



# Federal *Jurisdiction*

Federal Bar Association Utah Chapter Newsletter

Winter 2016



## President's Message

Welcome to a new year. Despite the falling stock exchanges and cancellation of the Utah/BYU basketball rivalry, I am confident that 2016 will be another great year for the Federal Bar Association in Utah. We currently have

approximately 330 members and we have many exciting events planned for this year, including our annual Southern Utah Law Symposium, Federal Criminal Law Seminar, and the Ronald N. Boyce Seminar. These events will help you keep on the forefront of legal issues facing federal courts and their practitioners. Utah has also been selected by the national board to sponsor a Community Outreach Project, where we will bring middle school kids to court to observe some hearings and learn about professions in the law. In addition, we will hold our Annual Awards Dinner, where we will honor pro bono and other longstanding service in our federal judiciary. I hope you will join us at these exciting events. If you have any questions or comments, please let me know at [sy@scmlaw.com](mailto:sy@scmlaw.com). Thank you for your continued support.

Scott Young

by Scott Young

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# Utah FBA Chapter Annual Awards Dinner

The Utah FBA Chapter Annual Awards Dinner was held on Tuesday, November 17, 2015, at the Little

America Hotel in Salt Lake City, Utah. Chapter President, Peggy Hunt, greeted the 170 attendees at the dinner which included federal judges, attorneys, and their guests. Honorees for the evening included the following: Jory L. Trease, Esq. of Jory L. Trease, Inc. -- Pro Bono Award; Benson L. Hathaway, Esq. of Kirton & McConkie -- Distinguished Service Award;

Kathryn N. Nester, Esq. of the Utah. Federal Defenders Office -- Distinguished Service Award; and Louise S. York, Esq. of the U.S. District Court -- Distinguished Service Award.

The Utah Chapter of the Federal Bar Association congratulates each of this year's award recipients and thanks them for their service and professionalism to the legal profession.



Benson L. Hathaway and Peter Stirba



The Hon. Brooke Wells and Jory L. Trease



The Hon. Dee Benson and Kathryn N. Nester



Louise S. York and The Hon. David Nuffer



2015 FBA Award Recipients



The Hon. David Nuffer and The Hon. Dale A. Kimball

# Utah Chapter of the FBA Board



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*President*

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Snell & Wilmer  
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**Peggy Hunt,**

Dorsey & Whitney  
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**Mark K. Vincent,**

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**Jessica Wilde,**

Jones Waldo

**Analise Wilson,**

Kirton & McConkie



# Events Calendar

*Witnessing The Iconic Civil Rights Marches Of The 1960's,  
Federal Courthouse - 5:30 P.M.*

*Co-Hosted by the Tenth Circuit Historical Society*

*March 8, 2016*

*Kannon Shanmugam,*

*The Alta Club, 12:00 p.m. - 1:30 p.m.*

*Co-Hosted by Appeal Section of Utah Bar*

*April 7, 2016*

*Southern Utah Law Symposium,  
St. George, Utah*

*May 12-14th, 2016*

*10th Annual FBA Criminal Law Seminar,*

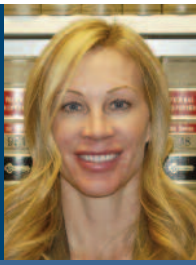
*Hotel Monaco, 8:30 A.M. - 4:00 P.M.*

*Co-Sponsored by the U.S. Attorney's Office &  
Federal Public Defender Office, District of Utah*

*May 20, 2016*

*FBA National Convention,  
Cleveland, Ohio*

*Sept. 15-17th, 2016*



## Clemency Project Pro Bono Clemency Night

On September 8, 2015, the Pro Bono Committee of the Utah Chapter of the Federal Bar Association, in

conjunction with the Federal Public Defender Office, sponsored a Pro Bono Clemency Night to assist federal defendants who are seeking clemency through the Clemency Project 2014. Clemency Project 2014 was launched after Deputy Attorney General James Cole asked the legal profession to provide pro bono assistance to federal prisoners who met guidelines suggesting that their original imposed sentences might be too long under the current federal guideline system.

During the Pro Bono Clemency Night, volunteer Utah attorneys participating in this event were instructed how to sign up for the Clemency Project, were assigned a Utah client, and then were provided a short training regarding the filing of a clemency petition. Afterwards, the volunteer attorneys broke

into small group sections to discuss issues that might arise on specific client cases. A follow-up session occurred on October 7, 2015, which allowed the assigned volunteer attorneys to ask additional questions, address any issues, and allow attorneys from the Federal Public Defender Office to review any draft clemency petitions the volunteer attorneys intended to file on behalf of their clients. As a result of this endeavor, eighteen federal clients were assigned a Utah volunteer attorney.

Light refreshments were provided by the Pro Bono Committee of the Utah Chapter of the Federal Bar Association. Additionally, the law firm of Durham Jones and Pinegar, provided sponsorship money to obtain clients sentencing transcripts needed for the clemency petition.

If anyone is interested in getting involved in this project, please visit [www.ClemencyProject2014.org](http://www.ClemencyProject2014.org) to learn more.



Pro Bono Clemency Night



by Erik Olsen

# 13th Annual Judge Ronald N. Boyce Federal Court Litigation Practice Seminar

The Boyce Seminar has consistently been one of the finest legal education seminars in Utah, and the Thirteenth Annual Boyce Seminar, held on November 6, 2015, at the Grand America Hotel, was no exception. The event was well attended and the federal bench was well represented.

Judges Shelby, Wells, Furse, and Marker began the day with a panel discussion moderated by Judge Furse entitled “Judicial Philosophy with a Small ‘p,’” addressing, among other things, factors that go into decision making, managing a docket, ruling from the bench, using video/telephonic appearances, and dealing with objections. Specifically with regard to scheduling oral argument, Judge Shelby remarked, “One of the most important things we can do is make the courtroom available to litigants.”

Judge Waddoups, in his presentation entitled “The Expert Fallacy,” instructed on the danger of “naked” expert opinions in which experts seek to rely on inadmissible evidence, and warned litigants that if the verdict depends on the underlying facts being in evidence, then the naked opinion of an expert may not be enough. Litigants must ensure that there is sufficient independent reliability for what the expert is relying on.

Judge Anderson in his bankruptcy law update reported on issues left unresolved by *Stern v. Marshal*, and walked through in detail Justice Sotomayor’s lead opinion in *Wellness International Network, Ltd. v. Sharif*, which held that allowing “Article I Adjudicators” to decide claims by consent does not offend separation of powers, due to the supervisory authority maintained by Article III courts.

In an entertaining and insightful presentation entitled “The Seven Deadly Sins of Litigation,” Judge Jenkins encouraged litigants to avoid the “deadly sins” of failing to know the courtroom and its limitations, failing to observe proper courtroom demeanor, citing string cites without reading them first, ineffectively pleading your case, not following the “short and plain”

answer requirement, arguing with the court, and giving incomplete presentations.

Judge Braithwaite, a frequent presenter at the FBA’s Southern Utah Federal Law Seminar, traveled to the Boyce Seminar to present on the federal court practice in Southern Utah.


During the noon hour, Dean Robert W. Adler from the S.J. Quinney College of Law at the University of Utah provided a lunch keynote addressing some of the challenges facing legal education, including declining law school enrollment, the cost of legal education, and a highly competitive job market.

After lunch, Judge Shelby joined us again, together with Judge Pead, for a presentation entitled “Wine and Cheese: Magistrate Judge and District Judge Pairings” regarding the authority and roles of magistrate judges in the District of Utah.

Next, Judge Warner lectured regarding the vanishing civil trial and provided insights into when to settle a case and how to approach compromise negotiations.

Finally, Judge Kimball presented on the current State of the Federal Judiciary, and also joined Judges Benson and Parrish in a question and answer panel entitled “Cross-examine the Court.”

Once again, the Boyce Seminar was a highlight of the annual CLE calendar. Those who missed the event missed out on a great opportunity to prepare more effectively to practice before the judges in the District of Utah.



**SAVE**  
-----THE-----  
**DATE**

**10<sup>th</sup> Annual  
Federal Bar Association  
Criminal Law Seminar**

**May 20, 2016**

**Hotel Monaco  
Salt Lake City, Utah**

Sponsored by the Utah Chapter of  
the Federal Bar Association, U.S. Attorney’s Office  
& the Federal Public Defender Office, District of  
Utah

# Save The Date -- 9th Annual Southern Utah Law Symposium

Please join fellow FBA Members on May 12-14, 2016 for the Ninth Annual Southern Utah Federal Law Symposium at the St. George Marriott Courtyard. This year's conference starts with a Thursday evening reception at Tuacahn Center for the Arts. Following a reception with our Federal Judges, we will enjoy a performance of songs from Tuacahn's upcoming shows – Hunchback of Notre Dame, Tarzan, and Peter Pan. We will then hear from keynote speaker Mark Curriden, a lawyer and journalist with The Dallas Morning News and the ABA Journal. His presentation is entitled: "Contempt of Court: A Turn of the Century Lynching that Launched 100 years of Federalism."

On Friday, we will have fantastic CLE presented by many of Utah's federal judges. Our Friday keynote speakers are Amy Howe, founder and editor of SCOTUSblog, and Utah Attorney General Sean Reyes. SCOTUSblog provides comprehensive and unbiased

coverage of the Supreme Court. Ms. Howe has argued cases before the Supreme Court and has taught courses on Supreme Court litigation for many years at Harvard Law School and elsewhere. She is a very highly regarded speaker, journalist and lawyer. Attorney General Reyes will share his exciting story about going undercover as part of Utah-based Operation Underground Railroad's sting operation to stop a human trafficking ring in South America.

More event detail and registration are coming soon. We hope to see you in St. George!

*Ninth Annual*



*Southern Utah Federal Law Symposium*

**May 12-14, 2016**

# Trivia Corner



This spring and summer marks the 71st anniversary of the ending of World War II. Test your knowledge of this global conflict by answering the following questions:

1. What was the name of the British aircraft carrier whose reconnaissance planes spotted the German battleship "Bismark" off the French coast?
2. We know the battleship Arizona was sunk during the Japanese surprise attack on Pearl Harbor. What class of battleship was she?
3. What did journalist Ernie Pyle call "as faithful as a dog, as strong as a mule, and as agile as a goat"?
4. What German city experienced the first of British Air Marshall "Bomber" Harris' thousand bomber raids?
5. What soon-to-be-famous Army officer finished fifth in the first ever modern pentathlon in the 1912 Olympics?
6. The U.S. built more than 2,500 so-called liberty ships. What was the name of the first liberty ship launched on September 27, 1941?
7. The Five Sullivan brothers perished when their ship, the Juneau, was torpedoed during a naval battle near Guadalcanal. What town in Iowa did they call home?
8. Future presidential candidate Barry Goldwater instructed which Army Air Corps Ace?
9. "In Wartime, truth is so precious that she should always be attended by a bodyguard of lies." Who made this statement?
10. What future Hollywood director of The Diary of Anne Frank landed with the U.S. First Army on the D-Day beaches?

