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COMMITTEE REPORTS

REPORT OF AD HOC COMMITTEE TO REVISE FEE ARBITRATION RULES

The Ad Hoc Committee to revise the arbitration rules is composed of James E. Fitzgerald, Chairman; The Honorable Edward L. Grant; Ms. Catherine MacPherson; The Honorable Richard V. Thomas; and Mr. Lawrence E. Middaugh.

The committee met in Cheyenne on January 25, 1988, and reviewed the Rules for Fee Arbitration. Thereafter, the committee members participated in several telephone conference calls to review their work.

The Fee Arbitration Rules were revised and redrafted. A final proposed set of the Fee Arbitration Rules, as revised, was submitted to the President of the Wyoming State Bar for approval on September 1, 1988.

Respectfully submitted,
JAMES E. FITZGERALD
Chairman

REPORT OF CLIENTS' SECURITY FUND COMMITTEE, 1987-1988

Rule 22 of the *Rules Providing for the Organization and Government of the Bar Association of the Attorneys at Law of the State of Wyoming* requires the Clients' Security Fund Committee to make an annual report on its activities. The Committee did not meet nor act on any matters, because no claims were submitted to it from September 1987 through August 1988.

Respectfully submitted,
MARY B. GUTHRIE
Chairman

REPORT OF COMMITTEE ON ALCOHOL AND SUBSTANCE ABUSE

In conjunction with the Chairman of the Judicial Supervisory Commission, Mr. Jack Speight, the Chairman of this committee has begun formulation of a substance abuse "Impaired Professionals Program" for attorneys and judges in Wyoming. While precise statistics concerning the extent and severity of the alcohol and drug abuse problem among Wyoming attorneys have not been given to the committee, we are led to believe that the problem is very serious and needs immediate attention.

With that thought in mind, your Chairman has conferred with Dr. James Haller, a recovering alcoholic and practicing physician in Cheyenne who is currently in charge of an "Impaired Professionals Program" for

the Wyoming Medical Society and who is also in the process of attempting to coordinate similar efforts for nurses, pharmacists, and veterinarians, as well as attorneys and judges. Dr. Haller has been involved in the substance abuse recovery process of a number of attorneys in a private capacity in recent years.

In a nutshell, the program currently used by Dr. Haller involves an intervention phase during which referrals are received from various sources, comprehensive investigations are conducted to determine the authenticity and severity of a substance abuse problem, if any, and an intervention is conducted in an effort to persuade the substance abuser of the need for immediate treatment. Those intervening need training and coordination to insure the best possible results. The second phase of the program is an intensive two-year follow-up effort in conjunction with Alcoholics Anonymous, which includes one to one follow-up with a member of the committee or other peer volunteer who is usually also a recovering substance abuser, and mandatory chemical testing to assure compliance with the recovery program.

The program is made possible only through the commitment of volunteers, most of whom are of necessity recovering substance abusers themselves, since they are the most effective peer counselors. The program currently conducted by Dr. Haller is not a punitive program and refers cases to the appropriate disciplinary committees only where professionals refuse to cooperate with the treatment and recovery program. Dr. Haller stressed that his committee works primarily as an advocate for the recovering substance abuser unless he is entirely uncooperative. Confidentiality is the cornerstone of the program.

Since Wyoming is such a small state, it appears to make little sense to establish a separate, self-contained program for each professional group. Instead, it seems logical to create an impaired attorneys and judiciary group which could assist a centralized program in dealing with attorneys and judges. The centralized program could be conducted under the auspices of Dr. Haller, since he appears to have the expertise and experience to conduct or train others to conduct the investigations, interventions, and recovery programs in a confidential, yet effective manner.

Your chairman has continued to receive additional materials concerning substance abuse programs in other states. Dr. Haller's program is very similar to other bar and medical association programs described in those materials. Since the first step is always the most difficult, it makes sense to your chairman to piggyback on the efforts of other "impaired professional" groups throughout the state rather than to reinvent the wheel. If the bar is dissatisfied with the results, or if the problem appears big enough to warrant our own program, perhaps that can be explored at some future time.

The Bar Commissioners have budgeted sufficient funds to permit the commencement of an "Impaired Professionals Program" for attorneys and judges at such time as the structure of the program is finally established. One of the perennial difficulties this committee has faced is the extreme

distance between its members and the resulting difficulty in meeting or otherwise communicating. As a result, the formalities of training and implementation remain to be accomplished.

However, it is felt that with the commitment of the Bar Commissioners and the Judicial Supervisory Commission, a program can be implemented, at least on a limited basis, by the end of calendar year 1988. In order to assure success, each member of the Bar should immediately consider whether he or she can assist as a volunteer peer counselor or in some other capacity. The program offers what we believe is the best hope for dealing with the serious drug and alcohol abuse problem among judges and lawyers in Wyoming, and we urge its support by all members of the Bench and Bar.

Respectfully submitted,
GREGORY C. DYEKMAN
Chairman

REPORT OF THE COMMITTEE ON TAXATION

The Special Committee on Taxation Law of the Wyoming State Bar was established pursuant to the Bylaws of the Bar by order of the President. This Committee was first established in 1982 and has been in continual existence since then with the exception of 1986.

During the 1987-1988 year, members of the committee prepared and submitted three articles concerning current taxation law issues for publication in *The Wyoming Lawyer*. In addition, at the request of the Continuing Legal Education Committee, this tax committee assisted in arranging a four-hour program on taxation law held during the Wyoming State Bar Convention. Members of the committee have begun discussions with the Internal Revenue Service to establish an IRS/Bar Association liaison committee which can meet periodically to discuss issues of current common interest to members of the Bar and the IRS. Such liaison committees exist on a national level with the ABA and locally in Wyoming for the Society of Accountants.

As chairman of the committee, I have continued to act as one of the Wyoming members of the National IRS/ABA Liaison Committee. In addition, the committee remains in communication with the National Association of State Bar Tax Sections, although the committee is not a formal member of that association.

The committee continues to be a valuable resource to the Bar with respect to its education functions. We live in a world of ever accelerating tax law changes, each of which seems more intrusive than the last, and education in this area is increasingly important.

Respectfully submitted,
THOMAS N. LONG
Chairman

REPORT OF THE CONTINUING LEGAL EDUCATION COMMITTEE

The Continuing Legal Education Committee of the Wyoming State Bar reports that during the last fiscal year the CLE Committee sponsored the following seminars: a nine-hour seminar on Evidence, in October in Laramie; a nine-hour seminar on the Civil Rights of the Mentally Handicapped, in February in Laramie; and a nine-hour seminar on Products Liability, in April in Casper.

Further, Ms. Mary Beth Senkewicz, Executive Secretary to the Grievance Committee, gave a three-hour seminar on Discipline and Ethics at the following locations: Torrington, Riverton, Cody, Kemmerer, Jackson, Worland, and Laramie.

Of course, the CLE Committee sponsored all of the continuing legal education programs at the 1988 Annual Meeting of the Wyoming State Bar.

In addition to myself, the members of your committee have been: Richard P. Boley, Jeffrey J. Gonda, Floyd R. King, Calvin E. Ragsdale, E. George Rudolph, Judith A.W. Studer, and Rhonda Sigrist Woodard. Mary Beth Senkewicz served as our Executive Secretary.

Respectfully submitted,
WILLIAM F. DOWNES
Chairman

REPORT OF THE GRIEVANCE COMMITTEE

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

| DOCKET NO. | DISPOSITION | TYPE OF CASE AND ALLEGATIONS OF MISCONDUCT |
|-------------------|--------------------|---|
| 82-87 | Dismissed | Disagreement between county attorney and county assessor; refuses to represent. |
| 83-87 | Dismissed | Divorce; client paid fee in advance, withdrew request 24 hours later. |
| 84-87 | Pending | Bad check; attorney paid for transcript with insufficient funds check. |
| 85-87 | Dismissed | Civil; threatened adverse party. |
| 86-87 | Dismissed | Theft; money improperly removed from trust account. |
| 87-87 | Dismissed | Civil; failure to communicate. |
| 88-87 | Dismissed | Guardianship/child custody; guardian ad litem biased in actions. |
| 89-87 | Dismissed | Divorce; neglect, failure to follow client's instructions. |
| 90-87 | Dismissed | Divorce; neglect, failure to communicate. |

| DOCKET NO. | DISPOSITION | TYPE OF CASE AND ALLEGATIONS OF MISCONDUCT |
|-----------------------|----------------------|---|
| 91-87 | Pending | Criminal investigation; aided criminal conduct. |
| 92-87 | Dismissed | Divorce; neglect, competence. |
| 93-87 | Dismissed | Worker's compensation; failed to pay compensation claimed. |
| 94-87 | Dismissed | Criminal; improperly refused copy of transcript. |
| 95-87 | Dismissed | Personal injury; excessive fee, neglect. |
| 96-87 | Dismissed | Criminal prosecution; prosecutor gave false information to press. |
| 97-87 | Dismissed | Criminal prosecution; circumvented 4th amendment requirements by filing ex parte motion. |
| 98-87 | Private Reprimand | Criminal conviction; misconduct. |
| 99-87 | Dismissed | Insurance bad faith litigation; attorney withheld files, stapled documents together improperly, misrepresentation, deceitful conduct. |
| 100-87 | Disbarment | Civil; neglect. |
| 101-87 | Dismissed | Personal contract; attorney refused to pay for jewelry. |
| 102-87 | Pending | Divorce; did not follow wishes of client, neglect, excessive fee. |
| 103-87 | Dismissed | Criminal; neglect, conflict of interest re defense attorney, conspiracy between prosecutor and defense attorney. |
| 104-87 | Pending | Child support; failure to inform of departure of associate handling case, fees, not living up to agreement made with client by associate. |
| 105-87 | Private Reprimand | Bankruptcy; contact with person represented by counsel. |
| 106-87 | Dismissed | Attachment, escrow account; harassment. |
| 107-87 | Dismissed | Divorce; abusive behavior by opposing counsel, ex parte with judge, extortion. |
| 108-87 | Dismissed | Criminal defense; attorney conspired with prosecutor, misled re plea bargain. |
| 109-87 | Dismissed | Criminal defense; misled re plea bargain. |

| DOCKET NO. | DISPOSITION | TYPE OF CASE AND ALLEGATIONS OF MISCONDUCT |
|-----------------------|----------------------|---|
| 110-87 | Dismissed | Personal injury; attorney failed to inform bankruptcy court of existence of personal injury suit, conflict of interest. |
| 111-87 | Dismissed | Conservatorship; excessive fee, deceit in presenting fees, misled court. |
| 112-87 | Admonishment | Breach of contract; neglect. |
| 113-87 | Dismissed | Bankruptcy; failure to communicate, harassment, incompetence. |
| 114-87 | Dismissed | Prosecution; refusal to investigate criminal complaint. |
| 115-87 | Dismissed | Criminal defense; excessive fee. |
| 116-87 | Dismissed | Criminal prosecution; attorney lied to judge. |
| 117-87 | Dismissed | Personal injury; incompetence, inadequate preparation. |
| 1-88 | Dismissed | DWUI; lack of diligence, attorney lied on stand. |
| 2-88 | Dismissed | General civil; refused to pay witness fees. |
| 3-88 | Private Reprimand | Bankruptcy; contacted opposing counsel's client without consent of counsel, lied to opposing counsel re status of settlement. |
| 4-88 | Dismissed | Collection; attorney harassed debtor. |
| 5-88 | Private Reprimand | Domestic relations; failed to abide by client's wishes, conflict of interest. |
| 6-88 | Pending | Employment termination; neglect, excessive fee. |
| 7-88 | Dismissed | Incorporation; changed board members without consent. |
| 8-88 | Disbarred | Bankruptcy; lack of communication, neglect. |
| 9-88 | Closed | Collection; neglect; attorney died before responding to complaint. |
| 10-88 | Dismissed | Criminal; saw lawyer use drugs. |
| 11-88 | Dismissed | Foreclosure; attorney harassed mortgagee. |
| 12-88 | Dismissed | Bankruptcy; neglect, excessive fee. |
| 13-88 | Dismissed | Domestic relations; excessive fee, did not follow client's wishes, inadequate preparation. |
| 14-88 | Dismissed | Criminal defense; excessive fee. |
| 15-88 | Dismissed | Termination of employment; offered false evidence. |
| 16-88 | Dismissed | Contract; attorney refuses to pay court reporter. |

| DOCKET NO. | DISPOSITION | TYPE OF CASE AND ALLEGATIONS OF MISCONDUCT |
|-------------------|--------------------|---|
| 17-88 | Dismissed | Criminal defense; lack of communication, lack of diligence, lack of preparation. |
| 18-88 | Dismissed | Criminal defense; lack of communication, lack of diligence, lack of preparation. |
| 19-88 | Dismissed | Criminal defense; lack of communication, lack of diligence, lack of preparation. |
| 20-88 | Pending | Divorce; ex parte communication with judge. |
| 21-88 | Pending | Divorce; conflict of interest. |
| 22-88 | Dismissed | Civil; lack of preparation. |
| 23-88 | Dismissed | Criminal; attorney failed to appear for preliminary, failed to abide by client's wishes, lied to client, while in a drunken state counseled client to plead guilty. |
| 24-88 | Dismissed | Landlord/tenant; had opposing party served in county court just before he was to testify with district court summons and complaint. |
| 25-88 | Dismissed | Partnership dissolution; lack of diligence. |
| 26-88 | Dismissed | Criminal defense; lack of diligence, excessive fee. |
| 27-88 | Dismissed | Divorce; excessive fee. |
| 28-88 | Dismissed | Divorce; counseling illegal conduct. |
| 29-88 | Dismissed | FAA investigation; attorney libeled FAA investigator. |
| 30-88 | Dismissed | Divorce modification; lack of diligence, did not follow client's wishes, excessive fee, failed to expedite litigation. |
| 31-88 | Pending | Adoption; lack of diligence and communication. |
| 32-88 | Pending | Adoption; lack of diligence, attorney misled client re status of case. |
| 33-88 | Dismissed | Divorce; failure to follow wishes of client, lack of diligence, refused to give client access to file, breach of confidentiality, signed decree not in accordance with client's wishes. |
| 34-88 | Dismissed | Divorce; threatened opposing party, prepared decree not in accordance with client's wishes. |

| DOCKET NO. | DISPOSITION | TYPE OF CASE AND ALLEGATIONS OF MISCONDUCT |
|-------------------|--------------------|--|
| 35-88 | Dismissed | Sentencing hearing; prosecutor tossed coin to determine whether to dismiss a charge. |
| 36-88 | Dismissed | Divorce; original decree did not incorporate support as stipulated, attorney refused to correct errors. |
| 37-88 | Dismissed | Divorce; lack of diligence, lack of communication. |
| 38-88 | Dismissed | Paternity; dilatory action. |
| 39-88 | Dismissed | Criminal defense; conflict of interest, attorney lied to client, harassed opposing party. |
| 40-88 | Pending | Estate; neglect, attorney refuses to make accounting. |
| 41-88 | Dismissed | Juvenile; abuse of discretion and violation of law by prosecutor, filed frivolous petition. |
| 42-88 | Pending | Breach of contract; neglect. |
| 43-88 | Pending | Attorney charged criminally; tampering with a witness, advising person not to talk to police. |
| 44-88 | Pending | Divorce; conflict of interest, misleading the court, deceitful conduct, filing frivolous matters, harassment of opposing party, ex parte contact with the judge. |
| 45-88 | Dismissed | Lack of communication, excessive fee. |
| 46-88 | Pending | Lawyer as criminal defendant; engaged in conduct which adversely reflects on fitness to practice. |
| 47-88 | Pending | Assault and battery; libelous letter written to county attorney. |
| 48-88 | Pending | Assault and battery; lawyer for victim in a civil action attempted to influence county attorney to raise charges to felony and not accept nolo plea. |
| 49-88 | Dismissed | General civil; lawyer refuses to return unearned fee. |
| 50-88 | Pending | Breach of contract; lack of diligence, conflict of interest, breach of confidentiality. |
| 51-88 | Dismissed | Partition; misrepresentation. |
| 52-88 | Pending | Estate; neglect. |
| 53-88 | Pending | General civil; attorney got default before answer time expired. |

| DOCKET NO. | DISPOSITION | TYPE OF CASE AND ALLEGATIONS OF MISCONDUCT |
|-----------------------|--|---|
| 54-88 | Pending | Adoption; obtained default while negotiating with opposing counsel. |
| 55-88 | Pending | Criminal defense; attorney won't turn over file. |
| 56-88 | Pending; Lawyer Transferred to Disability Inactive Status | Bankruptcy; induced out-of-state lawyer to represent client by misrepresenting client's financial status, got out-of-state attorney's fees wrongfully discharged in bankruptcy. |
| 57-88 | Pending | Domestic relations; neglect, excessive fee. |
| 58-88 | Pending | Medical malpractice; lack of diligence. |
| 59-88 | Pending | Personal injury; attorney bounced trust account check and lied about amount of settlement. |
| 60-88 | Pending | Estate; attorney ordered payment of his fees without court order. |
| 61-88 | Pending | Personal injury; neglect, let statute of limitations run. |
| 62-88 | Pending | Tax; neglect, failure to communicate. |
| 63-88 | Pending | Criminal defense; attorney withheld property of client, lied to client. |
| 64-88 | Pending | Domestic relations; attorney refuses to turn over file, failure to communicate, failure to follow client's wishes, failed to live up to agreement re payment. |
| 65-88 | Pending | Personal injury; neglect, misrepresentation. |
| 66-88 | Pending | Domestic relations; attorney failed to finish case, refused to return file. |
| 67-88 | Pending | Child molestation; incompetent representation. |
| 68-88 | Pending | Breach of contract; incompetence, lack of communication. |
| 69-88 | Pending | Various civil; attorney neglecting duty. |
| 70-88 | Pending | Divorce; failure to comply with discovery orders. |
| 71-88 | Pending | Divorce; opposing counsel lied to client and said opposing party was subject of FBI investigation. |
| 72-88 | Pending | Commercial; conflict of interest, breach of confidentiality. |

| DOCKET NO. | DISPOSITION | TYPE OF CASE AND ALLEGATIONS OF MISCONDUCT |
|------------|-------------|--|
| 73-88 | Pending | Commercial; lawyer refused to pay expert witness fee. |
| 74-88 | Pending | Domestic relations; neglect. |
| 75-88 | Pending | Personal injury; attorney lost documents and didn't tell client. |
| 76-88 | Pending | Hiring of attorney; attorney alleged free consultation and then charged fee. |
| 77-88 | Pending | Loan payback; incompetence, inadequate representation. |
| 78-88 | Pending | Sexual harassment; conflict of interest. |

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

| | |
|-----------------------|----|
| Domestic Relations | 27 |
| Criminal | 24 |
| Personal Injury | 7 |
| Civil | 7 |
| Bankruptcy | 5 |
| Breach of Contract | 4 |
| Commercial | 3 |
| Estates | 3 |
| Worker's Compensation | 3 |
| Employment Situation | 2 |
| Medical Malpractice | 1 |
| Other - General | 28 |

The following allegations were raised in the following numbers:

| | |
|--|----|
| Neglect | 23 |
| Failure to Communicate | 16 |
| Fees Problem | 15 |
| Inadequate Representation or Preparation | 14 |
| Deceit | 13 |
| Harassment or Coercion | 12 |
| Failure to Advance Client's Position | 10 |
| Failure to Carry Out Client's Wishes | 10 |
| Misrepresentation of Facts | 10 |
| Conflict of Interest | 8 |
| Ineffective Assistance of Counsel | 6 |
| Abuse of Process | 6 |
| Prosecutorial Misconduct | 5 |
| Reneged on Deal | 4 |
| Communication with Represented Party | 3 |
| Counseling Client to Take Illegal Action | 2 |
| Other | 31 |

At the time of the Committee's report last year, the following cases were pending and have since been disposed of in the following manner, or remain pending:

| DOCKET NO. | DISPOSITION | ALLEGATIONS OF MISCONDUCT |
|------------|-------------------|--|
| 88-86 | Pending | DUI; failure to appear. |
| 89-86 | Pending | Stock transfer; failed to do work after being paid. |
| 90-86 | Pending | Bond issue; breach of fiduciary relationship. |
| 92-86 | Disbarred | DUI; neglect, failure to communicate. |
| 97-86 | Pending | Bankruptcy; defrauding the court by intentionally hiding assets of client. |
| 101-86 | Admonishment | Attorney borrowed money from client and refused to repay. |
| 106-86 | Admonishment | Disrespectful conduct toward a tribunal; failure to properly process garnishment papers. |
| 111-86 | Dismissed | Contract dispute; conflict of interest. |
| 114-86 | Dismissed | Employment situation; sexual harassment by attorney employer. |
| 115-86 | Closed | Attorney died while request for transfer to disability inactive status pending. |
| 116-86 | Dismissed | Failure to repay client as per agreement. |
| 1-87 | Disbarred | Bankruptcy; neglect. |
| 7-87 | Dismissed | Corporate takeover, bankruptcy; misrepresentation of facts, counseled client to take illegal action. |
| 10-87 | Private Reprimand | Insurance claim; neglect. |
| 13-87 | Pending | Contract; failure to file answer resulted in default; concealing property to avoid debt. |
| 14-87 | Pending | Estate; neglect, embezzlement. |
| 17-87 | Dismissed | Custody, support; neglect, lying to client. |
| 20-87 | Pending | Personal injury; neglect, improper distribution of settlement. |
| 29-87 | Disbarred | Reorganization; failure to give timely notice to creditors. |
| 32-87 | Pending | Criminal defense; conflict of interest. |
| 33-87 | Disbarred | Domestic relations; neglect. |
| 34-87 | Disbarred | Bankruptcy; neglect, commingling funds, breach of confidentiality. |
| 36-87 | Dismissed | Criminal prosecution; misconduct. |

| DOCKET NO. | DISPOSITION | TYPE OF CASE AND ALLEGATIONS OF MISCONDUCT |
|-----------------------|-------------------------|--|
| 37-87 | Suspended Four Years | Criminal conviction; misconduct. |
| 46-87 | Dismissed | Corporate; conflict of interest. |
| 51-87 | Admonishment | Bankruptcy; neglect. |
| 52-87 | Disbarred | Bankruptcy; neglect, incompetence, lack of diligence, lack of communi- cation. |
| 56-87 | Dismissed | Bankruptcy; fraud. |
| 58-87 | Dismissed | Personal injury; lawyer refused to pay expert witness full fee. |
| 59-87 | Pending | Nursing home commitment; took advantage of elderly and borrowed money. |
| 60-87 | Dismissed | Collection; attorney lied about set- ting aside court date. |
| 61-87 | Dismissed | Criminal defense; conflict of interest. |
| 62-87 | Dismissed | Divorce; fraud, hiding property. |
| 63-87 | Dismissed | Commercial; failed to dissolve part- nership resulting in liability on a partnership loan. |
| 64-87 | Dismissed | Personal injury; failure to communi- cate or appeal. |
| 65-87 | Admonishment | Divorce; contact with party repre- sented by counsel. |
| 66-87 | Dismissed | Criminal defense; abused authority. |
| 67-87 | Dismissed | Criminal; failure to communicate, inadequate counsel. |
| 68-87 | Dismissed | Divorce; neglect, inadequate counsel, failure to communicate. |
| 69-87 | Pending | Bankruptcy; improper discharge of creditor. |
| 70-87 | Dismissed | Criminal defense; failure to commu- nicate. |
| 71-87 | Dismissed | Criminal defense; failure to commu- nicate. |
| 72-87 | Dismissed | Criminal defense; lack of diligence, incompetence. |
| 73-87 | Dismissed | Criminal defense; breach of confi- dence, excessive fee. |
| 74-87 | Dismissed | Divorce; altered court document, lied to client. |
| 75-87 | Dismissed | Probate; lack of diligence, excessive fees. |
| 76-87 | Dismissed | Criminal defense; excessive fee, scope of representation, termination of rep- resentation. |

| DOCKET NO. | DISPOSITION | TYPE OF CASE AND ALLEGATIONS OF MISCONDUCT |
|-----------------------|--------------------|--|
| 77-87 | Dismissed | Criminal defense; neglect. |
| 78-87 | Dismissed | Divorce; filing false documents and/or lying to the court. |
| 79-87 | Dismissed | Criminal defense; neglect. |
| 80-87 | Dismissed | Civil case; neglect, lack of communication. |
| 81-87 | Dismissed | Divorce; unauthorized change in divorce agreement. |

Respectfully submitted,
DAVID F. PALMERLEE
Chairman

REPORT OF THE IOLTA IMPLEMENTATION COMMITTEE

In May 1988, you appointed me Chairman of the IOLTA Committee to implement Wyoming Supreme Court Rule 1.15 allowing establishment of the IOLTA program in Wyoming. As you know, this program allows interest on lawyers' trust accounts to be used to provide legal services to the poor, provide public education projects promoting a knowledge and awareness of the law, and provide projects which improve the administration of justice.

Since May, we have requested and received the Attorney General's opinion establishing legality of the IOLTA under Wyoming law.

We have solicited and received a letter from the Federal Reserve System providing that IOLTA monies may be deposited in NOW accounts at members' banks of the Federal Reserve System. We have solicited an opinion of the Internal Revenue Service with respect to taxation of interest payable to the Wyoming State Bar Foundation earned on funds deposited in lawyers' trust accounts.

We have yet to do the following: put together various packages or brochures to solicit bond attorneys and financial institutions to participate in the IOLTA program, actually solicit various financial institutions and attorneys to participate, and obtain the State Examiner's approval for state banks and savings and loans to participate in this program.

This program cannot officially go forward until we receive the Internal Revenue Service's ruling.

Respectfully submitted,
BLAIR J. TRAUTWEIN
Chairman

REPORT OF THE LEGAL AID SERVICES COMMITTEE

This committee, consisting of M.L. Barton, Riverton; Berthenia S. Crocker, Lander; Susan L. Feinman, Cheyenne; Curtis L. Harden, Casper; Robert E. Holstedt, Sheridan; Linda S. Miller, Casper; and Robert A. Oak-

ley, Cheyenne; met only once this past year due to conflicting schedules. This meeting was attended by only two members. The committee continued to focus upon the method of implementation of the *pro bono* resolution which was passed at the State Bar Convention in 1985. At the end of this report, a table can be found which compiles the statistics for the period of July 1, 1987 through June 30, 1988, with respect to the implementation of the *Pro Bono* Resolution.

On behalf of this committee as well as on behalf of the Legal Services programs in Wyoming, I would like to take this opportunity to thank the Wyoming State Bar members for their participation and support of the *pro bono* effort. This has enabled the local Legal Services programs to serve more indigent clients in civil matters. We appreciate the continued support of the Wyoming State Bar as a whole.

Respectfully submitted,
ROBERT A. OAKLEY
Chairman

PRO BONO RESOLUTION STATISTICS

July 1, 1987 through June 30, 1988

| County | Participating Attorneys | Cash | Cases |
|-------------------------|-------------------------|----------------|------------|
| ALBANY | 20 | -0- | 9 |
| BIG HORN | 1 | -0- | 1 |
| CAMPBELL | 11 | -0- | 59 |
| CARBON | 11 | -0- | 24 |
| CROOK | 2 | -0- | 1 |
| CONVERSE | 2 | -0- | 2 |
| FREMONT | 19 | 10 | 16 |
| (Including Reservation) | | | |
| GOSHEN | 8 | -0- | 12 |
| HOT SPRINGS | 2 | -0- | 0 |
| JOHNSON | 2 | -0- | 0 |
| LARAMIE | 82 | 100 | 141 |
| LINCOLN | 3 | -0- | 1 |
| NATRONA | 88 | 2,200 | 49 |
| NIOBRARA | 5 | -0- | 3 |
| PARK | 10 | -0- | 16 |
| PLATTE | 7 | 300 | 9 |
| SHERIDAN | 12 | 300 | 5 |
| SUBLETTE | 5 | 300 | 0 |
| SWEETWATER | 3 | -0- | 2 |
| TETON | 12 | 600 | 8 |
| UINTA | 5 | -0- | 2 |
| WASHAKIE | 5 | -0- | 0 |
| WESTON | 2 | -0- | 1 |
| TOTAL | 317 | \$3,810 | 361 |

REPORT OF THE LEGISLATIVE AND LAW REFORM COMMITTEE

The Bar's Legislative and Law Reform Committee, responsible for tracking legislation of potential interest to the legal profession, recommended supporting or opposing nine specific bills during the 1988 Wyoming Legislative session.

Subsequent to recommendations made by the Committee, the Bar lobbied to support or defeat the following measures:

Senate Files 28 and 29 - ENFORCEMENT OF JUDGMENTS AND GARNISHMENTS, respectively. Both sponsored by the Joint Judiciary Interim Committee. Both passed. The bill on Enforcements was designed to revise the current system and render it more effective and equitable. The bill on garnishments was designed to do the same. The Bar supported these bills.

Senate File 35 - JUDICIAL SALARIES. Sponsored by the Joint Judiciary Interim Committee. Passed with revisions. The original bill outlined a three-step pay raise for Wyoming Supreme Court and District Court judges. The three stages of the raise would have been implemented over four years and would have brought Wyoming judges' salaries closer to minimum judicial compensation standards recommended by the ABA. After revisions, the bill gave the judges what amounted to a single, four percent raise. The other two steps of the increase were deleted. Supreme Court justices will now receive \$66,500 per year, and District Court judges will receive \$63,500. The Bar lobbied in favor of the original bill.

Senate File 40 - HOSPITAL LIENS. Sponsored by Sen. John Perry, R-Campbell/Johnson, and Rep. Harry Tipton, R-Fremont. Tabled in the House Judiciary Committee. The bill would allow hospitals to have liens for their services entered against judgments in personal injury cases. The lien would take precedence over other creditor's liens and be payable from the net recovery less attorney's fees and court costs. The Bar took a position against the bill for a number of reasons including that the bill lacked a provision for pro-ration of the hospital lien if the amount recovered in a settlement or judgment was less than the total damages suffered by the injured party. The Legislative and Law Reform Committee also felt the bill gave hospitals an unfair advantage over other creditors in the settlement of claims.

Senate File 52 - CERTIFIED PUBLIC ACCOUNTANTS' PRIVACY ACT. Sponsored by the Joint Corporations, Elections and Political Subdivisions Interim Committee. Vetoed after passage. This measure limited liability for accountants in cases where there are third party damages. The bill stated, "No accountant is liable to any person other than a client for civil damages resulting from acts, errors, omissions decisions or other conduct in connection with the provision of professional accounting services," except in cases involving intentional misrepresentations or fraud. The Bar adopted a position against the bill since members who reviewed it felt it created a special standard of care for CPA's, was clearly special

interest legislation, and was unconstitutional in that it provided for unequal protection under the law.

Senate File 55 - JUROR FEES. Sponsored by Sen. Lisa Kinney, D-Albany, and Rep. Gary Yordy, R-Laramie. Indefinitely postponed in the Senate. This bill, aimed at alleviating the cost of jury trials to counties, provided for a reduction in payments to jurors if their attendance did not exceed half a day. Currently, jurors receive \$30 for each day they attend a trial. The proposed measure would have cut that to \$15 if attendance was only required for a half day or less. It also would have allowed for a \$20 per day increase, at the discretion of the court, if a juror's attendance was required for more than five consecutive days. The Bar opposed the measure because of the decrease in juror fees. It was felt that jury fees at present do not constitute adequate compensation for jurors and any decrease may render an additional hardship for potential jurors.

Senate File 80 - INSURANCE REPORTING REQUIREMENTS. Sponsored by Joint Corporations, Elections and Political Subdivisions Interim Committee. Indefinitely postponed in the Senate. The bill would require insurance companies and attorneys to report data, financial and other, pertaining to different kinds of malpractice/injury cases. Particularly, it required attorneys to report the number of clients involved in injury cases resulting from professional malpractice, and it required attorneys to disclose amounts awarded in judgments and out-of-court settlements. The bill further provided that violation of its requirements would "be considered by the licensing agent (the Court) to be a violation of the licensing agent's disciplinary rules." The Bar opposed the bill on the basis that it requires attorneys, in a number of foreseeable ways, to breach client confidentiality.

Senate Joint Resolution 1 - CONSTITUTIONAL AMENDMENT BY INITIATIVE. Sponsored by Sen. Robert Frisby, R-Park. Failed in the Senate by a vote of 15-15. The bill provided that the Wyoming Constitution may be amended simply through a popular vote. It effectively removed the current requirement that constitutional amendments must be reviewed and approved by the legislature before they are voted on by the public. Members of the Bar felt that it left the constitution too open for changes by special interest groups that could mount effective advertising campaigns. Members also felt it controverted the existing system of checks and balances and that sponsoring changes to the constitution was properly the responsibility of the legislature. The measure was opposed for those reasons.

House Bill 162 - JUDICIAL PLANNING COMMISSION. Sponsored by the Joint Judiciary Interim Committee. Failed to be introduced in the House. The bill would have created a judicial planning commission of 12 members, appointed by the governor, who would serve four-year terms. The commission would have overlooked court organization, practice and procedure and compiled and published court statistics and recommend improvements in the system. The Bar liked the concept but opposed the bill based on composition of the commission and the breadth of powers

it was given. Of the 12 members of the Commission, only one would have had to have been a privately practicing attorney.

The Bar also reviewed a number of bills that either failed to be introduced or died very early in the session. Those included Senate File 71, a bill sponsored by Charles Scott to regulate contingent fees.

Other members of the Legislative and Law Reform Committee include H.M. "Hoke" MacMillan, II, vice-chairman; Kermit Brown; Oscar Hall; John Hursch; Larry Jorgenson; James McCarty; Phillip Nicholas; Gary Shockey; Joel Vincent; and Cameron Walker.

Respectfully submitted,
DON SHERARD
Chairman

REPORT OF THE NECROLOGY COMMITTEE

Six 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:

JUDGE ROBERT "SANDY" A. HILL

Hon. Robert "Sandy" A. Hill died Sunday, November 29, 1987, after a lengthy illness. Judge Hill was 60 years old. Judge Hill was appointed to the Second Judicial District in 1977. He continued to work as a judge until the time of his death.

K. CRAIG WILLIAMS

Former Carbon County Attorney K. Craig Williams died Sunday, October 8, 1987, at his home in Rawlins following a lengthy illness. Mr. Williams was 36 at the time of his death. Mr. Williams served as Carbon County Attorney from 1979 to 1983. He later worked as a deputy county attorney and practiced law as a senior partner in the firm of Williams, Kelly and Waldrip.

ROBERT COSTIN

Robert Wesley Costin, 62, of Laramie died Wednesday, March 8, 1988, at Ivinson Memorial Hospital.

Mr. Costin was a member of the FBI from 1951 to 1953, a state senator from 1967 to 1973, and a municipal judge for 21 years. Mr. Costin practiced law in Laramie for 35 years.

DEAN ROBERT HAMILTON

Robert R. Hamilton, former dean of the University of Wyoming School of Law, died February 19, 1988, in Sun City, Arizona. Mr. Hamilton was 94 years old. Mr. Hamilton taught law at the University of Wyoming from 1929 to 1942, when he was named dean of the Law School. He retired from that position in 1960.

JUDGE PHILIP STANLEY GARBUTT

Judge Philip Stanley Garbutt, 89, died July 11, 1988, at his home in Sheridan following a lengthy illness. Judge Garbutt was an assistant attorney general of the state of Wyoming for five years. He was a Sheridan municipal judge for five years, Sheridan attorney for 12 years, and a justice of the peace in Sheridan for 22 years.

JAMES W. BROWN

Denver attorney James W. Brown, a longtime member of the Wyoming State Bar, died June 22, 1988, in Littleton, Colorado. Mr. Brown was 85. Mr. Brown was a United States magistrate in Yellowstone Park for the District of Wyoming from 1952 until his retirement in 1982.

Respectfully submitted,
 MARY BETH SENKEWICZ
 Bar Counsel,
 Wyoming State Bar

REPORT OF THE PUBLIC INFORMATION AND COMMUNICATIONS SUBCOMMITTEE

In September, David H. Carmichael, President of the Wyoming State Bar, appointed Roberta Coates, Dennis Coll, Stuart Day, Richard Rideout, and John Scott to serve on this subcommittee. Sylvia Hackl was appointed as chairman. All terms commenced on September 30, 1987, to continue for a period of one year.

The subcommittee met by telephone conference call. During its meetings, the subcommittee agreed on the topics to be covered by the six informational brochures. Committee members either agreed to author the brochures themselves, possibly using pamphlets from other states as guides, or to locate members of the bar who were willing to assist. The topics, and their authors, were as follows:

Bankruptcy - Stuart Day

Divorce - Dennis Coll, with the assistance of Billie Edwards and Marv Johnson

Mortgages and foreclosures - Debra Hecox and George Powers

Wills and estates - Greg Dyekman

Being a good witness - Roberta Coates

When to call a lawyer - Richard Rideout

Tony Lewis edited the rough drafts of the pamphlets and distributed them to all members of the committee for review before submission to the printers. In addition, each pamphlet was reviewed by at least one additional attorney to "triple check" substantive content. Other attorneys who assisted in reviewing the final content of each pamphlet were:

Bankruptcy - Ron Arnold and Mary Beth Senkewicz

Divorce - Philip Whynott and Linda Lewis

Mortgages and foreclosures - George Powers and Ray Martin

Wills and estates - Houston Willams and Thomas Smith

When to call a lawyer - Dan Blythe

The cover design was originated by Tony Lewis, with input from Sylvia Hackl. They had previously met with Paul Herbst, manager of the production support unit at Unicovery Corporation, the company chosen by bid to print the brochures. During that meeting, they finalized the paper stock to be used, and narrowed the style decisions yet to be made. A white coated bond was chosen for the brochures, with shades of "true blue" for the cover color ink, and the interior ink to be black.

After the edited drafts were submitted for publication, the subcommittee concluded the initial phase of its work. It was the understanding of the subcommittee that decisions regarding distribution of the pamphlets, since such decisions involve budget questions, would be handled by the executive committee of the bar. The subcommittee was, and is, of course ready to assist in any further work required to distribute the pamphlets.

In late February, the printed pamphlets were received from the printer. During the first part of March, notes of appreciation were sent to each member of the subcommittee, and each attorney who assisted with the preparation of a pamphlet. In addition, a decision was made to personalize a set of pamphlets with the firm name for those who worked on the committee or assisted with individual publications. Tony Lewis will be in charge of this aspect of the project.

Although the subcommittee's work on this initial phase is completed, thought has been given to future work. If a decision is made to expand the available titles, several topics are suggested. One would be child custody (in fact, the rough draft of the divorce pamphlet contained information on this topic, but space limitations prohibited a complete treatment of that subject in the initial pamphlet). Other suggested topics could include workers' compensation, credit and signing contracts, and a discussion of small claims court.

If this subcommittee will be asked to assist with similar projects in the future, it is suggested that the chairman of the subcommittee attend meetings of the Public Information Committee and/or meetings of the bar officers and commissioners at which the scope of such projects is discussed. This would avoid some of the confusion which occurred during this effort concerning scheduling and budget matters.

The subcommittee wishes to extend its sincere thanks to those members of the bar who so generously gave of their time in authoring brochures, and to Tony Lewis, who ably assisted as recording secretary and editor-in-chief. It is our sincere hope that these pamphlets are useful to the public in understanding both specific areas of the law, and lawyers as a profession.

Respectfully submitted,
SYLVIA LEE HACKL
Chairman

REPORT OF THE STATE BAR DELEGATE TO THE AMERICAN BAR ASSOCIATION HOUSE OF DELEGATES

More than 12,000 members of the American Bar Association were joined by over 1,000 members of the Canadian bar at the 1988 annual ABA meeting in Toronto, Canada, August 4 to 11. Highlights of the meeting included the following:

1. Opening assembly in the beautiful Roy Thomson Hall to hear the address of United Nations secretary general Perez de Cuellar read by under secretary general Joseph Reed (formerly United States ambassador to Morocco and later to the United Nations). The secretary general was at that moment working out details of the cease fire and initiation of peace talks between Iran and Iraq announced later that day. Music by the young Toronto orchestra and by the mounted police Scottish bagpipes was the finest and provided an effective theme for ABA president Robert A. MacCrate's analysis of the ABA looking in and leading out.

2. The gavel awards assembly luncheon Monday, August 8 recognized outstanding contributions during the past year to the legal profession by newspapers, authors, and the media. Former assistant secretary of state for public affairs Bernard Kalb spoke to the membership.

3. CIA director William Webster at the assembly luncheon on Tuesday, August 9 gave an excellent review of intelligence activities including both the CIA and FBI.

The house of delegates met in the Metro Toronto convention centre August 9 and 10, 1988. Chairman J. Michael McWilliams presided, and these sessions were held with a minimum of controversy. Several controversial proposals were withdrawn by the sponsors to be brought back for later meetings. Resolutions approved by the house included the following:

compensation of counsel appointed by the courts to represent indigents to enable them to do an effective job without financial hardship;

urged private clubs not to discriminate against minorities or women in their membership and requested lawyers in those clubs to work toward those ends and not to hold functions in those clubs which discriminate;

approved the genocide treaty and recommended ratification;

approved uniform commercial code article 2A - leases;

approved the Arias plan and efforts of the four participating Central American nations for peace in Central America;

recommended provision for more information on real property transfers for tax purposes;

supported the principle of nondiscrimination in capital sentences in criminal cases because of the race of the victim or the defendant;

approved guidelines governing restitution to victims of criminal conduct;

approved sabbaticals for judges full time for six months or half time for a year every seven years;

approved model rules for minimum continuing legal education;

approved the lawyers' creed and pledge of professionalism;

approved aspirational goals for lawyer advertising;

approved elimination of barriers to women in the legal profession;

approved minimum requirements for pro bono activities of attorneys;

recommended establishment of a corps of administrative law judges.

The constitution and bylaws were amended to provide that the secretary-elect and treasurer-elect are members of the board of governors. The rules of procedure of the house were amended to establish procedure for filing and handling appeals by law schools of negative accreditation decisions. The class of governmental business associates of the ABA was created.

Perhaps the most controversial item before the house was a credentials and admissions problem involving the state delegate from Illinois. This was resolved upon approval of the report of the credentials committee.

Several items were approved by the house on the consent calendar including recommendations on methods to avoid state and federal agency

conflicts by recommending procedures for federal agencies and Congress to follow in dealing with states and their agencies to minimize confrontations, a resolution setting forth certain ideas for providing a "fast track" in getting rules and regulations adopted by OSHA, report 107A for repeal of section 2036 (c) of the Internal Revenue Code of 1986 making taxable to estates gains in value with respect to property transferred to children, resolution 107B calling for stabilization of the federal transfer tax system, a resolution approving alternative dispute resolution by federal agencies, recommending computer facilities for the library of congress Hispanic law division, a resolution against terrorism and suggesting means to try to prevent it, allowing electronically monitored home confinement, guidelines on rights of witnesses in congressional investigations, determination of jurisdiction over child custody disputes and requiring injury in patent infringement cases.

A resolution against subpoena by congress of confidential agency administrator-staff documents was taken off the consent calendar. A motion to commit supported by Stan Lowe and me was defeated and the resolution passed.

The president's gavel was handed by Mr. MacCrate to Robert D. Raven of California who will head the ABA during the coming year. George E. Bushnell of Michigan will be chairman of the house of delegates.

The mid-winter meeting of the American Bar Association will be in Denver February 1-8, 1989. The next annual meeting of the association will be in Honolulu August 3-10, 1989.

I regret I was not able to attend the 1988 meeting of the Wyoming state bar in Cheyenne. As previously advised I was in Japan attending the US/Japan bilateral sessions of American lawyers headed by former attorney general Edwin W. Meese III with Japanese lawyers and government officials. Our extremely able state delegate R. Stanley Lowe attended the Cheyenne meeting and I am sure gave you a much better analysis of our Toronto meeting.

Respectfully submitted,
JERRY W. HOUSEL
Chairman

REPORT OF THE STATE BOARD OF LAW EXAMINERS OF WYOMING

The State Board of Law Examiners now consists of James L. Applegate, Cheyenne; Thomas C. Toner, Sheridan; Ernest J. Goppert, Jr., Cody; William H. Vines, Wheatland; and Weston W. Reeves, Casper.

Since your last annual meeting the Board administered the Bar Examination on February 23 and 24, 1988, in Laramie, Wyoming, to 18 applicants. Thirteen of those applicants (72%) taking this exam passed it, and five (38%) failed. Those who did pass were subsequently recommended to the Wyoming Supreme Court for admission to the Bar.

On July 27 and 28, 1988, also at Laramie, the Board examined 62 applicants on the Wyoming essay portion of the Bar Exam and on the Multi-State Bar Examination. Thirty-nine (66%) of those passed and 20 (34%) failed the exam. Final recommendations as to these 59 applicants have been made to the Wyoming Supreme Court. Three other applicants passed the essay portion of the exam, but we are awaiting their Multi-State Bar Exam results taken in other states before submitting recommendations to the Court.

As of March 15, 1988, the Supreme Court deleted from our rules the procedure for admission to the Wyoming Bar without examination.

Several pending reciprocity applications for admission without examination were acted on at both our February and July 1988 meetings, and there are others that are presently pending. A lawsuit concerning reciprocity admission which was filed in late May 1986 in the United States District Court for the District of Wyoming by Mayo Sommermeyer (a Fort Collins attorney) against the Wyoming Supreme Court, Civil No. C86-160, was decided May 5, 1987, by Judge Brimmer in favor of the Supreme Court, but it is now on appeal by Mr. Sommermeyer to the Tenth Circuit Court of Appeals.

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