Peace. That position is currently filled by Scott Cole.

The Board has just concluded its third face-to-face meeting in addition to numerous telephone conferences. I want to thank and give credit to those serving on the Board. This is the first time that governance of the judiciary has been placed in the hands of judges from all levels. They bring to the table the experience from different areas of the state, as well as different levels of the courts. The Board produces better decisions, more informed decisions. The guiding principle does not involve individual courts or problems, but resolutions to issues that best serve the judiciary and our citizens across Wyoming.

I am convinced the long-term result from this body will be consistency and a more uniform approach to how the courts conduct their business.

I spoke of our jury study that was in process last year; and, as of today, the final report of that work including the recommendations made as a result of your input has been submitted to the Board of Judicial Policy and Administration for action. The work of that committee is not done, however the first objective of examining innovations helpful to those we ask to serve as jurors is complete. Of the several tasks now being addressed by that committee, the most significant is the attempt to draft jury instructions which can be better understood by our jurors.

That work will not happen quickly. I have found nothing more challenging than taking a legal phrase that we as lawyers understand—an expression that has been developed over years of interpretation and may take weeks to explain in our law classes—and draft it in simple English. But we have set into motion a procedure involving a mixture of lawyers and non-lawyers to begin that tedious process. I think it is terribly exciting, and I think it is about time.

A project now being placed on the agenda involves that of pro se litigants. Wyoming has not yet had to face the increase of pro se litigation currently experienced in other states, however the one exception to that may be in the area of domestic relations. Over the next year, in conjunction with the state bar and your pro bono coordinator, a committee will be examining ways to assist those individuals in domestic cases who cannot afford counsel.

Many jurisdictions have their own set of forms for use by the self-represented. We have gathered copies of those forms developed by individual courts, and will first attempt to develop a uniform set of forms to be used statewide. Additionally, the committee will be working with the clerks of the district court in an effort to guide them through the murky waters of providing assistance without legal advice.

Finally, I want to report what I believe is an important and hopefully only the beginning of a trend. Last year at the opening of the legislature, every federal and Wyoming judge was invited to witness the opening day ceremonies. It was an incredible sight. Our judges all in robes dominated the balcony of the capitol and were individually introduced. Earlier in the day, the legislators were all invited to the Supreme Court for an informal breakfast, and had the opportunity to meet with the judges from their respective counties.

My purpose in relating this to you is that I believe we are on the threshold of a more positive relationship with our legislature than in years past. It was the legislators on the Judicial Planning Commission who helped spearhead our legislative success. I am committed to an independent judiciary; and that concept is always foremost in my thoughts, however, open communication and partnerships with both the legislative and executive branch in areas not affecting the balance of powers are important tools to be used in our duties of providing citizens with open and equal access to all of our courts.

That concludes my report to you. I want to thank the justices with whom I have the great opportunity and privilege to serve, the administrative staff of the court for their commitment to excellence, and to you the members of the bar who volunteer your valuable time for all working together in support of a great judiciary and extraordinary legal community.

REPORT OF THE DEAN OF THE UNIVERSITY OF WYOMING
COLLEGE OF LAW

Dean Jerry Parkinson

Thank you for giving me this opportunity to report on the state of the University of Wyoming College of Law. It is a pleasure for me to be here.

At last year's Annual Meeting, I reported that the law school was about to undergo a comprehensive reaccreditation process, which is conducted every seven years at accredited law schools throughout the country. The process is time-consuming and can be a bit painful, but it does provide a good opportunity for a law school to engage in some serious self-examination. It also allows us to gain a valuable outside perspective on what we're doing. The process has been a big part of our lives during the last year and a half, and I want to spend most of my time this morning focusing on the results of that process.

I also want to thank those members of the bench and bar, including several people who are in this room this morning, who actively participated in the process and met with the ABA team—either in person or by phone—when it was here. For a law school such as ours, relations with the Bar are especially important because, as the ABA team recognized in its report, “[m]uch of the success of the College of Law is attributable to the Bar’s support and the positive relationship that exists.” I want to thank Greg Dyekman particularly. Greg, as you probably know, has been Chair of the State Bar’s Law School Liaison Committee, and he not only met with the team in person but also participated in the preparation of our self-study, including sitting in on a lengthy retreat we had in Laramie.

I went back to look at what I said in last year’s report to the Bar, a few weeks before the accreditation team arrived on campus. As I look back, it seems that we perhaps could have saved everybody a lot of time and effort and just used that report to the Bar as the accreditation report. The parallels really are quite remarkable.

My prediction a year ago was that “the accreditation team will be very impressed by our overall program. We also believe they will see us as a model of efficiency and a significant overachiever. We maintain a high-quality educational program despite the lowest budget of any accredited law school in the United States.”

That is precisely the predominant theme in the accreditation re-

ports. The ABA site team, which visited the law school for three days last October, concluded that the College of Law “does an outstanding job of providing quality basic legal education” to its students, despite the fact that it is “budgeted at barely a minimal level.” A parallel report from the AALS (Association of American Law Schools, which examines a school for renewed membership at the same time as the ABA reaccreditation) concluded that the College of Law “does a remarkable job in light of the limited funds available to it.”

This is the principal point I want to leave you with—we are doing an outstanding/remarkable job, and we have been very effective stewards of the resources we do have.

I also said in last year’s report to the Bar that “[e]ven though our accreditation is not in jeopardy, we are also confident that the accreditation team will express concern in several areas. Not surprisingly, those areas of concern are all tied to *resources*.” I then went on to point out six areas of concern that we identified following our self-study:

- Curricular breadth;
- Faculty & staff compensation;
- Decline in student applications;
- Library acquisitions budget;
- Technology, particularly in the classrooms; and
- Diversity in the law school community.

Again, the ABA accreditation report tracks our own self-assessment. Of the dozens of accreditation standards with which law schools must comply, the committee expressed official concern about only one: Standard 201(a), which addresses the adequacy of a law school’s financial resources. The committee concluded that inadequate funding has negatively impacted the law school in the specific areas we highlighted in our self-study. It is important for you to know, however, that we have been addressing all of these concerns and have made substantial progress—even before we received the accreditation reports.

- The College of Law has had a very good year in terms of internal allocation of resources at the University. The University has committed the necessary funding to permit the hiring of an additional faculty member. This funding will be used to top off a sizable endowment created a few years ago with a generous gift from Jerry Housel. I want to express my deep gratitude, once again, to Jerry for putting us in a position to add a Jerry W. Housel/Carl P. Arnold Distinguished Professor to the faculty in the fall of 2001. For a school of our size, this additional position will go a long way toward

enhancing our curricular offerings and adding prestige to our institution.

- Thanks to substantial new funding from the state legislature, the University also was able to give the College of Law a significant boost in faculty and staff salaries this past year. We are grateful for these salary increases, but we must continue to press this issue in the future if we are to keep the outstanding employees we have. Even after this latest increase, our law faculty salaries are only about 75% of those of our peers. And we did lose a top-notch young faculty member this year—Jim Dwyer left us for William & Mary and an enormous salary increase.
- Our decline in student applications over the last several years is consistent with national trends, but other law schools have invested heavily in student recruitment efforts. The ABA report indicates that our “low admissions office staffing level” impairs our student recruiting ability. This past summer, however, we put into effect an administrative restructuring that allowed us to add an additional full-time person to the College staff. The addition of this person will permit us to devote more attention to student recruitment initiatives.
- We are working toward a sizable increase in library funding, again with the help of the increased legislative appropriations to the University.
- The University provided the College with funding last year to support classroom technology. Since the ABA visit last fall, we have wired all classrooms for internet access and purchased two multimedia projectors for use in the classrooms.
- Finally, we have taken steps to improve the underrepresentation of minority students at the College, and those efforts are paying off. About 15% of this fall’s entering class are minority students. At the same time, we have continued to focus on Wyoming residents first, and I can say that very few resident applicants have not gained admission to the law school.

So we are making considerable progress toward addressing the ABA’s concerns, and I am confident that the accreditation committee will be pleased with that progress when we submit updates to the committee next spring.

A few final remarks:

Sometimes we focus much of our attention on faculty accomplishments, but we do have one staff member that I'd particularly like to recognize. Patty Thompson was named UW Employee of the Year this past spring, and we are very proud of her. Patty is the administrative assistant for our three clinics and keeps them running smoothly.

Congratulations as well to our Rothgerber trial team of Amanda Hunkins and Jason Neville, two recent graduates who won their regional competition in Portland, Oregon, in the spring and advanced to the national competition in Florida. They were outstanding representatives of our law school and state at nationals and performed very well, including defeating the Harvard team in an early round.

The *Land & Water Law Review* is officially becoming the *Wyoming Law Review* this fall to reflect more accurately the fact that our journal focuses on a wide range of subject areas and is not limited to environment and natural resources issues. We still welcome submissions in those areas, of course, but we found over the years that our name may have contributed to the difficulty in attracting articles because authors were reluctant to submit their work in other areas to a *Land and Water* law review. In the meantime, there has been a proliferation of specialty journals devoted to environment and natural resources issues (there are now over 50 such journals), so we were even having a difficult time being competitive in that arena. We encourage submissions from members of the Wyoming State Bar—on all topics.

We are particularly excited about the first issue of the *Wyoming Law Review* because we hope to publish several pieces from speakers at the "Frontier Justice" Symposium we are co-sponsoring next month in Cody with the Buffalo Bill Historical Center. I hope you all have received a copy of the brochure and registration materials for the symposium; if not, there are copies on the table across from the registration desk. This is going to be a fun event. In addition to outstanding keynote speakers such as Griffin Bell, former U.S. Attorney General, and Drew Lewis, former U.S. Secretary of Transportation and current CEO of the Union Pacific Corporation, we have great panels lined up in four principal sessions—Indian Rights, Ranching/Public Lands, the Military & the West, and Law Enforcement & Violence. Give us a call if you have any questions about the symposium; we hope to see you in Cody October 19-21. And encourage any of your colleagues who did not have the opportunity to attend this Annual Meeting to get some of their CLE out of the way—the Symposium will offer substantial CLE credit.

The future of the College of Law looks very bright. Obviously, we will be working on funding issues for years to come, but we are accomplishing a lot with the resources we do have, and we look forward to building on those accomplishments. Some of you may know that the University of Wyoming is just embarking on a major five-year capital campaign—chaired by one of our law graduates, Alan Simpson. I am optimistic that the law school will benefit substantially from the campaign, and I welcome any suggestions or ideas that you may have for the campaign. (Along with the Frontier Justice brochures, I've also set out a job announcement for the position of Development Officer at the College; if you have any suggestions on that front, I'd love to hear them.)

Thanks again for giving me this time to report.

REPORT OF THE PRESIDENT OF THE WYOMING STATE BAR*Paul J. Drew*

It is my pleasure to report the activities and proceedings of the Wyoming State Bar for the past year. It was not an uneventful year. The events of the year drew into clear focus the importance of the individual efforts and contributions of the people of the Bar, members and staff alike.

First, I would like to extend my personal gratitude to the Commissioners and Officers who have served the Bar in the past year. The dedication and hard work extended by each Board member throughout the year is unsurpassed by any Board on which I have had the privilege to sit. The staff likewise has continuously gone beyond the call of duty to keep the Bar on course and to insure that its goals were achieved. My thanks to you all.

In Memorium To Jim Tiemann

I wish to commit to the permanent annals of the Wyoming State Bar the memory and recognition of a man who has left an indelible mark on the Bar and all those who had the privilege to know him, Jim Tiemann. Jim's tenure on the Bar staff and as Executive Director of the Wyoming State Bar Foundation has left a legacy that will endure for the entirety of our future. As a result of Jim's dedication and sheer determination the Wyoming State Bar Foundation became a major source of funding for indigent legal services and law related education in Wyoming. The impact of Jim's labors in making the IOLTA program the success that it is today will outlive us all.

Wyoming State Bar Counsel

The Bar also saw a fundamental staffing change with the appointment of Randal R. Arp as the County Judge for Goshen County. Randy had served as Bar Counsel for the past decade and himself had nearly become an institution of the Bar. During his tenure as Bar Counsel the workload required the addition of a full time assistant Bar Counsel which was filled by Monica Sharum. Upon Randy's retirement from the Bar to don the black robe the Board of Commissioners took pause to reconsider the structure of the office of Bar Counsel. The Board determined that rather than continue with the positions of Bar Counsel and Assistant Bar Counsel it would be more effective in dealing with the membership and the public to have two persons share the workload as Co-Counsel for the Bar. Monica Sharum was retained to fill one of the

two co-counsel positions and Buckner Gwyn was hired to fill the other. This reorganization to eliminate a subordinate counsel position has proved to be a success. The work load of the office has lent itself readily to a division of labor between the two counsel.

New Bar Staff and Positions

The vacancy of the position left by Jim Tiemann was filled by Michelle Ottoes who is now the Bar's Foundation Director. Additionally, the part time position of Pro Bono and Lawyer Referral Coordinator was filled for the first time by Leigh Ann Manlove. The position of Pro Bono and Lawyer Referral Coordinator had been created by the previous Board of Commissioners in conjunction with its adoption of rules for its Lawyer Referral Program and is funded jointly by the Bar and the Wyoming State Bar Foundation. Ms. Ottoes as Foundation Director and Ms. Manlove as Referral Coordinator have together crafted a presentation to be given to lawyers throughout the state to provide information on their respective Bar programs and to solicit pro bono participation from Bar members.

Legislative Issues

The Bar was involved in a single overriding legislative issue in the last legislative session, sales tax on legal services. The Bar's opposition to a sales tax on legal services was established by resolution of the previous Board of Commissioners. What remained was the work of appropriately expressing the position of the Bar on this issue. An ad hoc Sales Tax Committee was appointed chaired by Robert W. Tiedeken of Cheyenne. David D. Uchner donated his time and services as the Bar's lobbyist on the issue. The Bar's committee, Mr. Uchner and the Bar's Executive Director Tony Lewis spearheaded the opposition to the proposed sales tax on services and were successful in orchestrating the defeat, once again, of a sales tax on services.

Multidisciplinary Practice

An issue remaining from the previous year was that raised by the recommendation of the ABA Commission on Multidisciplinary practice to revise the Model Rules of Professional Conduct to permit fee sharing with non-lawyers. A vote on the measure by the ABA House of Delegates was delayed in August of 1999 to permit additional input from, among others, state bar organizations. A State Bar committee was appointed by Timothy J. Kirven chaired by ABA Delegate Richard Davis, Jr. to study the issue as it relates to Wyoming. A special meeting of the

Board of Commissioners was held in May of this year to consider the recommendations of the Bar's committee and to begin the formulation of a State Bar policy with regard to the issue of multidisciplinary practice. Opposition to an ethics rule change was widely expressed. The immediacy for a formal position on the issue has passed. The ABA has since declined to adopt the proposed rule change. The Wyoming State Bar committee remains intact, however, and continues to study the issue to provide a recommendation to the Board of Commissioners.

Long Range Planning

The long range and strategic plan formulated by the Board in 1998 and 1999 continues to provide guidance to the Officers and Commissioners and to provide a yardstick by which to measure the Bar's progress in its stated goals. The implementation of the lawyer referral program, the expansion of Bar website services and the hiring of a pro bono coordinator are all affirmative results in the past year of the previous long term planning. The Board has through the year consistently reviewed and received direction from its strategic plan.

Resolutions of the Membership

At the 1999 annual meeting of the Wyoming State Bar two resolutions were passed by the membership. The first was a resolution to amend Uniform Rule for District Courts 904 to provide for increased reporter availability. The second was a resolution to exempt attorneys 70 years of age or older from mandatory continuing education requirements. Both of these resolutions were presented to the Wyoming Supreme Court. Neither resolution resulted in Court action.

Litigation By and Against the Bar

It is my privilege to report that no new litigation was filed against nor initiated by the Wyoming State Bar in the past year.

Conclusion

Due to the unfailing efforts of a superior Board of Commissioners the Wyoming State Bar has made significant strides in the past year in meeting its long-term goals and in upholding the integrity of the profession. I am confident that the Bar remains in good hands and will continue well into the new century as a vital organization responsive to its membership. It has truly been an honor to serve as President of the Wyoming State Bar. The opportunity to know and befriend the lawyers

and judges throughout the state has permanently enriched my life. Thank you for the privilege of serving.

Awards

I am pleased to report that the following members were recognized for their length of membership in the Wyoming State Bar: 60-year members; 50-year members; and that the recipients of the 2000 Pro Bono Awards were Janet Millard for Legal Services and Charles G. Kepler for Community Service.

Treasurer's Report

Wyoming State Bar Secretary-Treasurer Mark W. Harris reported that, although year-end figures were not yet available, the Bar's budget is in the black. He expects that the end of the fiscal year will show the budget to be fairly close to the projected level on both revenue and expenses. As in recent years, the final budget figures will be affected by the fiscal outcome of the Annual Meeting. He further noted that income from attorney license fees will not cover the expenses related to the court-mandated functions of the Bar, such as admissions, continuing legal education, and attorney discipline. Non-dues revenue continues to augment these mandated functions as well as funding the remaining programs of the Bar.

**RESOLUTIONS OF THE MEMBERSHIP OF THE WYOMING STATE
BAR AT THE 2000 ANNUAL BUSINESS MEETING: FRIDAY,
SEPTEMBER 15, 2000**

A Resolution of the Wyoming State Bar regarding court reporters that was passed and approved at the 1999 Annual Business Meeting was renewed at this year's Annual Meeting:

WHEREAS, there currently exists Uniform Rule for District Courts 904 requiring notice to the official court reporter be given at least five (5) working days before the hearing on the matter be reported; and

WHEREAS, the requirement that the parties notify court reporters of their need to be present is unnecessary in the light of the fact that all official court reporters are full time state employees who should be available for the reporting of all hearings in any event; and

WHEREAS, District Courts are courts of record, therefore it is reasonable that the parties would expect that a record will be made of court proceedings.

NOW THEREFORE BE IT RESOLVED BY THE FOURTH JUDICIAL DISTRICT BAR AND THE SIXTH JUDICIAL DISTRICT BAR: That the Wyoming State Bar propose and support the following amendment of Uniform Rule for the District Courts 904 by the Permanent Rules Committee and the Wyoming District Judges:

The official court reporter shall be available for all dispositive hearings and trials unless excused by all parties. On all other matters, any party requesting the reporting of a particular matter by the official court reporter shall provide notice to the official court reporter at least three days before the matter is set for hearing. The three calendar day notice requirement can be waived by the court. The notice is not required for juvenile and criminal matters.

PASSED, APPROVED AND ADOPTED THIS 17th day of September, 1999.

ATTEST:

Wyoming State Bar
Paul J. Drew, President

REPORT OF THE BOARD OF LAW EXAMINERS

John A. MacPherson, Chair

The Board of Law Examiners met on numerous occasions throughout the year to review applicants for admission by examination and on motion. The Bar exam was administered twice in 2000, first on February 23 and 24, 2000 and, again, on July 26 and 27, 2000.

A total of 114 applicants were tested in the February and July 2000 examinations, and 72 applicants were admitted. The overall pass rate on the test for both administrations was 63 percent.

The Board also reviewed 10 applicants for admission on motion in 2000. Nine of those applicants were subsequently admitted, and one was denied admission.

The Board's Character and Fitness Committee reviewed 124 character and fitness investigations, conducted additional inquiries in some instances and held a number of informal interviews with applicants seeking admission.

Members of the Board of Law Examiners in 1999-2000 included: Johan A. MacPherson, Rawlins, Chairman; L. Galen West, Rock Springs, Vice-Chairman; Michele A. McKellar, Cheyenne; Frank D. Peasley, Douglas; and Debra Wendtland, Sheridan.

Members of the Board's Character and Fitness Committee for 1999-2000 included: Rex E. Johnson, Wheatland, Chairman; Susan E. Lehman, Cheyenne; and Rebecca A. Lewis, Laramie.

REPORT OF THE BOARD OF CONTINUING LEGAL EDUCATION*Stephen H. Kline, Chair*

The Wyoming State Board of Continuing Legal Education has a meeting tentatively scheduled for December 12, 2000.

Based on a resolution passed at the 1999 Wyoming State Bar Annual Meeting a request for a rule change was submitted to the Supreme Court of Wyoming. On May 19th the Supreme Court of Wyoming made a decision to deny a waiver of the CLE requirement for senior members of the Bar.

Continuing Legal Education statements were sent on March 1, 2000 to active attorneys. The State Bar office received an average of 400 applications for Continuing Legal Education credit, of which 395 were approved and 5 were denied per month. There were no appeals for credit brought to the Board of Continuing Legal Education.

As of March 2000, a number of Wyoming State Bar Members were delinquent for 1 year of Continuing Legal Education requirement. As of the same date 77 Wyoming State Bar Members were delinquent for 2 years of Continuing Legal Education requirement. There were zero attorneys suspended for Continuing Legal Education delinquency this year.

The Wyoming State Bar office received an average of 30 Sponsor Accreditation Applications per month, of which an average of 29 were approved and 1 was denied.

Members of the Board of Continuing Legal Education are: Stephen H. Kline, Chairman, Deborah Kellam, Amy Jenkins, Mark E. Macy, David Piaia, Julie Tiedeken, Bonita Brinkerhoff, Ronald Francell and Anita Schroeder.

REPORT OF THE BOARD OF PROFESSIONAL RESPONSIBILITY
David E. Erickson, Chairman

Calendar Year 1999 (last year for which full statistics are available)

I. CASES CARRIED FORWARD FROM PRIOR YEARS: 61

II. CASES OPENED IN 1999: 56

III. CASES DISMISSED IN 1999:

a. Dismissals by Standard Bar Counsel Motion and Board Review/Determination

Cases opened in 1992:	1
Cases opened in 1993:	0
Cases opened in 1994:	0
Cases opened in 1995:	0
Cases opened in 1996:	0
Cases opened in 1997:	9
Cases opened in 1998:	21
Cases opened in 1999:	<u>12</u>
Total	43

b. Dismissals by Rule V(c) Procedure (Adopted May 10, 1993)

Cases opened in 1997:	0
Cases opened in 1998:	0
Cases opened in 1999:	<u>3</u>
Total	3

c. Total Calendar Year 1999 Dismissals (Standard Plus Rule V(c)): 46

Note: Cases are dismissed generally because the facts did not prove the allegations, no unethical conduct occurred or the evidence was highly conflicting to a degree which would not approach the required burden of proof. In certain instances dismissals occur because of lack of jurisdiction.

IV. DISCIPLINE IMPOSED IN 1999:

Disbarment	0
Suspension	3

Public Censure	1
Private Reprimand	5
Informal Admonition	2
Probation	7 (part of overall sanction)
Interim Suspension	0
Felony Suspension	0
Disability/Inactive	0

Note: One matter included 3 files for which an order was entered on 12/7/98 but was not effective until 1/12/99. One matter included 3 files in which 2 files misconduct was found and 1 file was ordered to have further investigation. One matter included 2 files and issues involving an unrelated matter and one dismissed file.

Note: These dispositions involved 15 files relating to 10 attorneys.

Note: Other conditions are often imposed, such as payment of the Board of Professional Responsibility's costs and expenses, taking and successfully completing the MPRE and/or the bar examination, and completing a certain number of hours of CLE ethics courses.

Year to Date 2000 (through September 30, 2000)

- I. Cases Carried Forward From 12/31/99: 54
- II. Cases Opened: 47 (as of 9/30/00)
- III. Cases Dismissed:
 - a. Dismissals by Standard Bar Counsel Motion and Board Review/Determination
 - Cases opened in 1996: 0
 - Cases opened in 1997: 0
 - Cases opened in 1998: 2
 - Cases opened in 1999: 12
 - Cases opened in 2000: 10
 - Total: 24
 - b. Dismissals by Bar Counsel - Rule V(c) Procedure
 - Cases opened in 1997: 1
 - Cases opened in 1998: 0

Cases opened in 1999: 2
Total: 3

Note: The Rule V(c) procedure is used sparingly because the Complainants almost invariably appeal the dismissal and bear none of the costs of the appeal process. This creates a situation whereby cases are effectively litigated twice causing additional delay and expense. For this reason more often the regular motion to dismiss is utilized.

c. Total 2000 Year to Date: 27 (as of 9/30/00)

Note: Cases are dismissed generally because the facts did not prove the allegations, no unethical conduct occurred or the evidence was highly conflicting to a degree which would not approach the required burden of proof. In certain instances dismissals occur because of lack of jurisdiction.

IV. Board Hearings Held: 1 (involving 1 file)

V. Discipline Imposed:

Disbarment	0
Suspension	0
Public Censure	2
Private Reprimand	5
Informal Admonition	0
Probation	4 (part of overall sanction)
Interim Suspension	0
Felony Suspension	0
Disability/Inactive Suspension	0
Reciprocal Discipline	0

VI. Alternative Dispositions and Inquiries:

In addition to matters which state ethical violations and merit a file opening, Bar Counsel handle "no number cases." These consist of mailed and hand-delivered letters, walk-ins and phone calls. These do not include "how to file a grievance" calls which the administrative assistants handle.

The correspondence items can be addressed to the Bar, the Law Examiners, the Grievance Committee, the Board of Professional Responsibility, other governmental agencies or offices and the like, but shipped to us.

The topics cover the gamut from undescribed items, legal problems, professionalism, fee disputes, criminal matters and constitutional issues. Sometimes phone calls to the attorney and then to the client resolve them. Some items, after review, result in a letter to the writer returning the documents, indicating we cannot detect ethical allegations and advising why we can't assist the person.

We have attempted to log those items for which we have spent a significant amount of time, as alternative disposition "cases". Such logged items for 2000 year-to-date (9/30/00) total 9 items. Other handled items are reflected in General Correspondence File listings year-to-date total 143 items. This does not include screened matters which were referred to other bar committees. This does not include, of course, all matters we handle daily and attorney requests for resource assistance.

Cases Opened Since Last Annual Report (Case Nos. 43-99 to 56-99; 1-00 through 47-99)

I.	Number Pending:	39
	Number Dismissed:	19
	Tried and/or Discipline Imposed (or Disability Inactive Status):	2
II.	Type of Cases Giving Rise to Complaints	
	Abstract & Title Opinions	0
	Adoption	0
	Bankruptcy	2
	Collections	0
	Corporations	0
	Criminal	16
	Contract	0
	Domestic Relations	22
	Estate Planning	1
	Guardianships	0
	Governmental	1
	Labor Law	0
	Litigation	12
	Minerals	0
	Oil & Gas	0
	Probate	1
	Partnership	0
	Real Estate	0
	Trust	0

Workers Compensation	2
Wills	1
Tax	0
Other	3
III. Type of Initial Complaint	
Deceit or Misrepresentation	13
Incompetent Representation	21
Lack of Diligence	30
Conflict of Interest	13
Fees	5
Refusing to Follow Client's Wishes	17
Lack of Communication	33
Harassment	7
Acting Without Client Consent	7
Adversely Reflecting on Fitness to Practice	31
Ex Parte Contact	4
Counseling Illegal Conduct	3
Ineffective Assistance of Counsel	5
Breach of Confidentiality	5
Refusal to Deliver Accounting or Files	3
Tampering with Evidence	2
Collusion	1
Frivolous Claim	2
Refusal to Pay Deposition or Expert Fee	1
Other	19

Comments:

2000 year-to-date has seen a slight increase in grievance filings from 1999. With 3 months left in the calendar year, some 47 investigation files have been opened (compared to 56 total in 1999, 57 total files in 1998, 79 total files in 1997, 44 total files in 1996, 39 total files in 1995, 47 total files in 1994 and 101 files in 1993). Complaints tend to accrue in a non-uniform manner so it is unclear what the year-end total will be. General Correspondence and alternative dispositions are roughly the same as in the prior year.

The current open case file docket totals 69 files. Currently, 4 investigation files have stays due to the pending litigation in the underlying matter. Five files are currently in the formal contested case process with formal disciplinary complaints filed. Only 1 file predates 1997 and it is in the formal contested case process. The case load is rising

slightly. It appears that there is an increase in more serious disciplinary allegations and matters. An increase in conflicts of interest, fees and incompetent representation is noted. The Board's focus and emphasis continues to be to bring the trial case docket current as well as to reduce the overall open/investigative docket as much as possible. One petition for reinstatement has been filed.

Randal R. Arp left his position as Bar Counsel at the end of 1999. The configuration of Bar Counsel and Assistant Bar Counsel was changed to 2 dual Bar Counsel.

Last year a change was noticed in the increase in professionalism (as opposed to ethical) complaints in the context of grievances. The rate of increase remained approximately the same from last year. Whether this is a trend remains to be seen.

**REPORT OF THE COMMITTEE ON RESOLUTION OF FEE
DISPUTES**

Andrea L. Richard, Chairman

The Committee on Resolution of Fee Disputes continues to deal with an ever-increasing number of fee disputes.

The following statistics reflect the activities of the Committee for the past year:

Pending Disputes as of 10/1/99	21
Total Disputes Filed (10/1/99 - 10/1/00)	31
Disputes Resolved (10/1/99 - 10/1/00)	34
Pending Disputes as of 10/1/00	14
Average Amount Disputed	\$18,012
Average Amount Awarded	\$2,026
Informal Resolution	11
In favor of Petitioner	10
In favor of Respondent	6
Dismissed	4

A sub-committee of the Committee on Resolution of Fee Disputes continues to study possible revisions to the Fee Dispute Rules.

REPORT OF THE BAR SURVEY COMMITTEE*Paul Schierer, Chairman*

The Bar conducted its 2000 Judicial Advisory Poll this year. Survey questionnaires were mailed to 1307 attorneys on June 16, 2000. A total of 606 responded with completed questionnaires. The results were released to members of the Bar and the print and broadcast media on October 23, 2000.

The Committee will meet next to consider topics for a possible member survey to be conducted in the summer of 2001.