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Proceedings of the 1999 Wyoming State Bar Convention

Wyoming State Bar

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**PROCEEDINGS OF THE 1999
WYOMING STATE BAR CONVENTION**

WYOMING STATE BAR OFFICERS

Timothy J. Kirven, President

Paul J. Drew, President-Elect

Catherine MacPherson, Vice-President

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OFFICERS ELECTED AT THE 1999 ANNUAL MEETING

Paul J. Drew, President

Catherine MacPherson, President-Elect

Timothy C. Day, Vice-President

Mark W. Harris, Secretary-Treasurer

NEWLY ELECTED COMMISSIONERS**Vicci M. Colgan, First District****Anthony T. Wendtland, Fourth District****Michael D. Greear, Fifth District****William H. Twichell, Ninth District**

The 1999 Annual Meeting of the Wyoming State Bar was convened by President Timothy J. Kirven at 10:00 a.m. on September 17, 1999, in Sheridan. The following reports were delivered to those in attendance by Wyoming Supreme Court Chief Justice Larry L. Lehman, University of Wyoming College of Law Dean Jerry L. Parkinson, and Wyoming State Bar President, Timothy J. Kirven.

REPORT OF THE CHIEF JUSTICE OF THE WYOMING SUPREME COURT
Chief Justice Larry L. Lehman

It is my privilege today to report to you the activities of the Judiciary over the past year, and I am very happy to report that there is *a lot* happening in the Judiciary right now. Although this past year has been difficult and full of challenges, it has also been a year of full of opportunity. We have all heard that if you do the same thing over and over again, you cannot expect a different or new result—and you certainly are not making history. This year the Judiciary has taken a hard look at itself, and the Judicial Planning Commission is recommending we make significant historical changes in your Judicial Branch of Government.

Last year in my report to you, I spoke of the work only then beginning by the Planning Commission. It was most likely viewed by many as yet another exercise by a committee doing the same thing over and over again, and never achieving any new result. I can report to you today that perceptions over this past year have changed—there is a new committee in town.

I have never been more proud of any group of people than I am of this committee. The Planning Commission consists of six members appointed by the governor, six members appointed by the legislature, and six members appointed by the courts. With the well-rounded ex-officio appointments from law enforcement and the bar, to name a few, we have a very solid committee.

Initially, the Commission's charge seemed overwhelming. How were we supposed to accomplish in a year what no one else had been able to do in a hundred? Rather than acquiescing to the five thousand-pound gorilla sitting in the room who did not respond well to being prodded, the Commission rolled up its collective shirt sleeves and focused on what it could accomplish within such a short period of time.

The first six months of the Commission's time was dedicated to education. Education not only about how each level of courts functions in Wyoming, including perceptions from judges, clerks and attorneys, but also how courts work in some of our surrounding states. Court administrators from North and South Dakota, and a district judge and court administrator from Idaho came to work with the Commission.

Technology

Through that process, the Commission, by consensus, came to three specific areas where it would concentrate its time and effort. The first, and least controversial, was a statewide automated court information system. As the case management system exists today, the county courts and the justice of the peace courts share a case management system that is woefully

outdated and is incapable of growth with current industry standards. The system has served remarkably well over the years, but it lacks in communication abilities among the courts. Further, as you are all aware, the district courts each have their own system, some more efficient than others, some without automation at all. One reason for the fractured nature of our automation system is the fact that some courts are funded by the state, some are funded by the counties, and many are lacking the funds necessary to provide the hardware and software to run an integrated system.

The Commission's unanimous directive is that all courts in the state of Wyoming be connected with each other and available for electronic sharing of information with court users. As a result of that directive, a Judicial Technology Task Force has been established and is meeting regularly to accomplish that goal. The task force includes computer literate members from the courts, as well as representatives from statewide users of court information. With this rather optimistic mission, the task force began work on funding a statewide information system. It became obvious that with the different fiscal restraints we find in some of our counties, and the revenue shortfalls of the state, they had to fund the system by another source.

With that dilemma in mind, the concept of user fees requiring an additional ten dollars in filing fees in a civil case and a surcharge on criminal cases was born. While the Commission has not yet entered its final recommendation, the concept, which was unanimously supported, contemplates a legislatively created special account in which funds are directly deposited into a special technology account, subject to appropriation through the budget process, to be used to supply all state courts with an automated case management system with connectivity to each other and to system users. Municipal courts can opt into the system, if their respective city councils choose to collect the additional \$10 and submit it to the account.

Structure

The second area of focus for the commission was court structure. Clearly controversial because it suggests change—and we all know change does not come easy. With regard to structure, this Commission has captured the attention, if not the imagination, of those working within the system, as well as those outside the system.

Simply put, the concept nearing its final stage involves expanding county court jurisdiction from the counties in which they are currently limited, to coincide with the existing judicial districts. In other words, the county court judges would be serving within the judicial districts just as district court judges do now. For lack of a better word, the proposed name is circuit court—the circuits again being the same as judicial districts.

Most people will notice very little change, but two important concepts emerge that do significantly change the system as we know it today. First and foremost, the structure change allows for some assignment of cases from the district court to a county court judge, while maintaining the rules and procedures of the district court. The ability to assign cases is somewhat limited and, beyond a certain dollar amount in civil cases and a certain term of years of a potential jail sentence, the consent of both litigants is necessary.

For me, as a practical matter, it means much more than the limited assignment of cases because it allows the county court judges to help out with non-adjudicatory functions of the district court. For example, assume Judge Ryckman in Green River has a case in his district that takes him to Evanston. As the system currently exists, if the case is a criminal case, Judge Ryckman has to travel over three hours to do a fifteen-minute arraignment. He has lost half a day or more from his office for a procedural hearing that could just as effectively be done by the county court judge in Evanston. It is somewhat akin to the federal magistrate powers.

An additional aspect of the assignment capabilities is the fact that county court judges can assign cases to the district court judges. You and I know that as a practical matter that may never occur in most districts, but when you consider some of our rural counties covering such small populations but great distances, it may be feasible for a district judge to consent to hearing a family violence matter rather than requiring the county court judge to travel the many miles when the district judge is already there.

The second and most significant change to the current structure contemplates the removal of JP courts in Wyoming. This historical change gives rise to two specific concerns: what happens to those JPs who are currently serving and have served well in the past; and how can we assure the JP counties of a continued responsive and accountable judicial presence? The current proposal allows the current JPs to continue to serve in the new system. Exactly what that capacity will be has yet to be totally defined. The issue of a judicial presence in every county is a bit more difficult. That issue will be the subject of the Commission's meeting next week, and at this time I don't feel comfortable speculating about that issue. However, I can assure you that the Commission is concerned with the effect of this system on *all* the citizens of this state.

Administration

The third prong of focus by the Commission was on the administrative structure of the judicial branch. The administrative recommendations are complete and represent what I believe was the most controversial aspect of

the Commission's work to date. Believe me when I tell you that the gorilla reacted violently when it was prodded on this issue.

Essentially, the Commission viewed the administrative structure we have maintained over the years as fractured, with limited communications among its varied parts. Admittedly, this fractured condition in the past has been used as a valuable asset to those outside the judiciary because it has prevented the judicial branch from moving forward as a whole to provide a uniform approach to the many challenges it faces. The old adage that "a chain is only as strong as its weakest link" doesn't even apply because we are simply not linked together.

The administrative recommendations of the Commission are not revolutionary by today's standards, but are more of a common sense approach to necessary structure. The first recommendation suggests the Court Administrator's office, and the duties and responsibilities of that office, be established by rule. This is actually just a codification of what has been done at the court over the past year. The second recommendation suggests a management council for the courts be established by rule. The council would be made up of judges from all levels of the courts and would involve members including clerks of court, bar members, and legislators. This body would be assigned the administrative supervisory authority currently exercised by the Supreme Court.

This council creates a situation where all levels of the courts link up to form, for the first time, an administrative chain. When I was on the trial bench, I knew only what was happening in my court and possibly the courts of my close colleagues; but, with this council, the potential for open communication among the courts is unlimited. I was very surprised upon my arrival at the Supreme Court to learn just how much information, both problems and successes, is conveyed to the court on a regular basis. However, in the Supreme Court's attempt to solve a specific problem for one court, there are times that the resolution creates burdens or other problems for different courts. To put it simply, we need the individuals, the judges, who work in the trial courts everyday to be involved in the resolution of individual problems, so decisions based on experience and the best interests of the system can be made.

The concept of administration, organization, and structure is a sensitive subject because it involves change, and often invokes the overused phrase, "if it's not broke, don't fix it." I can assure you the Planning Commission spent the better part of a year identifying things that are not necessarily broke, but can be substantially improved with a few changes. Every concept is based on an identified shortcoming with a goal for resolution.

Every member of the judiciary has two duties: the first involves the work on their desk; and the second requires constant tending to the system itself. We have for too long maintained a vision that stops at the edge of our desks. The twenty-first century is here. Case loads are increasing, and money is decreasing. We have to do more with less, and if we continue to do the same thing, the same way, we will continue to have a fractured system of government.

The concern, of course, is that this new administrative structure would take away the current independence of the judges. And I cannot stand here and say that the administrative council will not in the future see opportunities for more efficiency and effectiveness for our citizens and recommend some changes in uniformity. However, the council will be made up of those individuals who work within the system, and who would ultimately feel the effect of the changes.

In any event, the Commission's recommendations to create the administrative council by rule allows the Supreme Court to enter it at the time the court feels is appropriate. As Chief Justice, my commitment to the trial bench is that we will do so only after we receive their input and support for the adoption of the rule.

I am extremely proud to be a part of the Wyoming judiciary, and I am proud of our courts and the work they do. But I believe, as a branch of government, we can provide better service and access to justice to the citizens of this state if we would adopt these recommendations for improvement. So, I ask that you offer your support to the legislation which will be proposed by the Planning Commission to assure that the Wyoming judiciary continues to provide effective and efficient service to all the citizens of Wyoming in the twenty-first century.

Jury Study

In addition to working with the Planning Commission, we are in the middle of a study of the Wyoming jury system. Working in tandem with the University of Wyoming, we have a group of judges, attorneys, professors, and individuals who have served on juries, who will be making recommendations to enhance jury service.

I see jury service as the equivalent of having to take a very difficult but required college course. You show up for class the first day and you are informed that you may not take notes; you may not do any independent study; you may not speak with your classmates about what you are learning; you may not ask the professor any questions; and yes, there will be one test at the end of the course, and you will be told at that time what you should have been listening for during the course.

There are few duties as important as jury duty. Somehow, we need to allow those who are required to serve to use the senses and abilities they have developed over their lives to assist them in the decision making process. Wyoming is not re-inventing the wheel in this effort, by the way—most states and the federal system have already made great strides in making jury service more meaningful.

Nominating Commission

Also in conjunction with the University of Wyoming, we are working with the Judicial Nominating Commission to enhance the process for selection of our judges. The Commission is made up of three non-lawyers appointed by the governor, three lawyers elected by the members of the state bar, and myself as chairman. The current process provides that the seven-member Commission reviews the written “Expression of Interest” by those wishing to become a judge, followed by an interview process. The Commission is then charged with choosing three of the most qualified applicants, one of which will be chosen by the governor.

The primary goal of the study is to develop a criteria which encompasses the most important qualities we all seek in judges or justices. While the process will always involve a subjective element, the goal is to bring as much objectivity to the process as possible when matching the applicants’ abilities and personalities with the qualities we seek from our judiciary.

Pro Se Litigants

Finally, we are currently very involved with the national strategies being developed by the Conference of Chief Justices to enhance the trust and confidence of the judiciary. A side issue of trust and confidence is the fact that more and more individuals are coming to court without an attorney. Citizens have the right to access our courts without an attorney. More and more are doing so—some out of necessity, but some just for the sheer fact that they are professionals who decide to pursue their own causes without the benefit of counsel. A pro se litigant offers special challenges to the day-to-day operation of a complex legal system, and it is our responsibility to assure that their access to justice is not curtailed.

Those projects, to name a few, are keeping us busy. To say the least, there is a lot happening these days in the judiciary, and most if not all of it is very exciting. Rest assured, the five thousand-pound gorilla is not sleeping. Thank you for allowing me to share a little of our world with you.

REPORT OF THE DEAN OF THE UNIVERSITY OF WYOMING COLLEGE OF LAW
Dean Jerry Parkinson

It is a pleasure to be here with you this morning to report on the state of the University of Wyoming College of Law. We are in good health.

The Students

The College currently has 235 students overall, including 84 in the first-year class. Of the new first-year students, about 40% are nonresidents and about 43% are women. Applications to the law school held steady this last year. Hopefully, we have bottomed out on the decline in applications we have experienced over the last several years. Nonetheless, we need to engage in more aggressive recruiting efforts to attract more applicants.

Placement of our students remains strong, with a very high percentage of students finding law-related employment within six months of graduation. Jobs in Wyoming remain limited, however, and nearly 50% of our graduates are gaining employment out-of-state.

As of this date, I have no report on bar passage rates because the statistics for the July bar exam have not yet been released.

We have a strong student body, in part because many of them are your sons and daughters. One of our trial teams, Jason Neville, son of Frank Neville, and Leigh Anne Manlove, daughter of Judge Ed Grant, won the regional competition this past spring and advanced to the national competition in New Orleans. A second team, Amanda Hunkins, daughter of Ray Hunkins, and Devon Coleman, advanced to the regional finals and narrowly missed a trip to New Orleans. All four of these students return to us as third-years, so we expect more success this year. The trial teams are coached by Professor Brad Saxton.

We have two special students with us this fall. First is "Sasha III," the third of the Ewing T. Kerr/Rotary Fellows to join us from Saratov, Russia. These young lawyers, all of whom have been nicknamed "Sasha," are sponsored by the University of Wyoming, Rotary Clubs around Wyoming, and local and state bar associations. They spend most of the semester studying with us and then spend several weeks in Judge Downes's chambers in Casper. We also have with us this semester Koichi Hosokawa, a visiting scholar and prominent consumer law expert from Japan.

The Faculty

Our faculty are first-rate. We have had four Fulbright scholars in the last decade and are likely to have a fifth in the near future. Among the faculty highlights of the last year:

- Dee Pridgen was an invited speaker in May at an international consumer law conference in Helsinki, Finland. She presented a paper on *Trends in U.S. Consumer Law* to an audience of academics and government officials from around the world.
- John Burman recently returned from a four-month Fulbright Teaching Fellowship in Russia. He taught at Petrozavodsk State University in the Republic of Karelia. Professor Burman has been named the Centennial Distinguished Professor of Law for 1999-2002.
- Elaine Welle has been named the Winston S. Howard Distinguished Professor of Law for 1999-2002. Also a recent recipient of the John P. Ellbogen Award for Meritorious Classroom Teaching, Professor Welle is a respected scholar and teacher in the areas of commercial law and securities regulation. She was recently promoted to Full Professor.
- Art Gaudio is spearheading an effort in the state of Iowa to develop the first electronic land records system in the United States.
- Mark Squillace, one of the nation's leading scholars in the areas of environment and natural resources, gave a keynote address this summer at the Rocky Mountain Mineral Law Foundation Annual Meeting in Monterey, California. He is completing work on a new book entitled *Environmental Decisionmaking*.
- Deb Donahue was recently promoted to Full Professor. She is the author of a significant new book entitled *The Western Range Revisited*, which will be published this fall by the University of Oklahoma Press.
- Brad Saxton also has been promoted to Full Professor. He is rapidly becoming one of the nation's leading experts on jury reform. This past summer he was one of a handful of academics invited to participate in a major conference in Chicago, sponsored by the American Judicature Society, on the future of the American jury system. Professor Saxton also continues his work as Chair of the Wyoming Commission on Jury System Improvement, which is likely to have a significant impact on the conduct of jury trials in Wyoming.
- Ted Lauer also serves on the Jury System Improvement Commission.
- Maureen Ryan, who was recently promoted to Associate Professor, was one of only four law professors nationwide to receive an award in the 1999 AALS (Association of American Law Schools) Scholarly Papers Competition. She presented her article at a special program held at the AALS Annual Meeting in New Orleans.

- One of our newest professors, Jim Dwyer, has been awarded a sizable grant to establish a new interdisciplinary Project for Wyoming's Youth. Professor Dwyer is the author of a recent book entitled *Religious Schools v. Children's Rights*, published by the Cornell University Press.

In summary, our faculty is not only exceptional, but exceptionally *loyal*. The latest statistics from the university's Office of Institutional Analysis indicate that our faculty, on average, have salaries only 74% of those of faculty at the university's land-grant peer institutions. So far, we've been able to retain most of our faculty, but it is difficult if we're paying someone \$74,000 per year and the University of Utah or some similar institution comes along with a \$100,000 offer. This is an issue that demands attention.

The Staff

I also have good news to report on the staff front. Patty Thompson, who serves as administrative assistant for our three clinics, was named UW Employee of the Quarter recently and is in the running for Employee of the Year. Patty keeps our clinics running smoothly and we are very proud of her for this award.

ABA Accreditation

Every seven years, accredited law schools undergo a comprehensive review of all areas—academic program, faculty, students, administration, library, finances, and facilities—by the American Bar Association and the Association of American Law Schools. This is our year; a seven-member accreditation team will be on campus next month (October 26-29). We have been engaged in our own comprehensive self-study for months.

We are confident that our accreditation is not in jeopardy. In fact, we believe the accreditation team will be very impressed by our overall program. We also believe they will see us as a model of efficiency and a significant overachiever. We maintain a high-quality educational program despite the lowest budget of any accredited law school in the United States.

Even though our accreditation is not in jeopardy, we are also confident that the accreditation team will express concern in several areas. Not surprisingly, those areas of concern are all tied to *resources*.

Because we have a small faculty, we do not have the curricular breadth we believe is appropriate.

We have not been able to compensate our faculty and staff fairly. For instance, we continue to be mired in the bottom 5% of the nation's law schools in faculty salaries.

We have experienced a substantial decline in student applications in recent years, in part because scholarship assistance has not kept pace with increases in tuition. (In 1986-87 the average College scholarship was 128% of resident tuition. Today, it is about 35%.)

Our library acquisitions budget has been essentially level for the last decade. Because the costs of library materials have escalated dramatically over that same time period, we have been forced to make substantial cuts in serials and other acquisitions.

We have been unable to keep pace with most other law schools in the use of technology, particularly in the classroom.

We have a real lack of racial diversity in the law school community. Again, low salaries and limited scholarship funds make it difficult to compete with other law schools for talented minority faculty members and students.

Academic Planning

As you probably know, the university has been engaged in a comprehensive academic planning exercise. The law school was largely ignored in that process, which is probably good because to date the planning process seems to have focused on academic programs that are targeted for reduction or elimination. It remains to be seen how the next phase of academic planning—reallocation of the resources saved through program cuts—will be implemented. We will be making a strong case for a fair financial partnership with the university. I believe the law school has been shortchanged in recent years, but we need to do a better job of educating the central administration about our needs. People need to know, for example, that over 50% of our total law school budget is now shouldered by law students in the form of tuition and fees, while at the university generally, student tuition and fees account for about 20% of the total budget.

We applaud the strong leadership of President Dubois and other central administrators in the academic planning process. We also recognize the difficult economic position facing the university generally. We are at a crossroads, with the proposed \$8 million cut to higher education. Law school fortunes obviously are tied to university fortunes, but, ironically, our program is probably safe simply because the university and the state would not save much even if they eliminated the law school entirely. Only about \$1 million in state funds go to the College of Law in a year.

We do need your assistance. You are leaders in this state, and we need you to speak up for higher education.

Bar Relations

The College of Law has a strong partnership with the Bench and Bar. I have attended 14 local bar meetings, and have visited 22 of the state's 23 counties, in the 14 months I have been dean. At all of those meetings, Wyoming Bar members, including non-alumni, have expressed a strong interest in, and commitment to, the law school. I can point to numerous examples of a strong relationship:

We have a newly revitalized Wyoming State Bar Law School Liaison Committee. The Chair of that committee, Greg Dyekman, participated in the preparation of our ABA self-study, while two other committee members, Jane Villemez and Lynn Boak, assisted in the preparation of our academic plan.

The Wyoming Fellows of the American College of Trial Lawyers, under the leadership of Ray Hunkins, have made a significant commitment to assisting the College's trial practice program. We met recently at the law school with the Wyoming Fellows and District President Stuart Shanor of New Mexico.

Jim Fitzgerald has instituted a new student award under the auspices of the International Academy of Trial Lawyers, of which Jim is a member. Jim and Sharon Fitzgerald continue to sponsor, at their own expense, a closing argument competition for law students.

We continue to benefit from the generous support of our other student competition sponsors: Rothgerber, Johnson & Lyons (trial competition); Brown, Drew & Massey (national moot court competition); Holland & Hart (Pace environmental moot court competition); and Pence & MacMillan (client counseling competition). I want to give a special thanks to Hoke MacMillan, Becky Klemt, and Paul Schierer of Pence & MacMillan. Last year when I was addressing the Bar, I mentioned that we had one competition that did not yet have a sponsor, and this group stepped up to the plate almost immediately after the Bar Meeting with a substantial financial commitment.

We have had a very successful run of "Reading the Law: Literature & Legal Ethics" CLE programs, cosponsored with the Wyoming Council for the Humanities. One of our alumni, Carl Williams of Denver, has a deep interest in ethics and personally committed to a contribution of \$100 for each participant in the program. We had 117 participants in the last year, and Carl made good on his pledge with a contribution of \$11,700.

We are extremely grateful to the Wyoming Bar Foundation for its continuing grant of \$15,000 annually to our Legal Services Clinic.

We also remain indebted to the Bar membership generally for its continuing subsidy of the *Land and Water Law Review*. Rob Mathes, the law review's editor-in-chief, and a few of his colleagues are here at the Annual Meeting with copies of the *Review*, and would be pleased to answer any questions you may have about the *Review*. Stop by their booth if you have a chance. Hopefully, you are aware from my column in last month's *Wyoming Lawyer* that we are considering a possible name change for the law review. We will keep you informed of developments in that regard.

Development

We were up in overall development dollars this past year, due in large measure to a magnificent scholarship donation of \$150,000 from the estate of Paul Godfrey. Unfortunately, we were down in the number of donors—a 20% reduction for the annual fund and a 33% reduction overall—and we did not reach our \$35,000 annual fund goal. *Thank you* to the many who did contribute, but I would like to challenge those who did not. We could meet our goal if 50% of our alumni would contribute even \$50 each to the annual fund. We have to remember that we must rely heavily on private funding to operate our programs. The university is a state-supported institution, but only 39% of UW's budget comes from state funds.

Law School Events

One of my goals is to make the College of Law a place of energy and excitement. We had a good year in that respect, and we expect even more excitement in the future. We hosted several prominent speakers during the last year, including Morris Dees, director of the Southern Poverty Law Center; Stephen Jones, the lead attorney for Timothy McVeigh in the Oklahoma City bombing case; Judge Margaret McKeown of the United States Court of Appeals for the Ninth Circuit, and a Casper native; and Paul Miller, a commissioner of the Equal Employment Opportunity Commission.

Law Week this year is scheduled for October 18-22, and we will have many excellent speakers, including Justice William Hill, who will deliver the keynote address at the annual Trelease Dinner. We are experimenting with a new reunion format this year, and are topping off Law Week with Alumni Weekend on October 22-23. The Wyoming Supreme Court will hear oral arguments on Friday, and we will have a reunion dinner that evening. We are very pleased that The Honorable James Barrett will deliver the after-dinner remarks. As many of you know, Judge Barrett will be retiring at the end of this year. He is also celebrating his 50th reunion this year. On Saturday, October 23, we will hold our annual Honors Banquet, inducting Mike Sullivan into the Order of the Coif and recognizing Gerry Spence as Distinguished Alumnus. Hopefully, we will complete the weekend with a victory over Colorado State. So we hope to see you in Laramie!

REPORT OF THE PRESIDENT

Timothy J. Kirven

It is my privilege and pleasure to report on the proceedings and activities of the Wyoming State Bar during the past year.

First, I would be remiss if I did not recognize the dedication and skill of my fellow officers, the commissioners and Bar staff in meeting the challenges and needs of the Bar. Perhaps most importantly, I also wish to acknowledge the unwavering support and assistance of my wife, Betsy.

Long-Range

In November of last year, the Board of Commissioners set a schedule for Planning the year which included long-range and strategic planning. Beginning in March, the Board conducted two extensive sessions coordinated by SBC Associates from Colorado. The mission statement that resulted from this activity is as follows: "The mission of the Wyoming State Bar is to regulate the practice of law, facilitate the provision of quality legal services to the public and assist attorneys in the professional practice of law." Some of the elements of the vision statement in this plan, to be recognized to a large extent by 2002, include better communication with members and expanded attorney assistance programs, both in terms of alcohol and substance abuse and in terms of enhancing the delivery of legal services to lower income and middle income citizens. Some of the strategies it will take to achieve this vision are already underway this year, including the creation of a lawyer referral and pro bono coordinator position as a joint endeavor with the State Bar Foundation; new rules for participating in the Bar's lawyer referral program; and better use of the bar's traditional publications along with internet communication and website services for the public and members of the bar. Commissioners will be reviewing and updating this long-range plan throughout the next three years to check off those programs or strategies as they are accomplished. A draft of the plan is due to be published for member comment and input early this Fall.

Lawyer Referral

In January, the Board of Commissioners approved rules for its Lawyer Referral program, which provide for some conditions of listing by attorneys. Those include the maintenance of malpractice insurance for attorneys on the list and a \$25 fee for a listing in up to five areas. These rules are designed to help maintain a more structured program to be administered by a pro bono/lawyer referral coordinator hired jointly by the State Bar Foundation and the State Bar. Forms for enrollment were approved by the Board in March. The Bar anticipates these rules will be implemented along with the creation of a lawyer referral/pro bono director position.

Pro bono Coordinator

As a first step in evaluating the need and potential effectiveness of a pro bono coordinator, the Foundation contracted last Spring with Becky Lewis in Laramie to research and compile all of the main resources for legal services for lower income citizens in the state. That exercise was completed on August 1, and will serve as a basis for the type of duties and responsibilities defined by the Bar and foundation for this new position.

Western States Bar Conference

If February, Wyoming hosted the Western States Bar Conference of 13 western states in San Diego, California. The conference provides a unique opportunity for Bar leaders from the western states to share the challenges and successes of their Bars. This conference continues to be a valuable resource to the leadership of the Wyoming State Bar virtually providing advanced warning of difficult issues to be faced by the bar, and also provides a means of finding resolutions of those issues.

State Bar Website

In March, the Board of Commissioners approved a contract for the Bar's Computer Committee to Work With a web page designer to launch second generation of the State Bar Website with a better database of Wyoming attorneys and a place for e-mail links and expanded attorney or firm listings to make Wyoming attorneys more accessible to the Public and Prospective clients. That new site with its directory and a sample of expanded attorney listings and e-mail links is due to be operational at the time of this convention.

Judicial Reorganization

Following the 1998 Legislative Session, the Wyoming Supreme Court supervised the creation and work of a committee on judicial reorganization involving legislators, judges, attorneys and members of the public. The Bar currently has two official representatives on the committee. Paul Draw, who serves as an ex-officio member of the overall committee and Assistant Bar Counsel Monica Sharum who serves on the working committee for clerical resource. Paul and Monica have been very involved throughout the process, as evidenced by a survey on reorganization options published this Spring in the Wyoming Lawyer. The Bar has availed itself of every opportunity to provide input and public comment to the commission on behalf of the bar. Chief Justice Lehman will be reporting further on this project at today's luncheon, but Commissioners have been satisfied the views of the practicing bar have been heard throughout the process.

Resolutions

The Board of Commissioners considered and adopted a number of different resolutions throughout the year pertaining to important issues in the profession both here in Wyoming and nationally. Of these was a resolution requesting the ABA House of Delegates delay consideration of rules to allow fee sharing with non-lawyers in multidisciplinary practice. The issue was raised by an ABA Commission, which unanimously recommended earlier this year that rules prohibiting such practice in the ABA Model Rules of Professional Conduct be eliminated. The unanimous recommendation came without much forewarning to bars around the country. Consequently, there was little time for bars to react in terms of reviewing or understanding what potential benefits there may be to the profession or the public. The action of the Wyoming Bar, consistent with a number of other state bars, was to ask our ABA Delegate, Richard Davis, Jr. to vote to delay implementation for at least a year until a Bar committee could research and understand this proposition. The cumulative weight of these recommendations were heard by the ABA, and in August, the ABA leadership voted to delay its consideration. We have appointed a committee in the meantime to review the issue and report to the Board of Commissioners. Other resolutions adopted this year included one prompted by county bars to encourage the state to seek a waiver U.S. Department of Health and Social Service Regulations requiring it to have a centralized child support collection unit. Wyoming's system has undergone a significant refinement in the last few years, and the resulting service from district court clerks has been excellent. This was not something the Bar wanted attorneys or the public to lose. The Bar's resolution was sent to the Wyoming congressional delegation and to the Governor. It was also provided to the Wyoming legislative committee considering proposed legislation. That committee eventually decided to maintain Wyoming's current system. The other resolutions this year involved aspects of the State's judicial reorganization, and in both cases, the committee responded favorable to those recommendations.

Routine Bar Business

The Bar's committees, as always, continued to support most of the regulatory and public service work of the Bar. The Unauthorized practice of Law Committee was able, following more than a year in litigation, to obtain a consent decree in regard to Laughlin Associates, a company providing legal services for corporate tax shelters. In other activity, the Committee will be meeting in late September with Wyoming Attorney General Gay Woodhouse to discuss non-lawyer practice before state administrative agencies.

This year, the Commissioners authorized creation of a new Title Standards Committee to update Wyoming Title Standards and real estate definitions.

The Continuing Legal Education Board expanded the options for attorneys seeking specialized courses taught by non-lawyers this year. This paved the way for obtaining programs previously unaccredited for such things as mediation and arbitration, employment training or regulatory seminars taught by federal or state administrators.

The Survey Committee completed and administered a revised member opinion poll in 1999, which bar commissioners used in their long-range planning process. The results will be published in one of the next two issues of the Wyoming Lawyer.

The Fee Arbitration Committee is considering changes to its rules in connection to rules defining contingency fee agreements. It also anticipates providing its members with resource manuals that include model decisions and hearing procedures.

The Government Lawyers Section launched a newsletter this year under the guidance of its co-chairmen, Gay Woodhouse and Carol Statkus. The section also hosts a listserv on the internet for its members and is on the verge of helping the Bar become more responsive to the needs of government attorneys with the election of Chief Deputy AG Vicci Colgan to the Wyoming Board of Bar Commissioners.

In an effort spearheaded by Cody attorney Wm. Daniel Elsom, a health law section of the Wyoming State Bar was approved by the Board of Commissioners at its meeting in August. This new section has been formed to provide a forum for the members to expand their knowledge and understanding of the laws and procedures governing or related to healthcare. The first meeting of the newly formed health law section will take place during this convention.

Other committees which have been active this year and deserve the thanks of the members include the Civil and Criminal Pattern Jury Instructions Committees, along with the rest of the bar members who serve on the Court's Permanent Rules Advisory Committee, the Lawyer's Assistance Committee, the Board of Professional Responsibility, the Board of Law Examiners, its character and fitness committee and the legislative and Law Reform Committee, which is meeting during the annual meeting and expects to have its hands full with a proposed sales tax on legal and professional services in the next legislative session.

As part of the implementation of the strategic planning undertaken by the Bar, the objectives of that planning effort were measured against the

budget in an effort to determine that the expenditures of the Bar are supported by an achievable goal. As a result of the budget review and strategic planning process, the commissioners have determined to implement a dues increase for members. The Board of Commissioners has authorized the necessary legislation action to effectuate the dues increase.

Conclusion

The efforts and activities of this past year have been directed in a large measure to preparing the Bar for its role as a relevant, responsive professional organization in the new millennium. I am confident that the hard work and dedication of the officers, commissioners, and staff will return benefits well into the next century. It has been my privilege and honor to serve as President of the Bar. I hope to enjoy the rewards of the friendships provided me by the Bar for years to come. Thank you for the privilege to serve.

Following the reports of the Chief Justice, the UW Law School Dean and the State Bar President, State Bar Treasurer, Mark W. Harris of Evan reported the following income and expenses for the year.

FY 1998-99 INCOME/EXPENSE REPORT OF STATE BAR TREASURER
Mark W. Harris

OVERALL FUND SUMMARIES

| | <i>1998-99 Budget</i> | <i>Third Qtr Actual</i> | <i>1998-99 Projected</i> | <i>1999-00 Proposed</i> |
|-----------------------|---------------------------|-----------------------------|------------------------------|-----------------------------|
| Revenue | | | | |
| General Fund | \$426,476 | \$414,106 | \$426,227 | \$428,500 |
| Communications | \$26,900 | \$21,222 | \$24,900 | \$24,900 |
| Annual Meeting | \$70,000 | \$0 | \$75,000 | \$75,000 |
| BPR Cost Recov. | \$2,000 | \$6,903 | \$6,903 | \$3,500 |
| Boards & Comm. | \$78,100 | \$56,337 | \$73,310 | \$82,348 |
| <u>TOTAL REVENUE</u> | \$603,476 | \$498,568 | \$606,340 | \$614,248 |
| Expenses | | | | |
| General Fund | \$430,405 | \$294,899 | \$390,475 | \$425,766 |
| Communications | \$71,950 | \$68,532 | \$74,486 | \$77,130 |
| Annual Meeting | \$50,400 | \$0 | \$70,000 | \$70,000 |
| BPR Costs | \$15,700 | \$8,292 | \$10,437 | \$11,700 |
| Boards & Comm. | \$41,100 | \$24,062 | \$35,394 | \$40,900 |
| <u>TOTAL EXPENSES</u> | \$609,555 | \$395,785 | \$580,792 | \$625,496 |

YEAR END 1998-99 CAPITAL RESERVES

| | |
|-----------------------------------|-----------|
| Unrestricted Cash Balance | \$102,000 |
| Restricted Cash Balance | \$65,340 |
| Recapitalization Fund | \$24,000 |
| <u>TOTAL RESERVE CASH BALANCE</u> | \$191,340 |
| Estimated Capital Assets | \$165,000 |
| <u>TOTAL RESERVE ASSETS</u> | \$356,340 |

Following the Treasurer's Report, two resolutions were duly submitted for consideration at the Annual Meeting, and both receiving a favorable majority vote of those in attendance, were adopted as resolutions of the organization:

**RESOLUTIONS OF THE MEMBERSHIP OF THE WYOMING STATE BAR
AT THE 1999 ANNUAL BUSINESS MEETING: FRIDAY, SEPTEMBER 17, 1999**

1) A resolution of the Wyoming State Bar encouraging the Wyoming Supreme Court to exempt those attorneys 70 years of age or older from continuing legal education requirements

WHEREAS, it is often difficult for attorneys over 70 years of age to obtain CLE due to inclement weather and having to travel some distance to CLE presentations; and,

WHEREAS, attorneys over 70 years of age should be well-versed and learned in the law already; and,

WHEREAS, attorneys over 70 years of age limit their practices to specific areas with which they have expertise or to a limited number of hours.

NOW, THEREFORE, BE IT RESOLVED BY THE WYOMING STATE BAR: To encourage the Wyoming Supreme Court to exempt those attorneys 70 years of age or older from mandatory continuing legal education requirements.

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

ATTEST:

Wyoming State Bar
Paul J. Drew, President

2) A Resolution of the Wyoming State Bar regarding court reporters

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

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

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

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

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

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

ATTEST:

Wyoming State Bar
Paul J. Drew, President

Following the passage of resolutions, awards of appreciation were conferred on outgoing bar commissioners and officers. Acknowledgment for 50 years of membership were also conferred on the following distinguished members of the Wyoming State Bar:

Hon. James E. Barrett, William S. Bon, Donald E. Chapin, Bernard E. Cole, Jack D. Froggatt, H.B. Harden, Jr., Robert L. Harlan, Robert E. Holstedt, K.W. Keldson, R. Stanley Lowe, D.N. Sherard, and Raymond F. Venta,

Acknowledgment for 60 years of membership were also conferred on the following distinguished members of the Wyoming State Bar:

Hon. Vernon G. Bentley, Hon. John P. Ilsley, Harry G. Shapiro and James A. Zaring.

The State's Pro Bono award was presented to Assistant Wyoming Attorney General Cynthia L. Harnett for her extensive work as chairman of the Legal Aid Services Committee. The State Bar's Community Service Award was presented to Hon. H. Hunter Patrick for his work with numerous law-related and civic projects and for his annual organization of May 1 Law Day activities in Park County.

No further business came before the assembled members, and the meeting was adjourned.

REPORT OF THE BOARD OF LAW EXAMINERS
Judith A.W. Studer, Chair

The Board of Law Examiners met on numerous occasions throughout the year to review applicants for admission by examination and on motion. The Bar exam was administered twice in 1998, on each of the last two Wednesdays and Thursdays in February and July.

In both the February and July 1999 examinations, a total of 93 applicants were tested, and 51 applicants were admitted. The overall pass rate on the test for both administrations was 60 percent. The pass rate for UW College of Law graduates was somewhat higher than the overall average: close to 70 percent, and the average for non-UW graduates was lower than the overall average.

The Board also reviewed 10 applicants for admission on motion in 1999. Seven of those applicants were subsequently admitted, and three were denied admission.

The 1998-99 fiscal year was the first full year of activity for the Board's Character and Fitness Committee. The Committee reviewed 93 character and fitness investigations, conducted additional inquiries in some instances and held a number of informal interviews with applicants seeking admission.

Members of the Board of Law Examiners in 1998-99 included Judith A.W. Studer, Casper, Chairman; John A. MacPherson, Rawlins, Vice-Chairman; L. Galen West, Rock Springs; Michele A. McKellar, Cheyenne; and Frank D. Peasley, Douglas.

Members of the Board's Character and Fitness Committee for 1998-99 included Timothy J. Bommer, Jackson, Chairman; Susan E. Lehman, Cheyenne; and Rex E. Johnson, Wheatland.

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

Calendar Year 1998 (last year for which full statistics are available)

| | | |
|------|---|----------|
| I. | Cases Carried Forward from Prior Years: | 59 |
| II. | Cases Opened in 1998: | 57 |
| III. | Cases Dismissed in 1998: | |
| | a. Dismissals by Standard Bar Counsel Motion and Board Review/Determination | |
| | Cases opened in 1992: | 0 |
| | Cases opened in 1993: | 0 |
| | Cases opened in 1994: | 0 |
| | Cases opened in 1995: | 0 |
| | Cases opened in 1996: | 3 |
| | Cases opened in 1997: | 26 |
| | <u>Cases opened in 1998:</u> | <u>9</u> |
| | Total: | 38 |
| | b. Dismissals by Rule V(c) Procedure (Adopted May 10, 1993) | |
| | Cases opened in 1994: | 1 |
| | Cases opened in 1996: | 1 |
| | Cases opened in 1997: | 1 |
| | <u>Cases opened in 1998:</u> | <u>6</u> |
| | Total: | 9 |
| | c. Total 1998 Dismissals (Standard Plus Rule V(c)): | 47 |

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

| | | |
|-----|-------------------------------------|---|
| IV. | Discipline Imposed in 1998: | |
| | Disbarment | 1 |
| | Suspension | 0 |
| | Public Censure | 2 |
| | Private Reprimand | 2 |
| | Informal Admonition | 4 |
| | Probation(part of overall sanction) | 4 |
| | Interim Suspension | 0 |
| | Felony Suspension | 0 |
| | Disability/Inactive | 0 |

Note: These dispositions involved 8 files relating to 8 attorneys.

One file split into one private sanction and one public sanction. Other conditions are often imposed, such as payment of the Board of Professional Responsibility's costs and expenses, taking and successfully completing the MPRE and/or the bar examination and completing a certain number of hours of CLE ethics courses.

Year to Date 1999 (through September 30, 1999)

- I. Cases Carried Forward From 12/31/98: 61
 Note: Total includes 3 files for which order entered 12/07/98 but not effective until 1/12/99
- II. Cases Opened (as of 9/30/99): 42

- III. Cases Dismissed:
 - a. Dismissals by Standard Bar Counsel Motion and Board review/determination
 - Cases opened in 1992: 1
 - Cases opened in 1993: 0
 - Cases opened in 1994: 0
 - Cases opened in 1995: 0
 - Cases opened in 1996: 3
 - Cases opened in 1997: 9
 - Cases opened in 1998: 17
 - Cases opened in 1999: 10
 - Total: 40
 - b. Dismissals by Bar Counsel - Rule V(c) Procedure
 - Cases opened in 1999: 2
 - Total: 2

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

- c. Dismissals by board: 0
- d. Total 1999, as of September 30: 42

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

- IV. Board hearings held: 1 (involving 3 files)
 (2 other trial matters involving 2 attorneys and 4 investigation files settled shortly before trial).

V. Discipline Imposed:

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

VI. Alternative Dispositions and Inquiries:

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

The correspondence items are variously addressed to the Bar, to the Law Examiners, to the Grievance Committee, to the Board of Professional Responsibility, to other governmental agencies or offices and the like. Some are addressed to the various courts but shipped to us.

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

We have attempted to log those items for which we have spent a *significant* amount of time, as alternative disposition “cases”. Such logged items for 1999 as of September 30, total eleven items. Other handled items are reflected in General Correspondence File listings, which year-to-date, totals 125 items. This does not include screened matters which were evaluated to be fee disputes and therefore referred to that bar committee. This does not include, of course, all matters we handle daily and attorney requests for resource assistance.

Cases Opened Since Last Annual Report (Case Nos. 46-98 to 57-98; 1-99 through 42-99)

| | |
|--------------------|----|
| I. Number Pending: | 31 |
| Number Dismissed: | 20 |

**Tried and/or Discipline Imposed
 (or Disability Inactive Status): 3**

Note: This does not include trial hearing on 3 older files and discipline imposed on 3 other oldest files (one of which had previously been dismissed but which became the subject of further proceedings because of later-discovered false statements made by the attorney).

II. Type of Cases Giving Rise to Complaints

| | |
|----------------------------|----|
| Abstract & Title Opinions: | 0 |
| Adoption | 1 |
| Bankruptcy | 1 |
| Collections | 3 |
| Corporations | 1 |
| Criminal | 11 |
| Contract | 0 |
| Domestic Relations | 20 |
| Estate Planning | 0 |
| Guardianships | 0 |
| Governmental | 0 |
| Labor Law | 0 |
| Litigation | 7 |
| Minerals | 0 |
| Oil & Gas | 0 |
| Personal Injury | 0 |
| Probate | 3 |
| Partnership | 0 |
| Real Estate | 2 |
| Trust | 0 |
| Workers Compensation | 3 |
| Wills | 0 |
| Tax | 1 |
| Other | 1 |

III. Type of Initial Complaint

| | |
|---|----|
| Deceit or Misrepresentation | 13 |
| Incompetent Representation | 12 |
| Lack of Diligence | 20 |
| Conflict of Interest | 6 |
| Fees | 1 |
| Refusing to Follow Client's Wishes | 6 |
| Lack of Communication | 19 |
| Harassment | 1 |
| Acting Without Client Consent | 2 |
| Adversely Reflecting on Fitness to Practice | 20 |
| Ex Parte Contact | 3 |
| Counseling Illegal Conduct | 0 |

| | |
|---|----|
| Ineffective Assistance of Counsel | 1 |
| Breach of Confidentiality | 2 |
| Refusal to Deliver Accounting or Files | 7 |
| Tampering with Evidence | 0 |
| Collusion | 0 |
| Frivolous Claim | 3 |
| Refusal to Pay Deposition or Expert Fee | 0 |
| Other | 16 |

Comments:

1999, year-to-date has seen a slight drop in grievance filings from 1998. With 3 months left in the calendar year, some 42 investigation files have been opened (compared to 57 total files in 1998, 79 total files in 1997, 44 total files in 1996, 39 total files in 1995, 47 total files in 1994 and 101 files in 1993). Complaints tend to accrue in a non-uniform manner so it is unclear what the year-end total will be. General Correspondence and alternative dispositions are roughly the same as in the prior year. As of September 30, 1999, there is one report and findings of fact, conclusions of law and recommendation for public discipline concerning 3 files forwarded by the Board to the Wyoming Supreme Court for consideration recently.

The current total open case file docket totals 49 files (not including two files for which a report and recommendation for public discipline is pending at the Court but including a third file which went to hearing but which the Board kept on its docket for further proceedings). Of those 49 files, only 2 are over two years old. One file is in the formal contested case process with unique discovery issues. The other older file (the third hearing file mentioned above) was the subject of a concluded non-response formal grievance complaint along with two other files, and the Board kept it on the docket and recommended the Court order the attorney to respond within a limited time frame. The continued static load of approximately 50 files is attributable to continuing front-end screening and analysis afforded by two disciplinary attorneys. Some disputes continue to be resolved by telephone, via alternative disposition or referral to other entities such as the Committee for the Resolution of Fee Disputes.

Utilization of a full-time Assistant Bar Counsel continues to be a very effective tool in resolving cases and keeping the total pending caseload at the reduced overall level reflected over the past five years. The Board's focus and emphasis continues to be to bring the trial case docket current as well as to reduce the overall open/investigative docket as much as possible. Fortunately, calendar year 1999 thus far has seen only a slight increase in more serious disciplinary allegations and matters.

One change noticed this year is an increase in high-profile professionalism (as opposed to ethical) complaints in the context of grievance filings. Whether this is an anomaly or will carry forward into future years remains to be seen.

The Wyoming Supreme Court enacted changes to Rules IV and V of the Disciplinary Code to the Wyoming Supreme Court regarding powers and duties of bar counsel on December 11, 1998 with an effective date of March 1, 1999. They were designed to clarify the existing requirement for prima facie ethical allegations and also to clarify bar counsel duties and powers of investigation and prosecution.

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

The Wyoming State Board of Continuing Legal Education met on February 3 and May 22, 1999. During the applicable period the Board reviewed numerous appeals by Bar Members who had been denied Continuing Legal Education credit for various programs which they attended as well as requests for extension, waivers, and rule changes.

Continuing Legal Education statements were sent on February 23, 1999 to active attorneys. The State Bar office received an average of 400 applications for Continuing Legal Education credit, of which 390 were approved and 10 were denied per month. There were 6 appeals for credit denied by the Board of Continuing Legal Education.

As of February 1999, a number of Wyoming State Bar Members were delinquent for 1 year of Continuing Legal Education requirement. As of the same date 62 Wyoming State Bar Members were delinquent for 2 years of Continuing Legal Education requirement. There were no attorneys suspended for Continuing Legal Education delinquency this year.

The Wyoming State Bar office received an average of 30 Sponsor Accreditation Applications per month, of which an average of 24 were approved and 1 was denied.

The rule change proposed to the Supreme Court allowing credit for self study programs went into effect beginning in March 1999. A second proposed rule change was forwarded to the Supreme Court proposing to liberalize the rule which limits CLE credit to only those programs which are generally taught by lawyers for the benefit of lawyers.

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

REPORT OF THE CIVIL PATTERN JURY INSTRUCTION COMMITTEE
John W. Davis, Chair

During the last year, the Civil Pattern Jury Instruction Committee has been continuing its work to produce a new revision to the civil pattern jury instructions. At our meeting in Casper, we addressed some of the thornier instructions, such as concurrent and intervening cause and aggravation. We have learned that there is a reason past Committees have had so much difficulty in these areas and have sometimes produced only long, complicated statements. The first and usually most difficult problem is to determine what the law is, and the second is to succinctly and clearly state it. The Committee has made progress, after hours of intense discussion.

The Committee has also addressed the new instructions required by the decision in *Shirley v. Farmer's Insurance*, instructions in the areas of punitive damages and bad faith. Both of the principal antagonists in the *Shirley* case are on the Committee and this has made for lively and interesting colloquy.

The members of the Committee seek and appreciate comments from members of the Bar, especially with regard to problems encountered by specific instructions. The eighteen sections of the jury instructions are assigned to individual members of the Committee, generally reflecting their areas of specialty in the practice. They are the appropriate persons to contact with comments:

| | |
|----------------------------|--|
| John Davis, Worland | Bad Faith |
| Jim Bell, Casper | Negligence, Employment |
| Jim Burke, Cheyenne | Evidence, Measure of Damages: |
| | Property, Wrongful Death |
| Jim Fitzgerald, Cheyenne | Products Liability, Duty of |
| | Manufacturer and Seller |
| John Henley, Casper | Vehicles/Traffic |
| Dick Honaker, Rock Springs | Liability of Possessors of Land, |
| | Malpractice |
| Ray Hunkins, Wheatland | Agency, Partnership, Contracts, |
| | Fraud and Misrepresentation |
| George Powers, Cheyenne | Warranties, Express, Implied |
| Rob Williams, Jackson | Defamation, Comparative Fault |
| Brad Saxton, Laramie | Liaison with the Jury Reform Committee |

REPORT ON THE COMMITTEE OF RESOLUTION OF FEE DISPUTES
C. Edward Webster II, Chair

The Committee on Resolution of Fee Disputes continues to be challenged to meet an increasing number of fee disputes.

The information below reflects the eventual disposition of cases and the total pending:

| | |
|--------------------------------------|---------|
| Pending Disputes as of 10/1/98 | 14 |
| Total Disputes Filed 10/1/98-10/1/99 | 2 |
| Disputes Resolved 10/1/98-10/1/99 | 40 |
| Pending Disputes as of 10/1/99 | 21 |
| Average Amount Disputed | \$3,770 |
| Average Amount Awarded | \$1,830 |
| Informal Resolution | 13 |
| In favor of Petitioner | 11 |
| In favor of Respondent | 11 |
| Dismissed | 5 |

The Bar President undertook to try to address significant issues which face the Committee. Following a meeting between the officers, commissioners and Bar President, a Sub-Committee was appointed to study jurisdictional questions and possible revisions of the Fee Dispute Rules. That Sub-Committee will be looking at addressing issues raised by Judge Kalokathis in his decision of *White vs. Barrett* involving a fee dispute appeal. Conflicts may exist between the Rules for the Resolution of Fee Disputes as last modified in 1997 and the Rules Governing Contingent Fees for Members of the Wyoming State Bar. The Committee is charged with trying to sort out these thorny issues to hopefully provide clarification and direction for the Committee.

The Sub-Committee continues to function in a relatively efficient manner due to the dedication and hard work of the Committee members and the help and assistance of Tony Lewis and Randy Arp.

REPORT OF THE LAW SCHOOL LIAISON COMMITTEE
Gregory Dyekman, Chair

The year has been a relatively active one for the Law School Liaison Committee. The members of the Committee have communicated openly and frequently with members of the College of Law faculty and students. Members Jane Villemez and Lynn Boak assisted the College of Law in the preparation of its academic plan as part of the University's academic planning process. The Committee also suggested other groups within the Bar to whom copies of the draft academic plan were sent for comment. Greg Dyekman participated in the self-study of the law school in preparation for ABA re-accreditation and recently met with the on-site team.

Of course, the Committee has continued to encourage the law school to "tell its story" to all members of the Wyoming Bar. Ultimately, it is up to each member of the Bar to determine how best to assist the law school in accomplishing its mission. The Bar should be proud of the individuals and firms which have contributed scholarships or made other financial contributions to the College of Law. That support is much needed and much appreciated. Bar members have also generously donated hundreds of hours as judges for the various student competitions throughout the year, in the student mentoring program, in supervising externships and as adjunct faculty.

All of this interaction between the Bar and the College of Law is strongly encouraged by the Law School Liaison Committee. It is the Committee's belief that the closer the contact between the Law School and each member of the Bar, the better relations will be. Bar members should feel free to contact members of the Committee with feedback about the law school or its relationship with the Bar. The Committee looks forward to another active year.