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Committee Reports

Wyoming State Bar

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LAND AND WATER LAW REVIEW

VOLUME XXII

1987

NUMBER 1

Committee Reports

Reports of the Advisory Committee to Cooperate with the American Bar Association

The Advisory Committee to Cooperate with the American Bar Association exists as a standing committee under the rules of the Wyoming State Bar, and its members serve under appointment of the president for three-year terms.

During the past year, the committee has received no assignments or projects involving cooperation between the Wyoming State Bar and the American Bar Association. As a consequence, there are no activities upon which this committee can report.

The committee, as ever, remains available to accept any and all assignments as may be made to it by the officers and commissioners of the bar.

Respectfully submitted,
R. STANLEY LOWE
Chairman

Committee members:

Netta Bell Girard, Riverton
Rebecca W. Thomson, Sheridan
Joel M. Vincent, Riverton

Report of the Committee on Wyoming Courts

Once again, this year's report on the most recent session of the Legislature is a story of successes and failures. The 1986 session defeated the salary bill for the justices of the supreme court and the district court judges in the House through a series of unusual events. These started with a unanimous "do-pass" recommendation from the committee and ended with a motion on the floor that the bill be passed by the chairman of that committee who then proceeded to argue against his own motion. Another disappointment came when the county court computer project requested by the supreme court failed to receive funding.

It will be recalled that the 1985 session of the Legislature amended the salary section of the county court act to raise the salaries of the county judges from \$40,000 to \$46,500. This law, however, stipulated that the increase was "subject to constitutional provisions concerning when the salaries can be effective." Subsequently the Attorney General ruled the current language of the Constitution is not broad enough to include county court judges and therefore the change sought to be made by the law would not become effective July 1, 1985, as stipulated in the act. Instead, the Attorney General ruled that in the absence of a constitutional amendment permitting an increase for all county judges similar to other members of the judiciary of our state, the pay raise would be effective only when each individual judge were to begin a new term or, in the case of new judges, when they take office.

In response to this ruling, the Legislature has now proposed an amendment to Article 5, Section 17, of the Wyoming Constitution to include county court judges along with judges of other courts of record within the current constitutional provisions dealing with the effective date on which increases in judicial salaries occur. This amendment, designated Amendment No. 5, will be voted on in the election this November, and if a majority of the electors voting in that election ratify the amendment, then county judges thereafter will be treated the same as other members of our state's judiciary.

Several measures of interest to the bar were enacted this session, and thanks once again to the good offices of Robert L. Duncan, the Court Coordinator, the following is a summary of those measures:

S.F. 17 — SEA 4 — Joint liability; Repeal

Eliminates the doctrine of joint and several liability among joint tortfeasors; provides that each defendant is liable only to the extent of his percentage of fault as compared to all other actors whether or not parties to the action; repeals provisions that relate to the right of contribution among joint tortfeasors and the effect to be given the release or covenant not to sue one of several joint tortfeasors. (Became law without Governor's signature). Effective date, June 1, 1986.

S.F. 42 — SEA 10 — Governmental Claims Act

Would require that a governmental entity assume judgment against any public employee acting within scope of employment at the time judgment is rendered. Effective date, March 13, 1986.

S.F. 21 — SEA 40 — State Self-insurance

Created self-insurance account within the earmarked revenue fund to be administered for the payment of claims against the state and its public employees and peace officers brought under the Wyoming Governmental Claims Act or under federal law (42 U.S.C. 1983 Civil Rights Act.) Covers claims brought against a "state judicial officer exercising the authority vested in him, arising under 42 U.S.C. 1983 or other federal statutes." Effective date, March 18, 1986.

S.F. 81 — SEA 39 — Implied Consent; amendments

Amends W.S. 31-6-102 and 103(b) relating to the implied consent law, by deleting the requirement that a person be, "officially charged" before being required to take a chemical test. Clarifies that the implied consent law applies only to vehicles operated only upon a public street or highway. Conforms certain language to ensure that suspension under the implied consent law run consecutively to other suspensions and revocations. Effective date, March 18, 1986.

S.F. 83 — SEA 43 — Garnishment and Attachment

Amends notice of hearing on exemptions requirement by permitting notice to be sent by regular first-class mail rather than by certified mail on pre-judgment garnishment, as well as post-judgment. Provides for only one notice to be sent on successive garnishments. On every money judgment, the court must attach and send by regular mail a notice to the judgment-debtor of his right to ask for a hearing to assert exemptions. Effective date, June 11, 1986.

S.F. 90 — SEA 54 — County Courts; Deposits of fines

Amends W.S. 5-5-157, to provide for the deposit of fines, costs and forfeitures in interest bearing accounts. Interest earned on deposits of fines and forfeitures go to county school fund, and interest on all deposits of costs and all other deposits go to the victim's compensation account, c/o Wyoming State Treasurer. Effective date, June 11, 1986.

SJR 1 — EJR 3 — Salaries of County Court Judges

Would propose an amendment to Article 5, Section 17 of Wyoming Constitution to include county court judges and judges of other courts of record within the current restrictions on the commencement of increases for salaries of the justices of Supreme Court and district judges. Representative Sheila Arnold's amendment to the original bill also creates "categories" of the justices, district judges and county judges. If a majority of the electors voting in the November 1986 general election ratify the amendment, the proposed amendment would be effective on the date proclaimed adopted by the Governor. See W.S. 22-20-108.

H.B. 14 — HEA 5 — Frivolous claims and defenses

Creates new section, W.S. 1-14-128, relating to civil actions. Requires sanctions by court and payment of reasonable expenses including attorneys fees for claims, defenses or denials made without reasonable cause and found to be untrue. Effective date, March 11, 1986.

H.B. 15 — HEA 4 — Affidavit of non-involvement

Creates new section, W.S. 1-1-117 relating to civil actions. Authorizes the filing of affidavits alleging noninvolvement in lieu of pleadings in specific cases. Requires dismissal unless the affidavit is opposed and rebutted by opposing party. Effective date, March 11, 1986.

H.B. 40 — HEA 64 — Pretrial screening panels

Creates new sections 9-2-1501 thru 9-2-1511 relating to pretrial screening panels. Prohibits the filing of a medical malpractice claim until claim has been reviewed by a medical review panel. Appropriation of \$200,000 for expenses of members of panel.

H.B. 43 — HEA 23 — Title 7 Revision

Effective date of revision delayed. Amends Section 4, Chapter 147, Wyoming Session Laws 1985 relating to criminal procedure; delaying the effective date of the Title 7 Revision until May 22, 1987. As a result of delaying effective date, the following sections of Title 7 of interest to county judges will not be enforced until May 22, 1987;

(a) W.S. 7-1-123 — Costs in misdemeanor cases when defendant acquitted to be paid by county.

(b) W.S. 7-11-516 — Costs in misdemeanor cases shall be added to and made a part of the sentence in any misdemeanor case. (See *Johnson v. State of Wyoming*, 532 P.2d 598 for assessable costs.)

H.B. 13 — HEA 3 — Liquor licensees liability

Removes liability for legally selling or furnishing alcoholic beverages to persons. Effective date, March 11, 1986.

H.B. 12 — HEA 28 — Burden of proof

Creates new section, W.S. 1-12-601, specifying the burden of proof for plaintiffs in medical cases. Effective date, March 17, 1986.

H.B. 44 — HEA 63 — Sovereign immunity

Relates to Wyoming Governmental Claims Act. Limits amount recoverable to \$250,000 single transaction and \$500,000 for double. Removes liability for defects in highways, streets, etc. Effective date, March 19, 1986.

H.B. 208 — HEA 44 — Lemonaid amendment

Provides that a consumer injured by violation of W.S. 40-17-101 may enforce that section by a civil action and recover reasonable attorneys fees.

During the past year, President Hettinger referred to our committee materials related to the newly enacted legislation dealing with medical pretrial screening panels and proposed regulations implementing that act. Thoughtful comments were received from members of the committee addressing both the proposed rules as well as the act itself.

The expansion of the county court system in the state remains stopped in its tracks. The effort made in the 1985 session to fund county courts in three more counties, which would have enlarged the number of counties with county courts from 12 to 15, were not reinstated in the 1986 session. Neither were efforts rejuvenated to enact legislation changing the county courts into a circuit court system with legislation to combine some of the smaller counties in order to make the courts function on a statewide basis.

There was a measure enacted, however, which hopefully will lead to the enactment of legislation establishing a statewide circuit court system. That law is found in Section 200 of Chapter 3, Session Laws of Wyoming, 1986, which reconstituted the Judicial Planning Committee and renamed it the County Court Planning Committee. The committee will consist of seven members appointed by the Speaker of the House, the President of the Senate, the Supreme Court and the Governor. Those legislative Officers have one appointment each, the Supreme Court has two appointments, and the Governor has three.

In previous years, the committee has recommended, and the bar has adopted, resolutions supporting the expansion of the county court system, and it is proposed that we do this once again this year. Moreover, a resolution is being submitted endorsing the proposed new constitutional amendment, which will be designated on the November, 1986, ballot as Amendment No. 5. The amendment being voted on this year would include county court judges with justices of the supreme court and judges of the district courts for group treatment when judicial salaries are increased or decreased. Accordingly, we recommend the adoption of the following resolutions:

RESOLVED, that the Wyoming State Bar reaffirms its earlier endorsements of the county court system and its expansion statewide and urges that the system be implemented in the remaining 11 counties of the state, either through actions of the boards of county commissioners in conformity with existing law or by legislation expanding the system statewide and changing the name to more properly characterize the system as being part of the judicial system of the State of Wyoming; and

RESOLVED, FURTHER, that the Wyoming State Bar hereby endorses and urges the support of all of its members at the forthcoming general election in November, 1986, for the ratification of a proposed amendment to Article 5, Section 17, of the Constitution of the State of Wyoming, designated on the ballot as Amendment No. 5, to provide that if an increase or decrease in judicial salaries becomes effective for a judge of the supreme court, district courts, county courts, or other courts of record, it becomes effective for all other judges of courts of that category.

Respectfully submitted,
R. STANLEY LOWE
Chairman

Committee members:

Ross D. Copenhaver, Powell
Richard S. Dumbrill, Newcastle
Hon. Donald H. Hall, Riverton
Hon. John T. Langdon, Torrington
Hon. Harry E. Leimback, Casper
Bob C. Sigler, Torrington
Thomas T. Zollinger, Rock Springs

Supplement to Annual Report of Committee on Wyoming Courts

In preparing this year's annual report, I inadvertently neglected to mention the changes effected in the workers' compensation laws of Wyoming during the special session of the legislature held June 16-19, 1986. Accordingly, the following three paragraphs should be added at the end of the legislative matters itemized on page 4 which were acted upon during the regular session of the legislature in 1986.

A special session of the legislature was convened on June 16, 1986 for the purpose of considering proposed changes in the workers' compensation laws of the state. A special committee had been constituted following the conclusion of the regular legislative session, and it reported a proposal which was similar to a like measure considered but not adopted during the regular session.

H.B. 1 was enacted as Chapter 3, Sessions Laws of Wyoming, 1986 Special Session, which substantially reorganized the workers' compensation system in the state although it left it a state funded plan. The announced purpose of the legislation was to relieve the fund of a potential threat of depletion due to a drain caused by claims continuing to be paid while contributions have significantly declined as a consequence of the economic recession in the state. Consequently, a new scheme of taxing employers was devised and a different method of administering the system was put into place. Under the new law, clerks of district court will continue to handle routine claims. The ultimate decision making process in contested claims, however, was removed from the judicial branch of government and placed in a newly created "office of independent hearing officers" as the final arbiter of all contested claims subject to rights of review by the district courts under the Administrative Procedure Act. The exact constitutional status of the office of independent hearing officers remains to be clarified in future legislative action or perhaps by the courts.

A proposed constitutional amendment was also enacted. It was Senate Enrolled Resolution No. 1 and will appear on the ballot in November, 1986, as Amendment No. 6. It would amend Article 10, Section 4 of the Wyoming Constitution to authorize the workers' compensation law to be extended by the legislature to employees in nonhazardous occupations.

This concludes the amendatory language to make our report more complete.

Respectfully submitted,
R. STANLEY LOWE
Chairman

Report of the Governor's Probate Statute Study Committee

The Governor's Probate Statute Committee was created by Governor Herchler in April, 1977, as a result of a request made by two lawyers and a bank trust officer. The purpose and task of the Committee was to study and examine the state statutes which pertain to the handling of decedents' Estates, Wills, Guardianships and Conservators.

The membership of the Committee consists of both lawyers and non-lawyers. Those now serving, most of whom are the original appointees, are: Lawyer members - Thomas E. Lubnau II, of Gillette; Rex O. Arney of Sheridan; Robert J. Wyatt of Sheridan, formerly a trust officer; Ross D. Copenhaver of Powell; Bruce N. Willoughby of Casper, formerly a trust officer; Roy Stoddard, Jr., of Cheyenne, formerly a law professor and Trust officer; and Howell C. McDaniel, Jr., of Casper, who is the Chairman.

The non-lawyer members are: Richard M. Baker of Cheyenne, President of the Wyoming Student Loan Corporation, and formerly a trust officer; Joan Lore of Douglas, and Clerk of the District Court; Dr. Russell I. Hammond of Laramie, a retired professor from the University of Wyoming, representing the senior citizens; and Leonard S. Meyer of Cheyenne, the Inheritance Tax Administrator.

Twice, before the time of the appointment of the Committee, the Governor had vetoed legislation enacting the so-called "Uniform Probate Code." This Code would have not required as much judicial supervision and protection of probate matters as does the Wyoming law.

After more than fifty meetings of the Committee, and a number of public hearings and discussions, the legislature enacted the Revised Wyoming Probate Code, which became effective on April 1, 1980. There were no major changes in the substantive law. However, the procedure for handling Probate matters have been streamlined and updated. This is the first real change in this field of Wyoming law since its inception in 1890.

As a result of the further work of the Committee, and after some forty or more meetings, the little legislature enacted laws effective July 1, 1985, covering the matters of Guardianships and Conservatorships, which upgrade and streamline the previous statutory provisions.

In order to help the practicing attorney, trust officers and accountants who deal in Probate matters, a member of the Committee, Roy Stoddard, has published a book entitled "Illustrative Forms for Wyoming Probate Practice." It is now available.

The Committee is still extremely active. It met in Casper on August 29th for the ninety-fourth time to discuss matters of current concern including the use of video tape to record and document Wills, calculation of statutory fees, problems involving disclaimers, appealable orders, and questions as to jurisdiction of the Probate Court in regard to the amendments of 1985.

Although most of the community is not overly familiar with probate matters, their lives, property and businesses are greatly affected thereby. Wyoming now has one of the most efficient and workable Probate Codes

in all of the fifty states. This is primarily due to the efforts of the Committee and the cooperation of the Governor.

A request will be made to the new Governor to consider making the necessary appointments so that the Committee may continue to function and serve in this very important area of the law.

Respectively submitted,

HOWELL C. McDANIEL, Jr.
Chairman

Report of the Grievance Committee

Since the last report of the Grievance Committee, the following cases have been filed:

<u>Docket No.</u>	<u>Disposition</u>	<u>Type of Case & Allegations of Misconduct</u>
37-85	Dismissed	Trespass; lawyer refused to take case.
38-85	Pending	Bad faith claim; neglect.
39-85	Admonishment	Lease; neglect.
40-85	Dismissed	Personal injury; failure to communicate offers; failure to collect judgment.
41-85	Dismissed	Divorce; neglect.
42-85	Dismissed	Civil rights; attorney attempted to coerce plaintiff into abandoning suit.
43-85	Dismissed	Personal injury; neglect; failure to communicate.
44-85	Dismissed	Civil and criminal prosecution; conflict of interest.
45-85	Dismissed	Criminal defense; ineffective assistance of counsel.
46-85	Dismissed	Criminal prosecution; inappropriate remarks made to judge in lawyer's office.
47-85	Dismissed	Damage to car; threatening a witness.
	Private Reprimand	Lawyer arrested; lied regarding facts surrounding arrest in threatening lawsuit and increasing damages.
48-85	Dismissed	Real property; conflict of interest.
49-85	Dismissed	Personal injury; solicitation.
50-85	Pending	DUI; neglect resulting in client's arrest for failure to appear.

<u>Docket No.</u>	<u>Disposition</u>	<u>Type of Case & Allegations of Misconduct</u>
	Pending	Personal injury; neglect resulting in admissions and dismissal of suit.
51-85	Dismissed	Criminal prosecution; improperly dealing down cases.
52-85	Pending	DUI; neglect; client arrested for failure to appear when attorney did not notify of hearing date.
53-85	Dismissed	Worker's Compensation; slanderous remarks made by attorney in letter.
54-85	Dismissed	Criminal defense; ineffective assistance of counsel; slander.
55-85	Dismissed	Bankruptcy; attorney billing plaintiff for work done for ex-wife.
56-85	Admonishment	Personal injury; neglect.
57-85	Dismissed	Divorce; attorney made improper advances to client.
58-85	Dismissed	Criminal defense; ineffective assistance counsel.
59-85	Dismissed	Easement; claim filed merely to harass.
60-85	Dismissed	Criminal defense; neglect; harassing client; conspiracy with prosecutor; excessive fee.
61-85	Dismissed	Domestic relations; improper billing.
62-85	Private Reprimand	Criminal defense; improper public remarks about judge.
63-85	Dismissed	Personal injury; attorney conduct during deposition improper.
64-85	(This number not assigned.)	
65-85	Dismissed	Divorce; inadequate representation.
66-85	Dismissed	Divorce; conflict of interest.
67-85	Dismissed	Divorce; work delegated to another attorney in office; excessive fee.
68-85	Dismissed	Juvenile criminal defense; attorney aided flight from jurisdiction.

<u>Docket No.</u>	<u>Disposition</u>	<u>Type of Case & Allegations of Misconduct</u>
69-85	Dismissed	Divorce; neglect; failure to communicate.
70-85	Dismissed	Divorce; neglect; failure to communicate.
71-85	Dismissed	Enforcement of judgment; improper tactics.
72-85	Admonishment	Probate; neglect.
73-85	Dismissed	Royalty payments; failure to communicate.
74-85	Dismissed	Divorce; excessive fee.
75-85	Dismissed	Adoption; neglect; failure to communicate.
76-85	Dismissed	Domestic relations; attorney communicated directly with represented party.
77-85	Dismissed	Natural resources contracts; conflict of interest.
78-85	Dismissed	Personal injury; attempt to cut out-of-state attorney from his portion of fee.
79-85	Dismissed	Criminal prosecution; lawyer lied on witness stand.
80-85	Dismissed	Civil rights; frivolous and fraudulent motions filed.
81-85	Dismissed	Civil rights; frivolous and fraudulent motions filed.
82-85	Dismissed	Domestic relations; neglect; excessive fee.
83-85	Dismissed	Civil rights/habeus corpus; fraudulent motion filed.
84-85	Admonishment	Probate; neglect.
85-85	Dismissed	Domestic relations; harrasment of opposing party.
86-85	Dismissed	Criminal; prosecutor returns mail of penitentiary inmate unopened.
87-85	Private Reprimand	Criminal defense; improper public remarks about judge.
88-85	Dismissed	Criminal prosecution; direct contact with represented party.
89-85	Dismissed	Criminal defense; conflict of interest; ineffective assistance of counsel.
90-85	Dismissed	Personal injury; inadequate representation.
91-85	Dismissed	Probate; neglect.

<u>Docket No.</u>	<u>Disposition</u>	<u>Type of Case & Allegations of Misconduct</u>
92-85	Pending	Personal injury; neglect; statute of limitations passed.
93-85	Admonishment	Probate; neglect.
94-85	Dismissed	Breach of contract; neglect.
95-85	Dismissed	Worker's compensation; inadequate representation.
96-85	Admonishment	Promissory note; neglect.
97-85	Dismissed	Domestic relations; threatening criminal charges.
98-85	Pending	Bankruptcy; failure to communicate.
99-85	(Previous case—duplicate number)	
100-85	Dismissed	Criminal prosecution; harassment.
101-85	Pending	Insurance claim; neglect; failure to communicate.
102-85	Dismissed	Civil rights; failure to respond to discovery request.
103-85	Dismissed	Divorce; inadequate representation; failure to communicate.
104-85	Dismissed	DUI; conspiracy between prosecution and defense; illegal arrest.
105-85	Dismissed	Criminal defense; ineffective assistance of counsel.
106-85	Dismissed	Commercial litigation; harassment of employee of opposing party.
1-86	Dismissed	Criminal defense; attorney circumvented regulations of penitentiary.
2-86	Dismissed	Civil rights; failure to comply with discovery order.
3-86	Dismissed	Domestic relations; county attorney ordered removal of child without court order.
4-86	Dismissed	Divorce; excessive fee; failure to carry out client's wishes.
5-86	Dismissed	Assault; failure to prosecute.
6-86	Dismissed	Estate; neglect.
7-86	Dismissed	Estate; withholding documents.
8-86	Dismissed	Guardianship; neglect.
9-86	Dismissed	Trust management; mismanagement.

<u>Docket No.</u>	<u>Disposition</u>	<u>Type of Case & Allegations of Misconduct</u>
10-86	Dismissed	Worker's compensation; neglect.
11-86	Pending	Divorce; neglect; failure to promptly return unearned portion of fee.
12-86	Dismissed	Personal injury; withholding documents.
13-86	Admonishment	Criminal defense; conflict of interest.
14-86	Dismissed	Worker's compensation; failure to communicate; failure to carry out requests of client.
15-86	Dismissed	Criminal; prosecutor's secretary revealed confidential information.
16-86	Pending	Easement; neglect.
17-86	Pending	Promissory note; neglect; inadequate preparation.
18-86	Dismissed	Criminal; improper conduct by prosecutor.
19-86	Dismissed	Promissory note; failure to communicate.
20-86	Dismissed	Criminal prosecution; prosecutor reneged on deal with witness.
21-86	Pending	Commercial; neglect.
22-86	Dismissed	Divorce; prejudicial withdrawal.
23-86	Pending	Breach of contract; neglect; failure to amend complaint resulting in dismissal with prejudice.
24-86	Dismissed	Custody; prejudicial withdrawal.
25-86	Pending	Architect malpractice; malpractice.
26-86	Dismissed	Personal injury; misrepresented settlement negotiations; frivolous claim.
27-86	Pending	Bankruptcy; civil claims; neglect; prejudicial withdrawal; excessive fee.
28-86	Pending	Personal injury; inflated expert fee pocketed by attorney.

<u>Docket No.</u>	<u>Disposition</u>	<u>Type of Case & Allegations of Misconduct</u>
29-86	Dismissed	Commercial; collusion with opposing counsel.
30-86	Pending	Bankruptcy; failure to communicate; poor advice.
31-86	Pending	Estate; conflict of interest.
32-86	Dismissed	Divorce; prevented reconciliation; sexual relations with client.
33-86	Dismissed	Criminal prosecution; failure to prosecute.
34-86	Pending	Business deals; fraud.
35-86	Dismissed	DUI; neglect.
36-86	Pending	Divorce; backdated service to default defendant.
37-86	Dismissed	Various civil; attorney refused to further client's legitimate wishes; excessive fee.
38-86	Dismissed	Worker's compensation; malpractice; deceit regarding bill.
39-86	Pending	Bankruptcy; failure to communicate; missed a hearing.
40-86	Dismissed	Child custody; neglect; excessive fee.
41-86	Dismissed	Divorce; sexual relations with client.
42-86	Dismissed	Construction; inadequate preparation.
43-86	Pending	Breach of contract; improper summation.
44-86	Pending	Seizure of property; conflict of interest.
45-86	Pending	Foreclosure; conflict of interest.
46-86	Pending	Various civil; lawyer revealed confidential information.
47-86	Pending	Construction; conflict of interest.
48-86	Pending	Personal injury; neglect; excessive fee.
49-86	Pending	Bankruptcy; neglect; excessive fee.
50-86	Pending	Contract; failure to pay doctor's deposition charge.
51-86	Pending	Civil rights; neglect.
52-86	Dismissed	Bankruptcy; conflict of interest.

<u>Docket No.</u>	<u>Disposition</u>	<u>Type of Case & Allegations of Misconduct</u>
53-86	Pending	Contract; inadequate preparation; excessive fee; deceit regarding fee.
54-86	Pending	Criminal defense; ineffective assistance of counsel.
55-86	Pending	Divorce; neglect.
56-86	Pending	Divorce; neglect.
57-86	Dismissed	Contract; failure to pay doctor's deposition charge.
58-86	Dismissed	Real property; entered into settlement without client's consent.
59-86	Pending	Personal injury; failure to communicate; neglect.
60-86	Pending	Bankruptcy; delay in filing; lawyer lied to client about filing.
61-86	Pending	Child custody; support; failure to file papers; failure to communicate.
62-86	Pending	Bankruptcy; client billed after consultation advertised as free.
63-86	Pending	Bankruptcy; lawyer misrepresented need for titles and now claiming lien; excessive fee.
64-86	Pending	Child custody; neglect; inadequate preparation; counseled client to take illegal action.
65-86	Dismissed	Business litigation; conflict of interest.
66-86	Dismissed	Mortgage; neglect; excessive fee.
67-86	Dismissed	Criminal; habeus corpus; bad faith answer by attorney for state.
68-86	Dismissed	Back child support; prosecutor's office not performing duty.
69-86	Pending	Personal injury; refused to withdraw after minor attained majority.
70-86	Pending	Advertising; unethical advertising.
71-86	Dismissed	Advertising; unethical advertising.

<u>Docket No.</u>	<u>Disposition</u>	<u>Type of Case & Allegations of Misconduct</u>
72-86	Pending	Divorce; neglect.
73-86	Pending	Real property; neglect; excessive fee; lying to judge in suit to collect fee.
74-86	Pending	Commercial incorporation; abandonment of case and client.
75-86	Pending	Commercial; abandonment of case and client.
76-86	Pending	Worker's compensation; neglect.
77-86	Pending	Dispute between neighbors; city attorney advising both parties.
78-86	Pending	Adoption; neglect.
79-86	Pending	Criminal defense; neglect; failure to communicate; failure to file motions in a timely matter.
80-86	Pending	Divorce; counselling against reconciliation.
81-86	Pending	Liquor license; conflict of interest by city attorney; harassment.
82-86	Pending	Lawyer borrowed money; refuses to repay client.
83-86	Pending	Lawyer borrowed money; refuses to repay client.
84-86	Pending	Domestic relations; failure to deliver final papers; failure to notify of right to appeal.
85-86	Pending	Bankruptcy; neglect.
86-86	Pending	Estate; inadequate preparation.
87-86	Pending	Lawyer borrowed money; refuses to repay client.

The following types of cases gave rise to the number of grievances indicated:

Domestic relations	33
Criminal	26
Personal injury	15
Contractual rights	13
Bankruptcy	10
Commercial	8
Estates	8
Real property	7

Worker's compensation	7
Civil rights	6
DUI	4
Lawyer borrowed money from client	3
Construction	2
Other - general	13

The following allegations were raised in the following number:

Neglect	52
Fees problem	19
Failure to communicate	15
Conflict of interest	14
Harassment or coercion	10
Prosecutorial misconduct	9
Deceit	8
Inadequate representation or preparation	8
Ineffective assistance of counsel	6
Conspiracy	3
Discovery problems	3
Failure to carry out client's wishes	3
Filing fraudulent motions or pleadings	3
Fraud	3
Improper advances/sexual relations with client	3
Improper comment about a judge	3
Prejudicial withdrawal	3
Refusal to repay loan from client	3
Abandonment of case	2
Communication with represented party	2
Failure to pay doctor's deposition charge	2
Malpractice	2
Slander	2
Unethical advertising	2
Solicitation	1
Other	13

Respectfully submitted,
RAYMOND B. HUNKINS
 Chairman

Report of Insurance Committee

Through the diligent efforts of past Committee Chairman, John E. Stanfield, and Wyoming State Bar Executive Director, Mary Beth Senkewicz, the Wyoming State Bar continued to explore the concept of a multi-state captive insurance company and participated in numerous meetings with representatives of other state bar organizations to consider the feasibility study done by McNeary Insurance Consulting Services, Inc., of Charlotte, North Carolina.

While this consideration was underway, it was learned that Home Insurance Company, through its exclusive underwriting agent for its lawyers' program (Professional Liability Underwriting Managers, Inc., of Minnetonka, Minnesota) would be re-entering the lawyers' professional liability insurance market in Wyoming in February, 1986.

On May 2, 1986, the Board of Commissioners met in Casper to decide whether or not to make a \$40,000 commitment towards start-up costs for the proposed multi-state captive insurance company. After due consideration, the board rejected making such a commitment.

Subsequently, there has been growing concern over whether our bar members' professional liability insurance needs will be met by insurance companies presently in the Wyoming market. As a result of this concern and as a result of recent changes in the concept of the multi-state captive insurance company, this entire matter will be discussed and further considered at the state bar meeting on September 17, 1986.

In closing this report, the committee members give special thanks to past Chairman, John E. Stanfield, and to our Executive Director, Mary Beth Senkewicz, for their untiring efforts on behalf of all our bar members on this most important issue.

Respectfully submitted,
MICHAEL GOLDEN
Chairman

Report of the Legal Aid Services Committee

This committee consisting of Patricia M. Baird, Casper; M. L. Barton, Riverton; Berthenia S. Crocker, Lander; Curtis L. Harden, Casper; Robert E. Holstedt, Sheridan; and Robert A. Oakley, Cheyenne, met several times this past year. The committee meetings focused upon the method of implementation of the *pro bono* resolution which was passed at the State Bar Convention in 1985. Responses began coming in to the local legal services programs in the spring of 1986. At the end of this report, a table can be found which compiles the statistics as of August 1, 1986 with respect to the implementation of the *pro bono* resolution.

In discussion with the legal services programs throughout the state, the one problem that has occurred with the *pro bono* participation has been the amount of time that the local legal services program expends in referring out the cases. Although understandable, the problems with referral of *pro bono* cases are in the nature of the time constraints of the private attorney's caseload as well as the potential for conflict of interest with the private attorney's existing clientele especially in the small communities. Full participation from the State Bar pursuant to the resolution could alleviate this problem.

On behalf of the committee, I would like to take this opportunity to thank the Wyoming State Bar members for their participation and sup-

port of the *pro bono* resolution. This has enabled the local legal services programs to serve more indigent clients in civil matters. It should also be noted that the cash donated to the local legal services programs goes into the direct provision of legal services to low income clients. This committee appreciates the continued support of the Wyoming State Bar as a whole.

Respectfully submitted,
ROBERT A. OAKLEY
Chairman

Pro Bono Resolution Statistics

County	Participating	Cash Cases	Attorneys
Albany	13	-0-	3
Big Horn	1	-0-	0
Campbell	12	-0-	2
Carbon	5	-0-	6
Crook	2	-0-	1
Converse	10	-0-	7
Fremont	20	-0-	14
Goshen	4	-0-	4
Hot Springs	4	300	0
Johnson	5	-0-	0
Laramie	41	600	23
Lincoln	3	-0-	0
Natrona	120	7,350	31
Niobrara	3	-0-	0
Park	10	-0-	0
Platte	5	300	2
Sheridan	14	-0-	6
Sublette	5	300	0
Sweetwater	5	-0-	1
Teton	11	600	0
Uinta	4	-0-	0
Washakie	5	400	0
Weston	3	-0-	3
Total	305	\$9,850	103

Report of Legal Education Committee

The Legal Education Committee reports with regret the resignation due to illness of George Hopper as Chairman. The Committee and the State Bar are indebted to George for his devotion and hard work in the service of the bar and the law school. Although George's practice is centered in Denver, he has been tireless and enthusiastic in his efforts to involve the Legal Education Committee in meaningful activities to improve and assist the law school.

During the past year the Committee conducted its business in conjunction with a meeting at the law school. As has become customary, there was an open discussion with students about problems and suggested improvements in the areas of curriculum, faculty, library policies, admissions and placement. In addition, the members of the Committee met with the American Bar Association's Inspection Team Committee, which was conducting its seven-year inspection of the school. The discussion involved subjects which relate to the facilities and policies of the law school, and the ABA Committee inquired in detail into the area of the relations between the State Bar and the law school.

Since the stated purposes of the Legal Education Committee are accomplished in large part through liaison with the Dean of the College of Law, it is to be anticipated that there will be little input of significance until the new Dean assumes his position. The committee will meet in the fall at the law school for the purpose of discussing law school matters with the students and faculty.

Respectfully submitted,
STEVE ARON
Chairman

Report of the Necrology Committee

Three members of the Wyoming State Bar died during the past year. The Wyoming State Bar is saddened by the loss of the following named persons:

FRANDAL MONTEITH DOIDGE

Ms. Doidge died on January 28, 1986 in Evanston. She was 38 years old.

Ms. Doidge was an associate in the law firm of Harris and Harris in Evanston. She was born in Colby, Kansas. She graduated from the University of Wyoming College of Law in 1983 and from Ft. Hays State University in 1968, where she attained her undergraduate degree. She was a member of the Wyoming and South Dakota bars. Prior to attending law school, Ms. Doidge had worked as a social worker in Decatur, Georgia; Hays, Kansas; Casper, Wyoming; and Yankton, South Dakota.

Ms. Doidge is survived by her husband, John R. Doidge; two sons, Tracy Glaze and Andrew Glaze, of Evanston; her mother, Frances Monteith of Stockton, Kansas; and a brother, Dallas Monteith II of Virginia Beach, Virginia.

GEORGE W. HOPPER

Mr. Hopper died on August 23, 1986. He was 56 years old.

Mr. Hopper was a senior partner in the law firm of Hopper, Kanouff, Smith, Perryam, Terry & Duncan, a securities regulation firm in Denver.

Mr. Hopper was Chairman of the 1979 Snowmass Conference, which resulted in federal legislation that simplified the process by which small businesses can raise venture capital.

Mr. Hopper, a resident of Golden, was born June 24, 1930 in Cleveland. He earned a bachelor's degree from the University of the South in Sewanee, Tennessee, in 1951, and received his doctor of jurisprudence from the University of Wyoming College of Law in 1956. He was admitted to the Wyoming State Bar on July 31, 1956.

Before entering private practice, Mr. Hopper worked three years as an enforcement attorney for the Denver regional office of the Securities and Exchange Commission. He taught securities law, contracts, natural resources and taxation as a visiting professor at the University of Wyoming in 1963.

He married Sally Hunter in Laramie, Wyoming on December 20, 1955.

Mr. Hopper was a member of the Federal, Colorado, Wyoming and Denver Bar Associations. He served on the ABA's committees for federal regulation of securities, state regulation of securities and securities regulation of small businesses. He was chairman of the securities committee and the corporations, banking and business law section of the Colorado Bar Association.

In addition to his wife, Mr. Hopper is survived by four daughters, Nancy Hopper of Denver, Joan Pevarnik of Tucson, Arizona, Carolyn Haynes of Washington, D.C., and Ann Elizabeth Vickstrom of Ann Arbor, Michigan.

OLIVER W. STEADMAN

Oliver Steadman died February 6, 1986 in the Kona Hospital in Hawaii. He was 75 years old. He and his family had been longtime annual visitors to the Kona area.

Mr. Steadman was born in South Dakota on May 30, 1910. He attended the University of California at Los Angeles and the University of Southern California. It was at the University of Southern California that he earned his J.D. He was admitted to the Wyoming State Bar on September 1, 1936.

After he and his wife Sarah Donley Steadman moved to Cody in the mid-30's, they practiced law in Cody for almost fifty years. He was a member of the Cody Lions Club, Shoshone Lodge No. 21, Darius Chapter No. 10, Zabud Council No. 6, Constantine Commandery No. 9, and the Kalice Temple.

Mr. Steadman was a member of the American Bar Association, and the Park County Bar Association in addition to the Wyoming State Bar.

Mr. Steadman is survived by his wife, Sarah, daughters, Dr. Martha Matlos of New York, Shirley Collins of Washington state; sons F. Don Steadman of Ranchester, Wyoming; Dr. John Steadman of Wyoming; and

sisters Lois Lehman of Iowa, Laverna Hansen of California, and Jean Langdon of Texas. He is also survived by seven grandchildren and one great-grandchild.

Respectfully submitted,
MARY BETH SENKEWICZ
Executive Secretary

Report of State Board of Law Examiners of Wyoming

The State Board of Law Examiners now consists of James L. Applegate, Cheyenne; Thomas E. Toner, Sheridan; Ernest J. Goppert, Jr., Cody; William H. Vines, Wheatland; and Michael Golden, Casper who was appointed to complete the term of Michael J. Sullivan, Casper who resigned from the Board in May 1985.

Since your last meeting the Board administered the bar examination on 25 and 26 February 1986 in Laramie, Wyoming to 23 applicants. Sixteen applicants or 70 percent of those taking this exam passed. These people were subsequently recommended to the Wyoming Supreme Court for admission to the bar. On 29 and 30 July 1986, also at Laramie, the Board examined 71 applicants on the Wyoming essay portion of the bar exam, and also examined 55 of those applicants on the multi-state bar examination. Fifty-seven of these applicants or 80 percent of those taking the exam passed and have been or will be recommended for admission to the Wyoming Supreme Court.

The Board has made recommendations to the Wyoming Supreme Court to delete the rule permitting an applicant to qualify to sit for the bar exam based upon one or two years of law office study.

Also pending before the Wyoming Supreme Court is the recommendation of the State Board of Law Examiners that the procedure for admission to the Wyoming Bar without examination be deleted from our rules. There are some pending reciprocity applications for admission without examination and there is also a suit pending in the United States District Court for the District of Wyoming by *Mayo Sommermeyer vs. The Wyoming Supreme Court*, Civil No. C86-160 which was filed in late May 1986 concerning the issue of reciprocity admission.

Respectfully,
JAMES L. APPLGATE
President, State Board of Law Examiners

Report of Unauthorized Practice of Law Committee

Two years ago the Unauthorized Practice of Law Committee prepared new proposed rules governing this area. In August of this year the Supreme Court informed us of its intention to adopt those rules. Pursuant to those rules a new committee will be formed consisting of both lawyer and lay members which will be under the direct authority of the Supreme

Court rather than a committee of the Bar. The new committee will have authority to initiate actions both for injunction and for contempt at the District Court level. It is anticipated that the new rules will be adopted and the new committee appointed and in operation by the end of 1986 at which time the Wyoming State Bar will no longer need an Unauthorized Practice Committee.

Respectfully submitted,
ERIC M. ALDEN
Chairman

Report of the University of Wyoming College of Law

With involved supportive bar members, with an excellent productive teaching faculty, and with industrious, enthusiastic students, these austere economic times in our state will prove difficult but not impossible. Fortunately, since the College is generously blessed with all these factors, the long term outlook for the College (and the University as a whole) is good. The following outlines major developments during and some of the statistics of the past year.

In May of 1986 sixty-three people graduated from the College. Fifty-two of these took the Wyoming bar exam and forty-four passed. Of these sixty-three people, five were known to be unemployed and looking for positions at the time of the Bar meeting. Each of these five has rather special goals for legal employment which are requiring time to be realized. Despite inquiries from the College, the employment status of six of the graduates was not known when the Bar met. The balance of the graduates are employed in law firms, state and federal public attorney positions and judicial clerkships.

Applications for admission to the College of Law were up slightly in the fall of 1986 over the fall of 1985. Additionally, for the class starting in the fall of 1986, the median LSAT was 32 which is at or near the national median for the classes entering law school around the country this past fall. The median G.P.A. for this group was a 3.10. The College had 336 total completed applications (93 resident and 243 nonresident) for a total of 75 seats (55 residents and 20 nonresident). Because applications are down nationally, the competition for law students appears to be intensifying. Our experience confirms this increased effort by other schools since we were required to accept a somewhat larger percentage of our applicants than was historically the case in order to fill the 75 seats.

Because of the College's small size and very favorable faculty/student ratio, because of the quality of the program which based on recent evaluative and statistical data must be at or quite close to the top one-third of the 175 A.B.A. schools, and because of the bargain tuition cost for residents and even nonresidents, a person interested in law practice in Wyoming or the region should consider carefully before attending law school elsewhere. Those interested in living away from Wyoming for a

time while attending law school may spend a year at an A.B.A. approved school in another region of the country and with prior approval use the credits earned in partial satisfaction of the College's degree requirements.

The American Bar Association and the Association of American Law Schools completed their sabbatical evaluation of the College of Law for accreditation purposes in the spring of 1986 and extended unconditionally the College's accreditation. This decision was based on the report of an inspection team representing both organizations which visited the College in the fall of 1985.

The inspection team noted based on class visitations that without exception the classes were well taught, and that the environment was highly conducive to the study of law, and that the students were enthusiastic and well prepared. The team stated "at this institution teaching is given the highest priority." The team also noted that the recent admission of the College to the Order of the Coif confirms the strong research and publication of the faculty. The inspection team commented on the excellent relationship between the State Bar and the College. It recommended that the College continue to try to improve its provision of placement services and continuing education to the Bench and Bar. It recommended to the University administration that additional support be provided the College to increase its administrative staffing in order to facilitate the provision of the above services.

Given relatively level budgets over the past four years, the law library has lost ground regionally in its acquisitions budget, now ranking slightly behind Universities of Colorado and Nebraska and further behind Brigham Young University in this respect. Because of our small size and in partial mitigation of this, however, we do not need the redundancy in collection which these larger schools need. It is noteworthy that in book budget dollars spent on a per student basis, we rank second of 175 A.B.A. approved law schools. Though the inspection team noted serious library staffing and stack space problems, it was very complimentary on the collection as a research resource for students, faculty, and bar members. Though distant from the offices of many lawyers in the state, the College encourages lawyers to make use of this rapidly improving research facility. By using the reference service in the law library at 766-4117 as well as the student legal research service at 766-6725, bar members can gain considerable access despite the distances.

Debra J. Madsen, a 1982 graduate of the University of Idaho School of Law, has recently joined the College administration as an Assistant Dean primarily in charge of placement and admissions. When the need for a new lawyer arises, bar members should call her at 766-6416. Recommending that people call early in the year in order to assure as complete a look as possible at the students, she will make arrangements to coordinate the gathering of resumes and the interviews in the manner most convenient to the bar members. Additionally, persons interested in the possibility of attending law school are encouraged to call her for information.

Personally and on behalf of the College community, I would like to deeply thank the State Bar and all of its members for their support of the College. This support includes the willingness of lawyers and judges to participate in a whole variety of ways in the College's programs, the confidence in the College which is demonstrated by the interest of bar members in our new graduates, and the financial generosity which has made possible activities which truly add a dimension to the educational experiences of the students. I can assure each member of the Bar that without this support the quality of the experience of our students would be quite average at best. I have been truly privileged to serve as dean of the College over the past seven years and to work with the State's lawyers and judges. These years have been for me the most challenging and gratifying of my life. Additionally, I am very optimistic about the prospects for the new dean and for the College.

Respectfully submitted,
PETER C. MAXFIELD
Dean

Report of The Treasurer**Wyoming State Bar Expenses - By Budget Classification****General and Administrative**

	Budget Year Ended Sept. 30, 1986	Actual 10 Months Ended July 31, 1986	Over (Under) Budget
Expenses			
Salaries, payroll			
cost, & insurance	\$ 64,326.00	\$ 55,301.26	\$ (9,024.74)
Travel &			
related expenses	\$ 26,000.00	\$ 12,432.61	\$(13,567.39)
Management & Financial	\$ 2,500.00	\$ 1,850.00	\$ (650.00)
Office space, equipment			
& supplies	\$ 29,990.00	\$ 23,361.21	\$ (6,628.79)
Postage & Express	\$ 7,000.00	\$ 6,374.06	\$ (625.94)
Telephone	\$ 5,000.00	\$ 3,245.54	\$ (1,754.46)
Regular Publications	\$ 30,621.00	\$ 31,919.55	\$ 1,298.55
Dues, Fees			
& Subscriptions	\$ 600.00	\$ 460.00	\$ (140.00)
Grievance Committee	\$ 25,345.00	\$ 27,932.43	\$ 2,587.43
Fee Arbitration	\$ 2,000.00	\$ 306.92	\$ (1,693.08)
Other WSB Committees	\$ 2,000.00	\$ 1,511.81	\$ (488.19)
Meetings	\$ 1,000.00	\$ - 0 -	\$ (1,000.00)
Convention Expense	\$ 20,000.00	\$ 5,273.20	\$ 14,726.80
Cash Reserve	\$ 18,000.00	\$ 52,630.08	\$(34,630.08)
Law School			
Scholarships	\$ 1,432.00	\$ 1,432.00	\$ - 0 -
Total	\$235,814.00	\$224,030.67	\$(11,783.33)
Revenues:			
Annual Fees	\$127,875.00	\$151,626.96	\$ 23,751.96
Interest	\$ 25,000.00	\$ 20,452.82	\$ (4,547.18)
Miscellaneous	\$ 8,000.00	\$ 14,216.22	\$ 6,216.22
Supervisory &			
bookkeeping fees	\$ 5,400.00	\$ 4,170.00	\$ (1,230.00)
Rental Income	\$ 2,700.00	\$ 1,575.00	\$ (1,125.00)
Parking Income	\$ 1,680.00	\$ 1,555.00	\$ (125.00)
Convention Excess			
receipts	\$ 20,000.00	\$ 2,045.26	\$(17,954.74)
Total	\$190,655.00	\$195,641.26	\$ 4,986.26
EXCESS OF REVENUES OVER EXPENSES (LOSS)	\$(45,159.00)	\$(28,389.41)	\$(16,769.59)

**Wyoming State Bar
Balance Sheet**

July 31, 1986

Assets

Cash-Convention	\$ 1,519.97
Cash-CLE	\$ 7,616.97
Cash-IMMA	\$ 3,723.74
Cash-Savings	\$124,879.28
Cash-Liquid Capital Fund	\$ 67,762.58
Restricted Cash-Certificates of Dep	\$ 53,957.03
Cash-RMF Checking	\$ 2,254.76
Computer	<u>\$ 17,368.42</u>
Total	\$279,082.75

Liabilities and Fund Balance

Checks outstanding in excess of bank balance \$ 921.24

Fund Balances:

Unrestricted	\$226,304.82
Restricted	<u>\$ 52,777.93</u>
Total	\$279,082.75