

Aequitas

Newsletter for Justice Court Judges

Spring 2013

A MESSAGE FROM THE CHAIR OF THE BOARD

Judge David Marx

You have probably already noticed that we have a plenary session scheduled at our spring conference to be presented by Nancy Volmer and Tom Langhorne on "Courts and the Community: Increasing Public Understanding and Support of our Justice System."

In the last newsletter I encouraged everyone to share their ideas and suggestions on how we might improve the justice courts and the public's perception of them. I received input from many of you and after eliminating redundant ideas I had a list of twenty-seven different suggestions. I want to thank all of you that took the time and effort to provide your input.

The board has now formed an Outreach Committee to evaluate these suggestions and any others that may arise and to guide us in becoming proactive in improving the justice courts and their perception by the public. We sent out an email asking who would be willing to serve on such a committee and there were many that expressed interest. Thank you all for your willingness to serve. From those that responded the following were selected to serve as committee

members: Judge Kwan (committee chair), Judge Sandberg, Judge Roberts, Judge Chin, Judge Romney, Judge Mickelsen, Judge Wolthius and Holly Frischknecht.

Additionally, the board has recommended that an additional award be presented each year during our annual award presentations recognizing a court or judge for their outreach contributions. If the Association Senate approves this recommendation at the Senate Meeting in April the first outreach award would be presented in 2014.

I want to remind all of you that we have support available to us in Nancy Volmer. She is aware of our concerns and the negative impact that occurs with the entire judiciary when any level of the Judicial Department is targeted for negative publicity. Some of you saw the KUTV "Get Gephardt" piece broadcast about a month ago concerning small claims cases and how the courts were not doing their job collecting the judgments for the prevailing party. The piece contained a lot of misinformation and inaccuracies which reflected poorly on the justice courts. I had several judges contact me and express their concerns about

the misinformation. Upon contacting Nancy I found that she was already in the process of preparing a letter which she sent to her contacts at KUTV pointing out the inaccuracies and misinformation that had been published. Although I never saw anything published correcting the misinformation, I am hopeful that prior to future presentations concerning the judiciary being published by KUTV they will take Nancy up on her invitation to contact her to make sure that what they publish concerning the judiciary is at least accurate.

As you can see from the foregoing, we are trying to become proactive in improving the justice courts and their perception by the public. It is important for us all to assist in this effort. First by making sure that we are all well-trained and fulfill our responsibilities correctly and professionally. And second by becoming involved in outreach efforts that will help us get the word out about all the good things that are being done in and by the justice courts.

As always, I appreciate the commitment and dedication displayed by so many of you. See you in St. George at the annual conference.

Inside This Issue

<i>Restitution</i>	2
<i>Introducing Judge Clint Gilmore</i>	3
<i>Monitoring the Utah Legislature</i>	4
<i>Old Dogs</i>	5
<i>Information Technology</i>	6
<i>Introducing Judge Douglas Nielson</i>	6
<i>A Judge's Necessary Body Parts</i>	7
<i>Introducing Judge Carolyn Howard</i>	7
<i>Case Law Update</i>	8
<i>Introducing Judge William Walker</i>	8
<i>Spring Conference 2012 Memories</i>	9
<i>Learning Opportunities for Justice Court Judges</i>	12
<i>A Message from the Education Committee</i>	13

RESTITUTION

Brent Johnson

At the most recent winter workshop one of the topics was restitution. The discussion seemed to go fairly well and I therefore thought it may be helpful to provide a summary of the main points that were discussed. An article on restitution could be extensive. However, as occurred at the workshop, the goal here is to keep things simple. Although there will be some cases that present difficult circumstances, the majority of restitution cases will be resolved under fairly simple principles. Those principles will be repeated here. I may provide another article in the next newsletter to cover other aspects of restitution.

I would also like to note that, despite my predictions to the contrary at the winter workshop, the 13th Baktun ended quietly. I hope you have had a happy 14th Baktun thus far.

What is Restitution?

Restitution is defined as the pecuniary damages that a victim has incurred as a result of the defendant's criminal activities. Pecuniary damages are defined as all "demonstratable economic injury, whether or not yet incurred, which a person could recover in a civil action." Utah Code § 77-38a-102. Criminal activities include those for which the defendant was convicted and those for which the defendant otherwise admits responsibility. In looking at the restitution to be awarded and ordered, the court considers whether the requested amounts are of a type that could be recovered in a civil action.

In State v. Corbett, 2003 UT App 417, the victims had purchased a truck with a list price of \$16,000. The victims had also purchased a service contract and therefore, with taxes, the purchase price was over \$19,000. After a down-payment, the victims obtained a

loan for \$17,000 with an interest rate of 16.6%. Shortly after the purchase, the vehicle was stolen. The victims' insurance company valued the vehicle at approximately \$12,500, which amount was paid to the lender. Because the insurance settlement did not cover the entire loan, the victims were required to pay the remaining portion. The defendant was ultimately ordered to pay more than \$5,600 in restitution, which was the amount the victims had to pay to the lender after the insurance settlement.

The defendant challenged the restitution order, claiming that the victims had not suffered pecuniary damages because the insurance company had settled the claim in full and the full settlement reflected the actual value of the victims' damages. The Court of Appeals rejected the argument. The court looked at what the victims would have been able to recover from the defendant in a civil conversion action. The court stated that, in addition to recovering damages for the value of the property at the time of the conversion, a civil litigant could also recover "the sum of money necessary to compensate the plaintiff for all actual losses or injuries sustained as a natural and proximate result of the defendant's wrong." Because the victims could have recovered damages in a civil action based on the amount that remained due on the loan, the victims could also receive that amount as restitution. In determining restitution, a court should thus consider whether the requested amounts are of a type that the victim could recover in a civil action.

In State v. Snider, 747 P.2d 417 (Utah 1997), the defendant was charged with embezzling from investors in a condominium project. The defendant was charged with nine counts. However, the defendant ultimately

admitted to having sold 29 condominiums to 28 investors. The defendant was convicted and the court ordered the defendant to pay restitution to all 28 investors. The defendant challenged the court's decision to award restitution to those victims who were not named in the information. Relying on the definition of "criminal activities" in the statute, the court rejected the defendant's argument because the defendant had admitted to embezzling from the other individuals. In determining restitution, a court thus considers all of the facts that the defendant has admitted.

Complete Restitution and Court Ordered Restitution

Utah Code § 77-38a-302 defines "complete restitution" as that amount "necessary to compensate a victim for all losses caused by the defendant." The same section defines "court-ordered restitution" as the amount of restitution that the court orders the defendant to pay as a part of the criminal sentence. When ordering restitution, the court first determines the total amount necessary to compensate the victim for all losses caused by the defendant. This is complete restitution. The amount of complete restitution is recorded as a civil judgment, with the victim being listed as one of the creditors. This process allows a victim to recover damages without having to file a civil lawsuit.

After determining complete restitution, the court then determines the portion of restitution that the defendant must pay as a part of the criminal sentence. For example, a court might determine that a victim's total losses equal \$15,000. This is the complete restitution and is recorded as

(Continued on page 3)

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a civil judgment. (Note: justice courts may award restitution of more than \$10,000 and record the amount as a civil judgment.) The court might then decide that a defendant should pay \$5,000 of that amount as a condition of the defendant's criminal sentence. This is the court-ordered restitution. The defendant pays the \$5,000 through the criminal case. The victim then collects the remaining amount through civil processes. In most circumstances, the court will determine that the defendant should pay the entire amount of restitution through the criminal case. In other words, the court-ordered restitution will be the same as the complete restitution. Although the amounts will be the same, it is still appropriate for courts to specifically state the amount it determines to be complete restitution, and the amount of court-ordered restitution.

In State v. Laycock, 2009 UT 53, the defendant pleaded guilty to negligent homicide, after having originally been charged with automobile homicide. The defendant was involved in an automobile accident in which the driver of the other vehicle was killed. The state requested restitution of nearly \$600,000. Given the complex nature of determining the defendant's

ultimate liability, the trial court determined that the amount of damages should be resolved through a civil action. The trial court stated that, in a civil action, the parties could more fully develop the facts related to liability, as opposed to the facts that were only related to criminal responsibility. The trial court recognized that, in a civil action, the parties could conduct discovery and the defendant could raise issues such as proximate cause and comparative negligence.

The Utah Supreme Court determined that the trial court could not avoid its statutory duty to determine complete restitution by directing the parties to instead pursue civil litigation. The court stated that the trial court was required to determine complete restitution. The court recognized that there were very few facts before the trial court upon which a restitution determination could be made. However, the court stated that "where facts do not provide a full evidentiary foundation, the court must base its determination on the best information available." The court stated that there is a difference between "determining" restitution and "ordering" restitution. A trial court is statutorily required to determine the total amount of damages. However, the trial court is not required to order the defendant to

pay any of that amount through the criminal case.

This case raised questions that were reserved for another day. The most important conclusion from this case is that a trial court is required to determine the total amount of pecuniary damages suffered by a victim, based on the best evidence available. This amount is docketed as a civil judgment. The court may then decline to order the defendant to pay the restitution based on the court's recognition that the defendant should have an opportunity to more fully develop facts and raise defenses through civil litigation. The Laycock decision does not address the mechanics of how the civil court will address these issues in light of the fact that a civil judgment will have already been entered. That is a question that will need to be resolved at some point. A more thorough examination of Laycock and its implications might be a good topic for a separate article.

Modified but for Test

The court will use the "modified but for test" to determine whether the requested damages actually resulted from the criminal activities. In State v. Birkeland, 2011 UT App 227, the court stated that:

(Continued on page 4)

INTRODUCING JUDGE CLINT GILMORE

Judge Elayne Storrs

Clint T. Gilmore, a William H. Leary Scholar from the S. J. Quinney College of Law at the University of Utah, was appointed to the West Valley City Justice Court. Serving as a Chief Prosecuting Attorney/Police Legal Advisor he moves from the Prosecutor Table to the Judge Bench. No stranger to the Court Room, Judge Gilmore also prosecuted cases as a Special Deputy District Attorney for West Valley City. He received the

Director's Award for Superior Performance from the Executive Office of the United States Attorneys in Washington DC, while he was working for the United States Attorney's Office for the District of Utah.

He has been married to his wife Shiloah, who comes from a large Polynesian family and they have four sons. The activities of his family take up most of his time outside of work.

However he has found time to do some endurance events. His wife's favorite activities are marathons, half marathons and bike riding. While he doesn't favor those events he loves to be with the runners as they are "pretty happy people." Sporting events (avid Cougar fan), music, reading and some television round up the balance of his activities while finding time to visit San Clemente, CA. at least twice a year.

MONITORING THE UTAH LEGISLATURE

Joanne Vandestreek, Utah State Law Library

It's easier than ever to monitor what state lawmakers are working on, especially during legislative sessions each January-March.

The legislature's website, <http://le.utah.gov>, has been redesigned with a search box at the top and a panel in the center from which you can select key links. Use the left tab to follow current legislative activity from the Session page. You can search bills by number, subject, or sponsor, and can track an individual bill's movement through the process. The center tab – labeled Audio · Video – lets you search for hearing recordings by com-

mittee or browse a list of the most recently recorded hearings. The right Calendar tab lets can check what will be heard that week or that month.

Don't forget that the legislature may hold Special Sessions, and that the Senate may hold Extraordinary Sessions to handle executive business, such as the confirmation of judicial nominees to Utah's state courts.

Do you have a mobile device? A free Watch Utah Legislature Bills app lets you subscribe to bills and get notifications when the status of the bill changes. The app is available for both iOS and Android devices.



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Utah has adopted a modified “but for” test to determine whether pecuniary damages actually arise out of criminal activities, requiring that (1) the damages would not have occurred but for the conduct underlying the defendant's conviction and (2) the causal nexus between the criminal conduct and the loss is not too attenuated (either factually or temporally).

Mr. Birkeland had stolen a laptop

from a university professor. The laptop was recovered two days later and it was discovered that nearly all of the files had been deleted. The professor was able to recover most of the files, but he spent hundreds of hours reorganizing the files and recreating several missing files. The trial court ordered Mr. Birkeland to pay approximately \$10,000 to reimburse the professor for a portion of the professor's time.

Mr. Birkeland challenged the restitution award because the only criminal activity he admitted was stealing a computer. He did not admit

deleting the files. Applying the modified but for test, the court stated that it was clear that the files would not have been lost but for Mr. Birkeland's theft of the computer. The court then determined that the causal nexus was not too attenuated. The files were deleted during the two days between when the computer was stolen and when it was recovered. The court recognized that deleting files was consistent with preparing the computer to be resold. The court stated that this created a sufficient nexus between the theft of the computer and the loss of the files. The trial court's award was therefore appropriate. If more time had passed from the date of the theft to the date of recovery, and if possession of the computer had changed, the connection between the theft and deletion of the files may have been too attenuated.

Conclusion

There are other aspects to restitution that may be covered in a future article. The purpose of this article is to emphasize the above points, which are: 1) the court is required to address restitution when it is evident that the defendant's criminal activities resulted in damages; 2) the court must determine the total amount of damages based on the best evidence available; 3) the determination will be based on all of the criminal conduct which the defendant has admitted or for which the defendant was convicted; 4) the damages will be those that would not have occurred but for the defendant's criminal activities, and the causal nexus between the criminal activity and the damages is not too attenuated; 5) the eligible damages are those that could be recovered in a civil action; 6) after the court determines the total amount of damages, the court determines how much of the restitution the defendant will pay as a part of the criminal action; and 7) the victim is entitled to separately collect the complete restitution through the civil case.

OLD DOGS

Colin Winchester

For those of you who are expecting an article on judicial ethics, prepare to be disappointed. There is more to life than the independence, integrity and impartiality of the judiciary. Not much more, but some, and so just this once, I have elected to preach from a different gospel. And no, Judge Storrs, this article is not an indication of my impending demise or departure -- I am still here, I am still watching, and I can still write a pretty nasty letter!

One of your colleagues recently alerted me to a conversation memorialized in a justice court docket. First I chuckled, and then I began to reflect on the answers to two questions: (1) how much longer do some of us old dogs have? and (2) how can we more fully enjoy the time that's left?

In 2005, a defendant was charged with criminal mischief and criminal trespass arising from an incident of domestic violence. He failed to appear. About a year later, he pleaded guilty and was placed on probation. He failed to comply. Eventually, the judge issued a warrant and two years after that, the

defendant called and spoke with a clerk. The conversation went something like this:

Defendant: Is there a warrant out for me?

Clerk: Yup.

Defendant: Do I need to come to court?

Clerk: Yup.

Defendant: Isn't there something else I could do?

Clerk: Nope.

Defendant: I don't want to come to court! Judge X will put me in jail!

Clerk: Yup.

Defendant: Will the warrant still be valid in 20 years?

Clerk: Yup.

Defendant: Will Judge X be retiring anytime soon?

Clerk: Judge X will probably be here forever!

Unlike Judge X, most of *us* will not be around forever. To those of us who fit in that category, and to those who are too young to yet consider it, here's my message, which I can't possibly say any more eloquently than Edward Abbey did:

[G]et out there and hunt and fish and mess around with your friends, ramble out yonder and explore the forests, climb the mountains, bag the peaks, run the rivers, breathe deep of that yet sweet and lucid air, sit quietly for a while and contemplate the precious stillness, the lovely, mysterious, and awesome space. Enjoy yourselves, keep your brain in your head and your head firmly attached to the body, the body active and alive, and I promise you this much; I promise you this one sweet victory over our enemies, over those desk-bound men and women with their hearts in a safe deposit box, and their eyes hypnotized by desk calculators. I promise you this; You will outlive the bastards.

I'm not a particular fan of Abbey's politics, but this advice is as applicable to judges as it is to monkey wrenchers. For those of you who refuse to admit that Abbey could ever be right, here's a less colorful version of the same advice, from British philosopher Charles Colton:

Men spend their lives in anticipations, in determining to be vastly happy at some period when they have time. But the present time has one advantage over every other -- it is our own. Past opportunities are gone, future have not come. We may lay in a stock of pleasures, as we would lay in a stock of wine; but if we defer the tasting of them too long, we shall find that both are soured by age.

So go have some fun . . . WITHIN the limitations set forth in the Code of Judicial Conduct!



INFORMATION TECHNOLOGY

Mary Barrientez

To access the Online Training Program (OTP) server use the following ip address.

67.129.250.118 (use the same logon and password you use when access the CORIS terminal server)

To access the DCJUST documents go to the following url (when you have logged into the CORIS terminal server).

<http://www.utcourts.gov/intranet/clerktraining/resources/>

When restitution is ordered on a criminal case a civil judgment needs to be entered on the criminal case.

77-38a-401. Entry of judgment -- Interest -- Civil actions -- Lien.

(1) Upon the court determining that a defendant owes restitution, the clerk of the court shall enter an order of complete restitution as defined in Section 77-38a-302 on the civil judgment docket and provide notice of the order to the parties.

(2) The order shall be considered a legal judgment, enforceable under the Utah Rules of Civil Procedure. In addition, the department may, on behalf of the person in whose favor the restitution order is entered, enforce the restitution order as judgment creditor under the Utah Rules of Civil Procedure.

Procedure/Computer Entry for a civil or criminal judgment

1. From the Primary Menu select Case > Judgments > Civil/Criminal (F6)
2. The current Judgment Filing Date and Time will automatically populate those boxes.
3. Select the type of judgment from the Type drop-down box. In this instance select restitution.
4. Change the party type to indicate the defendant as the Debtor(s) and the restitution recipient as Creditor(s) by clicking on the Party boxes. Scroll down to show all parties listed. Any parties showing who are not debtors or

creditors on the judgment should be deleted from this page using Delete Party so they will not show on the judgment. (This will not delete the party from the case.)

a. To add a party who does not appear on this screen, select Add Party and enter the information for the missing party.

b. Select Reload Parties if the parties are not showing.

5. To enter judgment amount:

a. Select Add Detail Line.

1. Select Total Judgment and fill in the total amount.

6. Use Note to enter any specific notes related to the judgment. These notes will appear in the case history.

To run a report for outstanding restitution

Information > Reports > Accounting > Trust > Restitution Outstanding

INTRODUCING JUDGE DOUGLAS NIELSEN

Judge Elayne Storrs

Born and raised in Utah County, Douglas J. Nielsen, the youngest of six children was appointed to the Lehi Justice Court. He attended public schools, and graduated from high school in the Nebo School District, earned an A.S. degree at Utah Valley State College and B.S. degree at Utah State, and graduated from Oklahoma City University with his juris doctorate.

While in Law School, he was an intern for the Oklahoma County Public Defender's Office during the school year and an intern for the Utah

County Public Defender's Office during the summer and holiday breaks. Judge Nielsen recently became a partner of the law office of Petro and Nielsen.

His employment in the Construction Trades kept him busy while attending school until law school began. However, he still found time to serve a mission to Warsaw Poland. He and wife Janice Wheatley have three children and reside in Spanish Fork.

Spending time with his family is the top of his priorities while enjoying fly-

fishing, exercising and following University of Utah Sports.

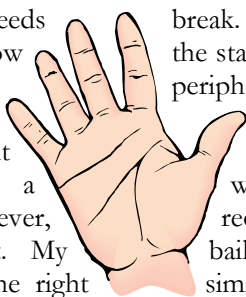
A steak from Ruth's Chris or a waffle and some frits (French fries) from Bruges located at about 3rd South and 3rd West in Salt Lake City are his favorite foods. However, he wouldn't miss the chance to eat at Cafe Rio or Great Harvest Bread Company on just about any given day.

A JUDGE'S NECESSARY BODY PARTS

Judge Steven Wallace

As judges, we're typically so busy doing our job that we pay no mind to the essential body parts without which we could not succeed. Sure, our job is mostly mental. We must know the law, we must intelligently separate the courtroom wheat from the chaff, and we must articulate our rulings in an understandable manner. Yet there are other, more basic activities that require certain physical capacities.

For instance, a judge needs opposable thumbs. How else to grasp that gavel or wield that judgment pen? Of course, I must admit that although I've been a judge since 1988, I have never, ever used a gavel in court. My personal feeling is that the right judicial demeanor ought to preclude the need of gaveling a court to order. I am reminded of my mother and the way she kept order around the house. All she had to do was lift one eyebrow; you stopped what you were doing and paid heed. The first judge before whom I practiced as a newly minted lawyer, the late William Lamar Rose, could bring a court to order by the simple act of turning his jowly



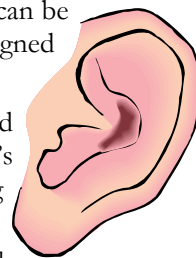
countenance toward an offending attorney and squinting beneath his bushy, tempestuous brows.

An equally important body part that a judge needs is a strong bladder, that important membranous sac that comes in awful handy during long, laborious courtroom binges without a recess. I once had a trial clerk who would begin to squirm in her chair when it had been awhile since the last break. I would be pushing to finish the state's case and all of a sudden my peripheral vision would encounter my clerk's pained expression or she would pass me a note that would get my attention. I can recall a time or two when the bailiff would discretely deliver a similar cry for a break from a fidgeting juror. A judge needs to be sensitive to these things.

Of course, a judge also needs a good hearing organ, aka ears. If you can't hear what the participants are saying, what good are you, after all? I have always told jurors at the beginning of voir dire, "Please speak loudly enough so that I can hear you and, if I can hear you, I'm sure the lawyers will be able to hear you as well."

Unfortunately, I must confess, with me hearing what some people are saying is only half the battle; there is often the need to unravel thick accents and decipher unique patois and dialects that strain the normal edges of the English tongue. I am not good at this. When I was on the bench in Florida, we saw a lot of Haitian and Hispanic defendants who spoke with accents that would strangle a wooden sculpture. They would be speaking English but it would be well beyond me. So I would simply turn to my clerk or my bailiff and ask, "What did he say?" and they would tell me. It is important for a judge to realize that court personnel can be useful beyond their assigned roles.

Finally, a judge needs good teeth, the better to bite one's tongue to keep from saying what one would like to say but shouldn't. You are an impartial arbiter, a function that implies the need to not allow your personal opinion to get the better of your stoic judicial demeanor. Add to that the need to keep in mind that, just because you are in charge of the courtroom, you ought not talk too much. I have often regretted my speech, someone once said, but never my silence, and he wasn't staring at a digital recording device. So bite your tongue and you will be the better for it.



INTRODUCING JUDGE CAROLYN HOWARD

Judge Elayne Storrs

The City that gained fame in the recent US 4th District House of Representatives race has appointed Carolyn E. Howard, J.D. to their Bench. Judge Howard received her Juris Doctorate from the J. Reuben Clark, Law School. A practicing attorney in the areas of criminal defense, family law, civil disputes, appellate work and juvenile law, she is an associate of the Wasatch Lawyers. She is also a trained and sea-

soned mediator in disputes involving family law, juvenile law, victim-offender crimes, and business disputes. Judge Howard loves spending time with her six year old son and is a World War II enthusiast. Playing the piano and singing round out her activities as well as loving to travel. Welcome to the bench in Saratoga Springs and watch out for those misquotes.



CASE LAW UPDATE

Judge Joe Bean

Vorher v. Henroid

2013 UT 10

Defendant was charged with voyeurism, Class B misdemeanor, in the Tooele County Justice Court. Defendant entered into a plea bargain and pled guilty to disorderly conduct, Class C misdemeanor. Defendant filed a timely appeal of his conviction and the district court held a trial de novo. At trial, the defendant was convicted of the “original charge” and was sentenced to 180 days in jail and to pay a higher fine than the justice court had imposed.

Defendant appealed and the Utah Court of Appeals upheld the district court’s conviction of the defendant on the original charge and the higher, more severe sentence on the Class B misdemeanor. Defendant appealed to the Utah Supreme Court which granted certiorari (willingness to hear further appeal).

The Utah Supreme Court reviewed several of the statutes governing appeals and sentencing after appeals. Utah Code Ann. §76-3-405(1) states:

- (1) Where a conviction or sentence has been set aside on direct review or on collateral attack, the court shall not impose a new sentence for the same offense or for a

different offense based on the same conduct which is more severe than the prior sentence less the portion of the prior sentence previously satisfied.

The Utah Supreme Court relied upon its decision in *Wisden v. District Court*, 694 P.2d 605 (Utah 1984), to reaffirm that Section 76-3-405(1) applies to appeals from justice courts. A district court, on a trial de novo, cannot enter a more severe sentence than the one given by the justice court. The trial court, Court of Appeals and Supreme Court, however, all relied upon the fact that subsequent to the *Wisden* case, the legislature amended Section 76-3-405 and added subsection (2) which states, in pertinent part:

- (2) This section does not apply when:
 - . . .
 - (b) a defendant enters into a plea agreement with the prosecution and later successfully moves to invalidate his conviction, in which case the defendant and the prosecution stand in the same position as though the plea bargain, conviction, and sentence had never occurred.

The Utah Supreme court looked first to the “plain meaning” of the text*

and found that it was “semantically difficult to conceptualize a trial de novo as an appeal.” ¶12. The problem is that Subsection (1) referenced “direct review” (traditional appeal) or “collateral attack” (habeus corpus, PCRA – ineffective assistance of counsel, newly discovered evidence, etc.). The Supreme Court turned to a “purposive”* approach by relying upon the precedent (*stare decisis*) from the *Wisden* case confirming that Section 76-3-405(1) applied to justice courts regardless of whether the justice court appeal may not be either a “direct review” or “collateral attack.” The Supreme Court then utilized “imaginative reconstruction”* by reasoning that since the Utah Legislature added subsection (2) after the decision in the *Wisden* case, it intended that subsection (2) would also apply to justice courts.

The conclusion of the court is that if a defendant enters into a plea agreement with a prosecutor in the justice court and then appeals, the district court can try the defendant on the original charge and impose a more severe sentence.

This concept does not apply to an appeal after a trial and entry of judgment in the justice court even where the prosecutor amended the information or the trier of fact found a conviction on a lesser included offense. At a trial de novo in such a case, the district court would then be bound by the sentence of the justice court and could not impose a more severe sentence or try the defendant on the original charge.

* For Judicial Institute attendees!

INTRODUCING JUDGE WILLIAM WALKER

Judge Elayne Storrs

Blanding City has appointed William Walker a veteran from the Utah Army National Guard. His military career brought him to Blanding a few years ago where he and his wife decided to raise their family. He spent the last

two years of his career in American Fork while his family remained in Blanding.

Four Wheeling in that beautiful south eastern country with his family and sports events round out his interests.



Judges Debra Haveron & Marsha Thomas

SPRING CONFERENCE 2012 MEMORIES



Judge David Miller



Judge Catherine Johnson



Judge Michael Kwan



Heather Mackenzie-Campbell



Judge Sara Watson



Rick Schwermer



Judge John Baxter



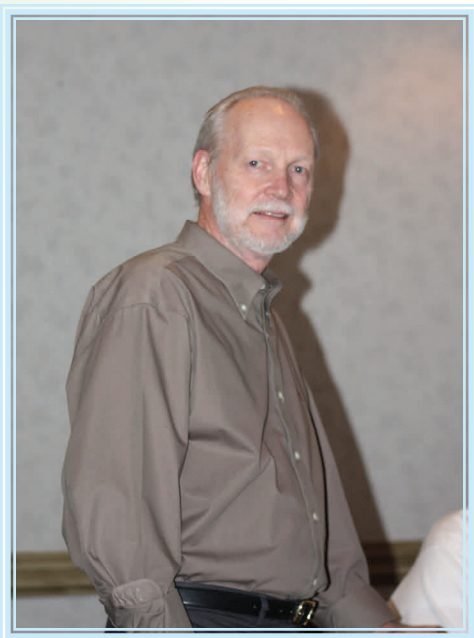
Judge Reed Parkin



Judges sharpening their shooting skills



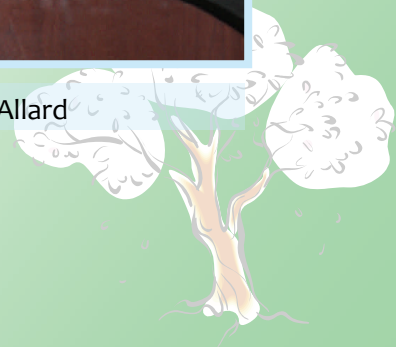
Kristine Prince



Judge Kent Nielsen



Kim Allard





Judge Joseph Bean



Brent Johnson



LEARNING OPPORTUNITIES FOR JUSTICE COURT JUDGES

March 29, 2013—Salt Lake City
Mentor Training

April 8-9, 2013—St. George
Legal institute
(The US Supreme Court)
Prof. RonNell Anderson Jones

April 10-13, 2013—St. George
Spring Conference

April 25-26-Ogden
Clerk's Conference

May 3-4, 2013—Murray
Legal Institute
(Criminal Law I)
Prof. David S. Hill

May 31-June 1, 2013—Murray
Legal Institute
(Criminal Law I)
Prof. David S. Hill

June 7, 2013—St. George
Small Claims

August 2, 2013—Homestead, Midway
Summer Workshop

October 23-25, 2013—St. George
Clerk's Conference

December 6, 2013—Salt Lake City
Winter Workshop

A MESSAGE FROM THE EDUCATION COMMITTEE

Kristine Prince, Judicial Educator

THE ANNUAL SPRING CONFERENCE IS RIGHT AROUND THE CORNER

We're looking forward to the 2013 Annual Justice Court Judges Spring Conference in a few weeks. The Education Committee has worked hard to put together an agenda that will have something for everyone! Our theme this year is "Serving Justice...Serving Our Communities."

Chief Justice Matthew B. Durrant and State Court Administrator Daniel J. Becker will provide remarks at the beginning of the day on Friday, April 12. It's always nice to have them at the conference.

Dana Thomas from the Utah Office of Crime Victims will present a session on "Victim Reparation and Restitution Recovery." Ms. Thomas will talk about what her office is doing in recovery efforts and in assisting victims of crime in our state. She is anxious to hear from you about what you feel are the issues judges face in dealing with victims and ensuring that they receive restitution.

Donna Kelly from the Utah Prosecution Council will present a session on *Crawford v Washington* and how that case has impacted domestic violence cases in Justice Courts. Valerie Paul, the Domestic Violence Coordinator at the AOC will also

be available during Ms. Kelly's presentation to answer any questions judges may have about what resources are available to assist judges when handling these difficult cases.

Professor Jensie Anderson from the University of Utah Law School and formerly the President of the Rocky Mountain Innocence project will be at the conference on Friday afternoon. She will discuss the concept of "innocence" and the problem of wrongful conviction along with informing judges of the work that those involved in the Innocence Project are doing. Professor Anderson will facilitate a lively discussion on the book "The Man Who Never Died," by William Adler during the last hour of the day. This book is the story of Joe Hill and his wrongful conviction and execution in Salt Lake City in 1915. Those who are interested in participating in this session should purchase the book and read it before the conference.

John Fairbanks from Drivers License Division will present a session on "Building a Collaborative Relationship with the Drivers License Division. I have been collecting questions from judges about Drivers License policies and procedures which I will give to Mr. Fairbanks before the conference and he will address those questions as part of his presentation.

The Federal Department of Justice is beginning to closely monitor the use of foreign language court interpreters in State and Local courts to ensure that the due process rights of all defendants are being protected. We have invited Jeck Navarrete, Ph.D., J.D., who is a federally certified court interpreter for the District of Nebraska and a nationally recognized expert in the field of interpreting and training judges will address us on Friday morning.

Tom Langhorne (UJI Director) and Nancy Volmer (AOC Public Information Officer) will provide a session on Saturday morning on "Courts and the Community: Increasing Public Understanding and Support of our Justice System" which is always a timely topic.

These are just a few of the great sessions we have planned for the conference. Online registration is available. I look forward to seeing all of you again down in St. George. Please cross your fingers that Mother Nature will provide good weather for this year's Picnic in the Park. If anyone has questions about the conference, please feel free to contact me at 801-578-3827 or krisp@utcourts.gov

