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IN THE SUPREME COURT OF THE STATE OF UTAH

IN RE:)	
)	
UTAH STATE BAR)	PETITION TO INCREASE
)	LICENSING FEES
Petitioner.)	
)	

INTRODUCTION

The UTAH STATE BAR ("Bar") hereby files this Petition to Increase Licensing Fees. It has now been nearly 20 years since 1990 the Bar last raised licensing fees. With over 10,000 licensed attorneys, and in light of many new court-approved programs and services, an aging building sorely in need of repairs, and the constantly increasing need for services for the growing Bar, the Bar has just began to operate at a deficit where it is drawing down on its reserves. The Board of Bar Commissioners ("Commission") and the Bar's Executive Director have been acutely aware of the various increasing demands on the Bar's budget and have instituted a number of cost-savings measures. Nevertheless, as it became clear that something more than squeezing the budget was required, Bar leaders examined in more detail what could be done to help offset the ongoing deficit and restore the Bar's good financial health. These discussions culminated at two regularly scheduled meetings this past summer,

where the Commission approved increases to current licensing status categories which, if approved, would begin with the 2010/11 fiscal year as follows:

<u>Licensing Status Categories</u> ¹	<u>Current</u>	<u>Proposed</u>
Active	\$350	\$425
House Counsel	\$350	\$425
Active Under 3 Years	\$190	\$250
Inactive Full Service	\$120	\$150
Inactive No Service	\$ 80	\$105
Late Fee	\$ 50	\$100
Reinstatement (After Non-Payment)	\$100	\$200

I. THE NEED FOR AN INCREASE

It will have been 20 years since licensing fees were last increased in Utah. According to a 2009 American Bar Association (“ABA”) survey, 67% of all bar organizations (both mandatory and voluntary) have increased their fees within the last four years and 32% within the last year. In the last five to seven years, 18% have increased fees and 16% have done so more than seven years ago. (ABA survey at page 5 under “Dues Increase” at *Exhibit “1.”*) It appears that Utah may be the only jurisdiction that has not raised active status fees in nearly two decades.

Currently, nearly half of our active status Bar members are 42 years of age or younger with only 14 years of practice and have never seen a licensing fee increase. During the last 20 years, the number of Utah lawyers has doubled from 5,103 to over 10,000 members. Demands for services provided by the Bar

¹ A few explanatory notes related to licensing status may be helpful here. Those lawyers on Inactive Full Service receive the *Bar Journal* and Casemaker and those on Inactive No Service do not. Those lawyers licensed as House Counsel may practice law on behalf of their companies only and pay the same amount as those on Active Status who may practice law generally. While licensing forms and fees are due July 1st of each year, no late fee is assessed until August 1st. Administrative suspension for non-payment (Failure to Renew) occurs on September 1st. In order to bring licensure current, a lawyer must reinstate after that point by paying a reinstatement fee as opposed to a late fee.

have grown, and the Bar has worked with precision and creativity during these demanding times in order to live within its zero-based budget each year. Twenty years is a long time to slowly grow operations through care, technology and economies of scale.

The Court-approved Rules for Integration and Management (RIM) outline a number of Bar obligations relating to the practice of law in Utah. (A copy of RIM 14-102 in the Supreme Court Rules of Professional Practice is attached as *Exhibit "2."*) Specifically, the Court has expressly recognized that there is a "compelling state interest in its use of the Bar to assist [it]to improve the quality of legal services in the state." The purposes, duties and responsibilities of the Bar as provided in the RIM are many and varied, but without exception can be tied directly to Bar services and programs. Bar responsibilities as outlined in the rule include, but are not limited to:

- (b)(1) to advance the administration of justice according to law;
- (b)(2) to aid the courts in carrying on the administration of justice;
- (b)(3) to regulate the admission of persons seeking to practice law;
- (b)(4) to provide for the regulation and discipline of persons practicing law;
- (b)(5) to foster and to maintain integrity, learning competence, public service and high standards of conduct among those practicing law;
- (b)(6) to represent the Bar before legislative, administrative and judicial bodies;
- (b)(7) to prevent the unauthorized practice of law;
- (b)(8) to promote professionalism, competence and excellence in those practicing law through continuing legal education and by other means;
- (b)(9) to provide service to the public, to the judicial system and to members of the Bar;
- (b)(10) to educate the public about the rule of law and their responsibilities under the law; and
- (b)(11) to assist members of the Bar in improving the quality and efficiency of their practice.

Revenue from licensing fees account for approximately 62% of the Bar's operation budget. Programs and other services are either self supporting or generate a small source of revenue. It is clear that in order to meet our responsibilities under RIM 14-102, adequate financial resources must be allocated.

(A) Three Years of Extensive Review and Budget Recommendations

Over the past three years, the Court, the Commission, Bar staff and certain Bar Committees have engaged in extensive and diligent reviews of Bar governance, operations, regulatory obligations, financial status and investments, member services and public programs. Attached in the *Appendix* are copies of 11 program reviews conducted over the past few years.² These reports provided recommendations for improvements and suggestions for updating each program. At the close of each review, the Commission concluded that each of these programs is important and necessary to fulfill the Bar's mission under the RIM. In the "Summary of Utah State Bar Operations 2007/08" report, which was published in the Nov/Dec 2008 edition of the *Bar Journal* and also posted on the Bar's website, the Commission provided a wealth of information about Bar operations, including summary reviews of the programs and services. (A copy of the report is attached at *Exhibit "3."*) The 2008/09 report is scheduled for publication in the *Bar Journal* soon and will be posted on the Bar's website as well.

² Commission sub-committees evaluated the following programs and services in 2007/08 at *Appendix "A"*: Management and Technology, Communications, Admissions, Access to Justice (Pro Bono), and Group Benefits. Review of the following operations were just completed in 2008/09 and are attached at *Appendix "B"*: Client Security Fund, Bar Building Review, Continuing Legal Education, Fee Dispute Resolution, Office of Professional Conduct and the Consumer Assistance Program.

In addition, two years ago, the Commission directed the consulting firm of Grant Thornton to conduct an independent evaluation of the Bar which included reviewing our organizational structure, governance, communications and objectives. That report resulted in a number of recommendations (such as establishing a staff whistleblower policy and instituting periodic operational audits) all of which have been implemented. (A copy of the Grant Thornton report is attached at *Appendix "C."*)

One of the committees which has engaged in ongoing, regular financial reviews and analysis of Bar's revenues and expenditures is the Budget and Finance Committee³, consisting of certified public accountants and lawyers with financial expertise, as well as a Court representative. For several years the Budget and Finance Committee has proposed appropriate licensing fee increases. It also has long advocated for the need for the Bar to operate with a solid reserve totaling an amount of approximately four months of cash for operations. They, along with one of the Commission's long-time public members, Steven Burt (an architect), also have recommended a dedicated sinking fund for building repairs and capital replacement. Prudent fiscal management dictates that a line item in the Bar's budget for a sinking fund for a 22 year old building requiring significant repairs, refurbishment and eventual replacement is an important aspect of sound budgetary practice. As our building continues to age, the cost of repair and ongoing maintenance will increase accordingly.

³ The Budget and Finance Committee currently consists of: Ray O. Westergard, Jonathan K. Butler, Cynthia J. Crass, Nancy M. Dahl, Peter K. Ellison, Mary Kay Griffin (Commission Public Member), Robert Jeffs (Bar's President-elect), Louise T. Knauer, Stephen W. Owens (Bar President) and Bar staff members John C. Baldwin (Executive Director), Richard Dibblee (Assistant Executive Director), Jeffrey Einfeldt (Finance Director), and Marilyn (Matty) M. Branch (Supreme Court Liaison).

The building has served us well, housing thousands of meetings and CLE sessions.⁴ However, over the last several years and during extensive use, the building's limitations on the membership's ability to use the facility have become readily apparent. Saving for major remodeling or eventual replacement is something that should begin sooner rather than later. Even if larger meetings and events cannot entirely be accommodated at the current facility, the building requires enhanced maintenance and upkeep as it grows older. A dedicated building fund will more readily allow for ongoing maintenance and future adaptation. While in the past the Bar has had sufficient cash on hand to deal with some of the necessary updating and repairs using unreserved surplus, unfortunately that is no longer the case. The Bar will likely incur significant increases in capital expenses in the near future for the remodeling or refurbishment of the existing building, as well as the increased likelihood of needing major repairs as the structure continues to age.

(B) Growing Services

The Bar's operational expenditures are now outpacing revenue (primarily earned through licensing fees) as the number of Utah lawyers has grown and services have attempted to keep pace. In addition to the Budget and Finance Committee, other Bar committees, such as admissions, communications, member services and the like, have indicated various needs for modernizing and other improvements, and for developing more sophisticated operational methods and augmenting our abilities to provide meaningful service. Investing in technology will further enhance the Bar's ability to deliver services but such an

⁴ See *Exhibit "4"* for a summary of building usage between 2004/5 and 2008/9.

investment requires funding. With the increasing demands on the Bar's technology, its web-based services, and web-based portals for member services and benefits, the Bar will necessarily need to add professional staff to deliver those technological services. We continue to explore and implement technological improvements with a limited budget in an effort to reduce costs and staff time to carry out our functions and responsibilities.

Over the years we have taken advantage of certain economies of scale consisting of an influx of new lawyers who pay fees, the benefits of technology in place of additional professional staff, interest income from a once-generous market, and efficiencies in services in order to maintain fiscal stability year after year. Where other similar organizations have undertaken new programs and offerings and while many others have added more services, we have been more conservative and have not worked to regularly grow the quantity of services with few exceptions such as the recently adopted New Lawyer Training Program. Demands for growth in the lawyer population, however, have occasionally required the Bar to spend unreserved surplus instead of keeping those reserves for future years. The Commission believes that we will no longer be able to provide traditional necessary services and still meet Court-mandated obligations relating to the practice of law at the current level of licensing fees.

(C) Growing Bar

With more lawyers come more requests for individualized customer service. Moreover, in an age of instant communication, more demands from more lawyers for more information continue to increase. Members of the public, particularly in difficult economic times, place increased burdens on the Bar as

well. With over 10,000 lawyers,⁵ Utah is more like a medium-sized state bar with a sophisticated and demanding professional community much like other larger bars throughout the United States. For instance, the Bar now has over 35 sections and divisions (such as the Appellate Practice Section and the Young Lawyers Division), 18 Bar Committees (such as Ethics Advisory Opinion and the Unauthorized Practice of Law Committees) and 23 local and specialty bar organizations (such as the Utah Minority Bar Association and the Utah Prosecution Council). (A list of all these affiliated groups may be found at *Exhibit* “6.”) These groups assist Utah lawyers with their practice needs by providing targeted continuing legal education and a large number serve the public’s needs as well by providing regular programs like Tuesday Night Bar, “Wills for Heroes”, elder law presentations at senior centers and more. But they also require varying degrees of Bar assistance in order to carry out their programs and responsibilities. For example, the Bar purchased laptop computers for volunteer lawyers to use during regularly scheduled Young Lawyer Division “Wills for Heroes” events and ongoing staff technology assistance is also provided during these sessions. Another example is where Bar staff schedules Tuesday Night Bar appointments and provides clinic assistance after-hours when the program is held at our building. Yet another example is the Bar’s Annual Leadership Conference. This event is intended to educate committee, section and division chairs about the services the Bar can offer to make their CLE presentations and public-oriented events more successful. A copy of the 2009 Leadership Conference materials is attached in the *Appendix* at “D.” These are but three

⁵ Attached at *Exhibit* “5” is a chart reflecting current licensing statistics.

examples of the type of assistance the Bar provides on a regular basis to Bar affiliated and worthwhile endeavors.

A copy of the Bar's organization chart is attached as *Exhibit "7."* Currently, the Bar employs a total of 32 individuals consisting of 26 full time and six part time persons. We are fortunate to enjoy the services of dedicated, experienced and hard-working staff. Many staff members, however, are currently stretched to the limits of their capacity in a number of positions. Moreover, overload work from other areas is being distributed among existing staff. For instance, after the Bar's Pro Bono Coordinator left this past July, job duties were split among three other staff members. With more lawyers joining our ranks every year, the accounting office's workload has also increased and it has been necessary to assign another employee a portion of that work on a regular basis. Yet another example is that the Bar's Executive Secretary has largely absorbed the administrative duties associated with organizing and maintaining records with the New Lawyer Training Program until the new person comes on board. As the size of the Bar continues to grow, new staff members will reasonably need to be added to be able to continue providing essential services.

Revenue from growth in membership does not offset incrementally increasing expenses forever. The Bar is proactively addressing the future needs of the legal profession as well as the current demands upon it from the courts and thousands of Utah lawyers. These efforts require adequate budgeting. We are no longer able to operate on the levels of licensing fees established 20 years ago. Costs for such overhead expenses as janitorial service, electricity and building maintenance contracts keep increasing and as of June 30, 2009, we

incurred nearly \$422,000 worth of expenses. (See *Exhibit* “8.”) Bar budget surpluses, a necessary part of prudent management in order to avoid some issues which occurred in the past, are now beginning to diminish.⁶ Annual income will soon not be sufficient for us to keep doing what we believe to be necessary to adequately administer our regulatory functions as delegated to us by this Court, and also adequately serve the profession and members of the public.⁷

In response to those who think that the Bar should "do less and live within its means" instead of increasing licensing fees and trying to keep pace, we respond that our many and varied obligations extend beyond the basic regulatory functions (admissions, licensing and discipline) which have been delegated to us. We also have attempted to save money where we can. See “Summary of Some Bar Cost Savings Measures” attached at *Exhibit* “10.” We believe we should provide important services to lawyers and needed services to the public. We believe that our financial reserves need to be increased to better protect on-going operations against unexpected fluctuations in revenue or losses in the financial markets. To do otherwise is fiscally unsound and puts the Bar on a precarious financial footing.

⁶ By way of explanation, the Bar’s “savings account” or surplus has two components: A reserved surplus and an unreserved surplus. The former constitutes the Bar’s rainy day fund and the latter account is used for such things as repair to crumbling concrete steps or Commission special projects.

⁷ Several years ago, and in anticipation of the upcoming need to increase licensing fees and, under the guidance of Bar President George N. Daines, the Bar filed a “Petition to Implement a Pilot Program Granting Discretionary Authority for Consumer Price Indexing of Bar Licensing Fees.” While the Court indicated that it was “not comfortable with any form of an automatic escalator,” it also advised that the Bar should feel free in the future to submit a petition for a proposed increase based on factors which the Commission believed warranted the same. See letter from the Court dated June 22, 2005, attached as *Exhibit* “9.”

II. LICENSING FEE HISTORY

Attached at *Exhibit "11"* is a chart which provides the history of licensing fees in Utah since 1939. Beginning at that time, lawyers on Active Status paid \$15.00 and those choosing to go on Inactive Status paid \$2.50. In 1984, the Court approved a Client Security Fund⁸ ("CSF") separate assessment to be paid along with the annual licensing renewal fee. While there is some confusion from time to time over the CSF assessment, it is not considered a true licensing fee. In 1990, the Bar changed its licensing cycle from a calendar year to a fiscal year beginning July 1st and ending June 30th which resulted in a six month overlap and a one-time double assessment of fees.⁹ During that period, the Active Status licensing fee jumped from \$225.00 to \$350.00 with accompanying

⁸ The CSF also known as the Lawyers' Fund for Client Protection was established to help reimburse clients for losses caused by the dishonest conduct committed by lawyers admitted to practice in Utah. The purpose of the CSF is to promote public confidence in the administration of justice and the integrity of the legal profession for losses occurring in the course of the lawyer/client or fiduciary relationship between the lawyer and the claimant. The Court determined that every lawyer practicing law has an obligation to the public to participate in the collective effort of the Bar to reimburse persons who have lost money or property as a result of the dishonest conduct of another lawyer. As the endnote to the chart explains, CSF rules require an annual assessment of active members in an amount not to exceed \$20.00 to restore the fund balance to \$200,000 each fiscal year. The fund was increased from \$100,000 in 2001.

⁹ Although there were a number of factors contributing to the fee increase (and one-time double assessment), the problem largely originated with the Bar outgrowing a former residence on First South it had been using for Bar offices. In order to accommodate the then current needs and future growth, financing for a new building was estimated at \$800,000. Costs increased to \$1.5 million, however, because: (1) building pledge revenue projections were not met; (2) not all of the developments costs were foreseen; (3) interest payments on constructions costs were incurred because pledges, when paid, were received later than anticipated; (4) property taxes, promotion to encourage donations and operating expenses for the years 1984-1989 were not foreseen; (5) accounting practices at the time were not as sound as they are now; and (6) moneys from the Utah Bar Foundation and the sale of the Bar's former quarters were less than anticipated. All this resulted in an additional shortfall of \$848,000 over the 1987 projected financing, eventually necessitating the \$125 fee increase and double assessment if the Bar were to continue operating.

increases in the other categories. The Bar has not raised active licensing fees since that time.¹⁰

III. A FINANCIAL OVERVIEW

We have attached copies of several charts, graphs and financial data statements at *Exhibit* “12” to help explain the Bar’s current and projected financial status by providing more detail. Historically, the Bar has experienced a 5% increase in expenses and only a 3% increase in revenue. We have used that experience to project the expected growth in revenue (absent the requested fee increases) and expenses in selected charts and financial projections. (1) The “Project Cash Balances – Assumes Increases in Revenue of 3% and Expenses of 5% Annually” graph visually depicts a dramatic drop in incoming cash if licensing fees are not increased in the near future. Behind this graph is a financial data statement titled “Historical and Projected Data Without Increase” which supports the graph’s depiction. (2) Next provided is a graph titled “Revenues & Expenses Adjusted for Proposed Licensing Fee Increases Only.” This graph depicts what happens to the Bar’s finances if the requested increases to licensing fees are granted and is supported by a financial data statement. (3) Following this graph are several “pie charts”, the first of which shows the Bar’s source of revenue from 2008/09. Clearly, the overwhelming source of income is from licensing fees. (4) The next “pie chart” depicts Bar expenses for 2008/09. Bar management and the Office of Professional Conduct account for the lion’s

¹⁰ The Court approved an increase for those lawyers on Inactive Full Service in 2006 from \$90 to \$120. This primarily was to offset the cost of providing the *Utah Bar Journal* which is an expensive periodical to produce, print and mail as well as access to free legal research through Casemaker.

share of expenses. The following pie charts at (5) and (6) track the last two except for containing revenue and expense projections for the 2009/10 fiscal year ending June 30, 2010. Hard financial data consisting of the 2009/10 Budget then follows, supporting the allocations in all four “pie charts.” The next three bar graphs visually compare revenue and expenses for 2009/10 in: (7) “Regulatory Services”; (8) “Member/Group Services”; and (9) “Joint & Public Services.” Financial detail underlying these bar graphs also follows.

Of particular note is the fact that five of the last seven years have shown a loss in Bar income and at this point, the Commission has budgeted a cash deficit of approximately \$43,000 for 2009/10.¹¹ Even more worrisome, however, are the subsequent projected losses if a fee increase is not approved under the present budget as future losses will force us to dip more and more into our reserves. In four to five years and perhaps fewer, we could even pass the benchmark of an annual half million dollar loss.

As discussed previously, there are a number of reasons why now is the right time to address future financial needs before a crisis hits in order to objectively evaluate what we need to do. The first and most obvious reason is that we have not had a licensing fee increase for 20 years while we have attempted to continue to provide needed services. Recently, however, other factors have played a major role in budgetary concerns. Unsurprisingly, and due to current economic conditions, the Bar’s interest income on its reserves and investments has plummeted from an annual revenue of over \$150,000 to less

¹¹ A copy of the Bar’s most current financial statement is attached as *Exhibit* “13.”

than \$25,000 simply due to low interest rates on very conservative investments. Another factor is that one of the Bar's major investment holdings of \$300,000 was in Lehman Brothers which is now in bankruptcy proceedings and may only be worth cents on the dollar.¹² We do not realistically anticipate recovering much of that loss. Yet another aspect includes the real property tax increases that have recently occurred. When the Bar's note to the former Law and Justice Center was finally paid off and we notified the county, Salt Lake County challenged the Bar's charitable non-profit partial exemption status and assessed the Bar five full years of increased back taxes. It then billed us for \$33,788. Where the Bar had previously been paying real property tax on the building at approximately \$19,000 per year, the County's action raised that annual bill to \$29,804 last year. Moreover, the county has significantly raised our property taxes commensurate with increased assessments on other real property throughout Salt Lake County. This year's assessment is \$37,180.¹³ In addition, the Bar is spending money to ensure trademark protection of our name due to CLE infringements and we need to develop new improved databases for online licensing and E-filing. Finally, the Bar's unauthorized practice of law expenses as well as normal litigation costs have been somewhat higher than usual because of several difficult and protracted cases.

¹² Attached in the *Appendix* at "E" are copies of the Bar's current, former and initial (1998) investment policies along with comparison information. More conservative measures have been adopted to protect our reserves in these uncertain economic times.

¹³ The Bar is in the process of formally challenging the county's decision to revoke our exemption.

IV. NOTICE TO MEMBERS OF PROPOSED INCREASE

The Bar continues to try to educate Utah lawyers about the need for a licensing fee increase. A copy of the Bar's June electronic e-Bulletin is attached in the *Appendix* at "F" wherein Bar President Nathan Alder's monthly message was titled "The Need for a Licensing Fee Increase." This article also contained a number of links to the Bar's website with a plethora of explanatory information. At the same time, the Bar inserted a notice on its website home page under "Utah State Bar News & Announcements" which contained a link to materials titled "The Need for a Licensing Fee Increase." Documents related to that link are included in the *Appendix* at "G." That information has remained front and center on the Bar's website. Also published in the July/August 2009 *Bar Journal* was Alder's three page article titled "Twenty Years of Bar Operations (again attached in the *Appendix* at "G") which examines salient aspects relating to why a fee increase is warranted at this time as well as a summary of Commission meeting minutes discussing the need for an increase.

After the Commission voted to increase licensing fees this past July, the Bar has continued to make efforts to make our members more aware of the need to raise fees. President Alder first announced the proposed increases at the July Summer Convention. Since that time, Bar leaders have met with lawyers from Summit County as well as lawyers from Grand, Emery, Carbon, Box Elder and San Juan Counties. In October, at the Bar's Leadership Conference, a presentation was conducted which included discussion of possible fee increases and in November, lawyers in Davis County were apprised of the need for an increase. Finally, Stephen W. Owens, current Bar President, previously

committed to travel around the state and meet with all the local bar associations. For instance, scheduled for December 11th is a meeting with lawyers in Tooele County. As part of these meetings, the proposed fee increase will be discussed and Bar leaders will be available to answer questions.

V. CURRENT AND PROPOSED LICENSING FEES

Current Bar licensing fees are as follows:

Licensing Status

Active	\$350.00
House Counsel	\$350.00
Active Under 3 Years	\$190.00
Inactive Full Service	\$120.00
Inactive No Service	\$ 80.00
Late Fee	\$ 50.00
Reinstatement (After Non-Payment)	\$100.00

With the proposed increases outlined in the introduction section above, licensing fees would be as follows:

Licensing Status

Active	\$ 425.00
House Counsel	\$ 425.00
Active Under 3 years	\$ 250.00
Inactive Full Service	\$ 150.00
Inactive No Service	\$ 105.00
Late Fee	\$ 100.00
Reinstatement (After Non-Payment)	\$ 200.00

VI. LICENSING FEES IN OTHER JURISDICTIONS

Utah's proposed fee increases are reasonable and largely commensurate with those in other states. Attached at *Exhibit "1"* are relevant pages from the ABA's "2009 State and Local Bar Dues, Fees & Member Benefits Survey" ("ABA Survey Chart") publication. As the ABA Survey Chart points out in its

introduction, direct comparison is not always straight forward due to several factors. One factor is whether the bar organization is mandatory (unified) like Utah or voluntary (non-unified or local). Another aspect is that discrete functions like admissions, licensing and discipline may be administered directly by the state supreme court or by agencies other than a state bar and while a bar may collect those fees, it also may be appropriately disbursing them afterwards. In still other jurisdictions, certain core programs or functions are performed by other entities that may assess lawyers directly. Finally, local bar organizations (which charge separate fees) sometimes provide services similar to what the Utah State Bar provides for additional cost.

In reviewing the ABA Survey Chart I (Rankings by Cost to Practice in Each State) or Chart 2 (Total Cost to Practice in Each State - Unified) both at *Exhibit "1,"* it is evident that nearly 20 states have higher mandatory fees than Utah's. Of special note, licensing fees in Utah currently are among some of the lowest in the 17 western states.¹⁴ In fact, out of that group, Utah is the longest-running organization without a licensing fee increase - 20 years. The next state in line, Idaho, has not raised fees in 12 years. That organization, however, is in the same financial position as we are now, and currently requesting an increase in order to continue to provide needed services.¹⁵ Other western state bars have recently obtained increases in their licensing fees and still others have gone to a

¹⁴ As defined by the Western States Bar Conference, an organization formed to facilitate the "mutual interchange of ideas among the leaders of state and local western bar associations", those states include: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Northern Mariana Islands, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

¹⁵ Although Idaho's protocol is to "phase in" proposed increases, they are seeking approval for the exact amount that the Bar proposes: \$425.00.

semi-regular cycle of every two to five years raising fees (like Washington). The ABA Survey Chart 9 (“Dues Increases”) at *Exhibit “1”* contains information related to how long it has been since other state bars have raised their dues.

A summary of current mandatory licensing fees for the western states is as follows:

Hawaii	\$576
Arizona	\$570
Nevada	\$490
Oregon	\$482
Alaska	\$460
Texas	\$435
Washington	\$430
South Dakota	\$415
California	\$410
North Dakota	\$380
Montana	\$370
New Mexico	\$365
Idaho	\$360 (will be \$380, then \$425)
Utah ¹⁶	\$360 (proposed \$435)
Wyoming	\$310
Colorado ¹⁷	\$225
Northern Mariana Islands	\$225

CONCLUSION

It has been nearly 20 years since 1990 when the Bar last raised active licensing fees. The purposes, duties and responsibilities of the Bar as provided by this Court are many and varied but can be directly tied to Bar services and programs. In order to deliver a number of these services, our 20 year-old building, which is starting to require increased maintenance and repair, is routinely over-utilized and a dedicated sinking fund needs to be established. The

¹⁶ The \$360 current and proposed \$435 fees include a separately designated \$10 Client Security Fund assessment.

¹⁷ The (voluntary) Colorado Bar Association fee is an additional \$185.

Bar's operational expenditures are outpacing revenue which is primarily earned through licensing fees. Without sufficient increases, the Bar is facing a future where it is no longer able to provide traditional services and still meet Court-mandated obligations. The revenue growth the Bar has experienced primarily from increases in the number of licensed attorneys, is no longer able to offset the increases in expenses and the pressure to provide necessary services and programs to its growing membership. The Commission believes the requested fee increases are essential to preserve the financial stability of the Bar. Accordingly, the Bar respectfully asks the Court to grant this Petition.

Dated this ____ day of December, 2009.

Katherine A. Fox
Utah State Bar General Counsel