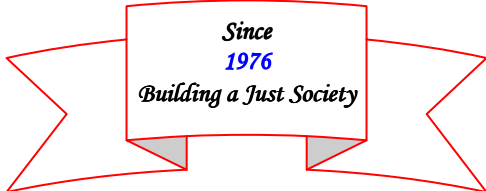


MISSION
To protect the rights of the disadvantaged and persons of limited means by legal representation, advocacy, and education throughout Utah.



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Case Notes

Mike Bulson

Senior Attorney

Public Benefits Task Force
Chair

Social Security Developments

Todd S.: SSA notified our client that it has waived an overpayment of \$52,342.40, finding he was not at fault and lacks the capacity to repay. The overpayment was assessed in May 2004 when SSA determined it had erroneously reinstated the

client in May 1999. The client, who suffers from severe depression on with chronic suicidal ideation, has since been restored to coverage and is seeking to recover the benefits he lost after the 2004 termination.

Pashtoon Q.: This client is an Afghan refugee who has been denied twice by the same ALJ. The case has gone twice to federal court where it was argued that the ALJ did not adequately identify jobs which the mentally impaired, illiterate refugee could perform. Most recently, Magistrate Brook Wells issued a Report and Recommendation concluding that the ALJ's decision was hopelessly flawed and could only be remedied by remand for a new hearing.

Kathy P.: With a severe combination of physical and mental impairments, it

appeared that KP had a very good case for disability. But the ALJ from Las Vegas, brought in to help relieve the backlog of cases in the Salt Lake office, gave the case short shrift, finding the claimant could still work. US District Court Judge Ted Stewart recently reversed and remanded, finding five different errors of law.

Medicaid

Betty S.: Lori Johnson has worked for almost a year in an effort to convince the Dept. of Health that a pain treatment Betty needs is not experimental. Lori appeared at two hearings and ably presented argument for approving the use of radiofrequency ablation (RFA), a procedure that has been widely used to control pain in many patients. The final agency decision denying coverage has now been

appealed to the Utah Court of Appeals.

Consumer

Kay T & David S: These clients are two of the many victims of the payday loan industry. Although their only income is SS disability, a half dozen payday loan companies gave them short term loans with APRs of 300 to 400 percent. When K and D contacted ULS, they had eleven outstanding loans and were unable to keep up with the finance charges needed to roll them over. After one of the lenders filed in the Spanish Fork Small Claims court, a complaint alleging unconscionability was filed in the district court. The lenders eventually agreed to drop their claims in return for dismissal of the district court action.

Nicole C: Our client was served with a collection complaint alleging approximately \$14,000 as owing to an Ogden dentist. After investigating the claim, an answer with several counterclaims, including violations of the Fair Debt Collection Practices Act and the Utah Consumer Sales Practices Act was filed. The plaintiff has now invited a cash settlement at a small fraction of the amount originally alleged.

Final Draft

Mike Bulson

Minimizing Prepositional

Phrases: Legal prose authority Bryan Garner says that the overuse of prepositions is one of the chief causes of flabby writing. Among these, the worst offender is the preposition “of.” Here’s an example:

“A number of cases state that the plaintiff is not required to have knowledge of the fact that the product can be the cause of the particular ailment of the plaintiff if the plaintiff knows that the product can be the cause of various diseases.”

Garner suggests six ways to remedy this problem:

- (1) Delete the prepositional phrase as surplusage.
- (2) Replace the prepositional phrase with a participle.
- (3) Change an *of*-phrase to a possessive form.
- (4) Replace the prepositional phrase with an adverb.
- (5) Uncover buried verbs.
- (6) Change the passive voice to active voice.

Here is how I revised the sentence quoted above:

“Many cases state that the plaintiff need not know that the product caused the particular ailment, if he or she knows the product may cause various diseases.”

Any thoughts? How would you revise it?

Usage and Style: Here are a couple good usage points from Bryan Garner to keep in mind:

Ability; capacity: *Ability* is qualitative; *capacity* is quantitative. Hence, *ability* refers to a person’s power of body or mind—“a writer of great ability;” while *capacity* refers figuratively to a person’s physical or mental power to receive—“her memory has an extraordinary capacity for details.”

Above-mentioned: *Above* is an acceptable ellipsis for *above-mentioned* and, per Garner, is “much less inelegant.”

Addicted; dependent: Those who labor in the Social Security fields should be aware of this important distinction. *Addicted* refers to a compulsive physiological need for a drug; *dependent* refers to a strong psychological reliance. *Addiction* is primarily physical; *dependency* (*habituation*) is primarily psychological.

Quote of the Month: “Respecting the difference between words is not about being pedantic or pompous or even perfectionist. It just means we can express ourselves more clearly.” John Humphreys, *Lost for Words*:

The Mangling and Manipulating of the English Language 80 (2004).

Fund Raising

Gifts generously designated to ULS by individuals participating in **United Way of Salt Lake's** Workplace Campaign total \$4240 (last year's total was \$3906). This funding is in addition to our grant award.

Personnel

Gloria Larrea is the recipient of this year's USB Distinguished Paralegal of the Year Award. This honor is awarded to the Utah paralegal who, over a long and distinguished career, has by her ethical and personal conduct, commitment and activities, exemplified for her fellow paralegals and the attorneys with whom she works, the epitome of professionalism; who has also rendered extraordinary contributions that coincide with the purposes of the Paralegal Division. This award will be presented at the Paralegal Day Luncheon on May 17.

Brenda Teig and **Jennifer Spangenberg** have been nominated for the Utah Nonprofits Association-Qwest Emerging Leader Award. The purpose of this award is to recognize rising leaders within the nonprofit sector who have contributed significantly and

have had less than 5 years of continuous nonprofit experience. Sweet.

Dorothy (Dee) Kowalski has accepted the Paralegal position in Provo which became vacant when **Rebecca Dayley** resigned. She's a student at Utah Valley State College. Her previous experience includes Lincoln Law Office in Orem (she's also been an aerobic dance instructor). She'll be working mainly with Michele Lesué on landlord/tenant and domestic cases.

May Anniversaries

Tanta Lisa Clayton, Attorney, SLC, **2001**
Alexandra Irizarry, Paralegal, Ogden, **2006**
Lori Perez, Paralegal, Provo, **2005**
Meranda Sanchez, Intake Worker, SLC, **2000**
Thom R. Roberts, Board Vice President, **1996**

Training

For more information about these trainings, please contact those who attended.

Fred Anderson attended USB's "Removal to Federal Court April 24.

May 2 was SLCB's "Vouchers, Tax Reform and Raw Milk" attended by **Kate Gunnison**

Eric Mittelstadt is in Nashville at the MIE National

Conference for Legal Services Administrators.

Tim Williams will attend UTLA's monthly "Learn from the Pros" CLE series. Topics include evaluating cases, taking depositions, mediation, bad faith, settlement demands, trial outline, presenting damages, trial witness examinations, and statutory arbitrations.

ULS is sponsoring a series of CLE seminars. All sessions are from 1:30 to 4:45. For more information, contact **Chris Serrano**, ext. 3347 or cserrano@andjusticeforall.org, or refer to his 2/5 email:

6/5 Family Law
9/4 Housing
10/2 Housing
11/6 Consumer, Employment
12/4 Ethics

Personal Risk Management - How to Leave Home

Advice from *The CIMA Letter*, a quarterly publication from our professional liability insurer.

Personal risk management -- how to leave home

When the Sea Diamond cruise ship sank off the Greek island of Santorini this spring, many passengers were unable to retrieve their belongings from their staterooms before evacuating the ship. No one

planning an exciting vacation trip is likely to dwell on the possibility that the ship might sink, or that a hundred other unpleasant things might happen. However, taking a few precautions can help prevent a loss – either on the trip or back home – that might otherwise spoil those vacation memories.

On your trip

Your valuables -- No doubt many of the passengers on the Sea Diamond had bought some of that fabulous Greek jewelry, and it's now lost. Those whose homeowner insurance policies include a "schedule" for jewelry and other valuables will be able to recover the cost of what was lost. Also, if they were traveling with any of the jewelry or other valuables that were already on their schedule, those items are covered, as well – whether they sank on the ship, disappeared from a hotel room, got lost on the beach, etc.

With a valuable articles schedule, you and the insurer agree on the value of the listed articles, insure them for a specific amount, and coverage is worldwide. (An appraisal might be required for individual articles.) Newly acquired items are covered automatically for 30 days, for up to 10 percent of the value of the entire schedule, giving travelers time to add the new items to the schedule. As an alternative that does not

require appraisals, you can choose a blanket limit -- for example, \$20,000 -- that would be available for any combination of items involved in a loss. (Ordinarily, there is a \$10,000 limit on any one item.) However, the blanket coverage does not automatically cover newly purchased items, so it is more limited than a valuable articles schedule, in terms of protecting you when you purchase items while traveling. Even though you can insure the valuables you take on a trip in case they're lost or stolen, you cannot insure their sentimental value. Consider leaving your most prized things at home. If you do take them, don't let them out of your sight, unless it's to put them into your hotel safe.

If you plan to drive in other countries -- Your automobile policy does not provide liability coverage when you drive in other countries, but tourist auto policies are available through some U. S. insurers. Some insurers also offer excess coverage over policies issued in other countries that are common destinations, such as Mexico.

Kidnap and ransom -- If you travel to other countries even occasionally, kidnap and ransom insurance can be a wise investment. There are various coverage forms for both personal umbrella and commercial insurance. Features can include the

services of security firms, including negotiators; ransom at various limits (even if the ransom is intercepted and pocketed by local law enforcement officials); reimbursement of lost wages; bodily injury; property damage extortion; psychiatric counseling after the event; and other expenses.

Minimizing the risk of kidnapping costs nothing – keeping a low profile; not getting into unmarked taxis; varying one's route; not disclosing company affiliation, title, etc. to anyone who doesn't need to know; checking State Department advisories on countries where travel is planned; and other such common-sense practices. But some risk still remains.

Medical needs -- Check the terms and conditions of your group or individual medical insurance, so you will know what treatment will be covered in the locations where you will travel. The "worldwide" coverage in most policies applies only in "life and limb-threatening" situations. However, some travel-accident policies provide services such as emergency medical evacuation and rehabilitation, support for dependent children and spouses when medical emergencies occur, and travel assistance services. Where immunizations are required for travel, consult with your doctor and be sure

to allow enough time for the immunization to become effective before you depart. Also ask your doctor about the need to take an antibiotic in case of dysentery (in addition to an over-the-counter anti-diarrhea product.) Malaria is a danger anywhere mosquitoes are present. Anti-malaria pills are available, and travelers always should apply insect repellent that is at least 25% DEET.

Back at home

Your home is your castle...so fortify it -- According to the Burglary Prevention Council, home burglaries increase as much as 18 percent during the summer, when people are away from home for days at a time. The Council, Fireman's Fund Insurance Company, and security-system providers suggest these precautions:

- Secure doors and windows. (Approximately 30 percent of burglaries don't require breaking in, because doors and windows are left unlocked.) Use deadbolt locks on doors.
- Secure sliding glass doors by placing a rod in the track, and installing bolt locks to keep burglars from lifting the door off the track.
- Lock the garage. (Don't rely on automatic door-opener for security.)
- Create the illusion that you are home by using timers on lights, radios and TV's. Vary the on/off times. Keep some of the shades up, at least in

upstairs windows, as you normally would.

- Mow the grass, before leaving for extended periods.
- Keep shrubbery trimmed, to reduce the number of hiding places for burglars.
 - Keep the perimeter of your home well-lighted. Low-voltage outdoor lighting is inexpensive.
 - Stop newspapers, mail and other deliveries, or have a trusted neighbor collect those things so deliveries do not accumulate. (To arrange for the Postal Service to hold your mail, you can go to <https://dunsapp.usps.gov/HoldMail.jsp>.) The neighbor also might be able to park in your driveway at various times while you are gone, put your trash can at the curb on pick-up day, and return the can to its usual place after trash is picked up. Give the neighbor the phone number of your insurance carrier's 24-hour claims department.
 - Organize a neighborhood watch program.
 - Never leave a greeting on your answering machine saying that you are away.
 - Don't put your spare key under the doormat, above the door, or in any other obvious place.

Insurance credits are available for homes protected by security systems.

Keep an inventory -- If you ever have a loss of property because of burglary or any

other reason, you will be glad you took a few hours to make a detailed inventory of the contents of your home -- including descriptions, dimensions, make and model numbers, serial numbers, purchase price and date (or current appraised value), and photos. Where possible, mark items with identification. Keep the inventory at your office, or some other location away from your home, and keep it up to date. Some of the insurers CIMA works with offer online cataloguing system for information on your valuables (values, locations, appraisals, provenance and images.) In addition to the inventory of your home's contents, you also should keep a list, on paper or computer storage media, off-site that includes your bank account and credit card numbers; investment-account information; insurance policy numbers and phone numbers; and valuable papers such as wills, trusts, deeds, loan and mortgage records. Make sure a trusted family member or friend knows where your valuable papers are and has access to them.

Eliminate a huge risk, with a flick of the wrist -- Water damage due to failure of rubber hoses on washer intake valves is one of the leading kinds of homeowner claims, and an expensive one. Turn off the water intake valves to

the washing machine. (A good idea all the time, not just while you're on vacation.) Use flexible steel hoses, because rubber can deteriorate.

Protect your expensive electronics -- The Hartford reports that damage claims resulting from lightning strikes increased 77% between 2001 and 2006, as homeowners loaded up on personal computers, home theater systems, game consoles, etc. Those expensive electronics will be fried if the electrical surge from lightning can reach them.

Amazingly, the illustrations in most owner's manuals show the power supply cord being plugged directly into the wall. The first line of defense against damage due to electricity surges is a good surge suppressor, available wherever electronics are sold -- UL standard 1449, with a Suppressor Voltage Rating of 330 or lower (the lower the number, the better.) You can plug a few components into a single suppressor, which will cost between \$40 and \$100, depending on its features. Then you don't need to worry about unplugging everything when you go on vacation. (Note that if a surge suppressor does take an electrical hit, you might need to replace it. Many have indicator lights that illuminate if the unit has been damaged.) If you want to go a step farther, a qualified electrician

can install a lightning rod or air terminals on top of your house (they can be disguised to look like a weather vane), and wires to carry electrical charges safely to the ground. Follow National Fire Protection Association standard 780, as well as any local building codes. Yet one step farther would be a whole-house surge arrestor -- installed near the main circuit-breaker panel or electric meter -- that keeps excess voltage from passing through house wiring. The cost will be a \$150 to \$500 for the equipment itself, and a qualified electrician should do the installation.

And finally...

If you're one of those who always worries that you might have left the iron turned on while you're away from home, there is an easy fix...keep it in the trunk of your car when you're not using it.

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Community Legal Center
205 North 400 West
Salt Lake City, Utah 84103-1125
801-924-3374
800-662-4245 x3304
FAX 801-924-3194
mlyman@andjusticeforall.org
www.andjusticeforall.org/uls



The hand that rocks the cradle usually is attached to someone who isn't getting enough sleep. - John Fiebig



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The Board meets every other month beginning in January, usually the 4th Tuesday of the month, at 5:00 p.m.

The next meeting is Tuesday, May 22

Utah Legal Services Directory May 2007

SALT LAKE OFFICE

205 North 400 West, Salt Lake City, UT 84103-1125

Voice: 801-328-8891 Fax: 328-8898

WATS: 800-662-4245 Interstate WATS: 800-945-9885

SSU Fax (2nd floor): 924-3194, SSU vmail group ##300

EMERGENCY INFO 3448

Loginname@AndJusticeForAll.org

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3368		Alfredo Laguna-Mig Asst cell 918-5832
3375	3375	Amber Reed-Para
3373	3373	Alex McBean-Atty
3301	3381	Anne Milne-Exec Dir 414-1829
3318	3380	Barbara Baker-Paralegal/Housing 550-4728
3366	3396	Beatriz Laguna-Para/Mig/NA 918-5832
3383	3383	Bertie Kee-Lopez-Para/NA 918-5824
3337	3367	Bev Jackson-Intake Adv 918-8197
3346	3376	Brenda Teig Atty/Dir of Pro Bono 415-606-6143
3372		Claudia Hilton/Secretary
3347		Chris Serrano-Development/Bldg Maint 859-7972
3313	3382	Craige Harrison-SWI Mng Atty/IT 801-358-8086
3325		Daisy Arellano-Intake Adv
3363	3384	Deana Arellano-Para
3319		Dustin Jansen-Tribal Court Adv
3348	3388	Eric Mittelstadt-Atty/HR Cell 801-573-3636
3379	3379	Fred Anderson-Atty cell 801-918-5218
3393		George Sehara-File Clerk
3316	3386	Gloria Larrea-Para/Housing
3331	3371	Jan Sehara-Para/Public Benefits
3307	3377	Jean Luna-Bookkeeper/Admin Assist
3354		Jenette Turner-Atty cell 801-661-1674
3353		Jessica Wilson-SMP Adm Asst
3339	3389	Julia Vialpando-Admin Asst Mig/NA
3312		Kate Gunnison-Atty 502-7206
3338		Kate Platt Intake Adv
3303	3393	Ken Bresin-Dep Dir cell 801-403-7745
3324	3394	Lori Johnson-Paralegal/Public Benefits
3328	3391	Marty Blaustein-SLC Mng Att/Hsg TF Chair 801-835-5209
3304	3374	Mary Nielsen-Lyman-Exec Secretary
3342		Matthew Johnson-Atty/Public Benefits
3308		Megan Hough-Controller 390-1801
3381		Meranda Sanchez-Intake Adv
3343		Mike Bulson-Atty/PBTF Chair 801-920-1954
3329	3369	Sallie Richardson-SMP Project Director
3365	3385	Silvia Peña-Att/Mig/NA cell 801-209-9386
3320	3370	Sylvia Bosen-Para/PAI/Seniors
3330	3390	Tanta Lisa Clayton-Atty/Seniors cell 918-8753
3341		Tim Williams-Atty 879-8692
3322		Vilma Mosier-Intake Adv

3344 Room 13, 3345 Corner Conference, 3321 Kitchen, 3305 SSU Conference Room, 3350 3367 3374 3377 3378 3398 3370 3371 Volunteer Cubicles (3rd Fl.), 3750 Basement Board Room, 3752 Basement Meeting Room, 3751 Basement Kitchen

To Page: all floors 2309, basement 2305, DLC 2301, LAS 2302, SLC 2300, Ogden 2303, Provo 2304, Cedar 2306, SSU 2308, all ULS 2307 **To Transfer-**Reception: CLC 3799, DLC 2490, LAS 3107, ULS 5700 (recording) (for rotary phone>5700>1>9>hang up) (Spanish>5700>1>hang up), ULS direct reception 8503

Substantive queues: 8505 dom, 8506 housing, 8507 pub bens

WWW.ANDJUSTICEFORALL.ORG/ULS

BANKRUPTCY QUESTIONS 801-374-6766 EXT. 3446

OGDEN

893 24th Street, #300, Ogden UT 84401-2659

Voice: 801-394-9431 Fax: 394-0430 WATS: 800-662-2538

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3009	Gary Anderson-Atty 920-7206
3007	Jennifer Spangenberg-Mng Atty/Domestic/Housing 920-1746
3004	Linda Holley-Secretary/Receptionist
3011	Linda Laws-Para/Housing 540-0954
3003	Paralegal
3005	Sue Crisler-Para/Public Bens
3008	Tyler Larsen-Atty
3001	Reception
3002	Library
3014	Break room

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3511	Carrie Hamilton-Para/Public Bens/Dom
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3502	Katie Baird Reception
3512	Lori Perez-Paralegal
3526	Michelle Lesué-Atty 636-2917
3514	Patricia Abbott-Atty 473-8410
3524	Dee Kowalski Para/Hsng/Dom
3541	Sharon White-Managing Atty 473-7074
3513	Conference Room
3521	Clerk #1
3525	Clerk #2
3531	Clerk #4
3532	Clerk #5
3542	Break room

CEDAR CITY

965 S. Main, #3, Cedar City, UT 84720-4315

Voice: 435-586-2571 Fax: 586-1013 WATS:800-662-1772

Interstate WATS:800-946-2107

Loginname@AndJusticeForAll.org

<u>Ext-</u>	<u>Name</u>
3610	Cherie Stanworth-Paralegal
3611	Steve Julien-Managing Attorney 590-2876

OTHER NUMBERS

264-7657 Adult Protective Services
521-9289 American Civil Liberties Union
530-6801 Anti-Discrimination Division
or 1-800-222-1238
487-5619 Apartment Owner's Association
313-6641 Board of Health
977-9119 Catholic Community Services
538-4377 Child Protective Services
or 1-800-678-9399
359-2444 Community Action Program
(Salt Lake City)
238-2360 Crime Victims Reparation
685-6214 Disability Rights Action Committee
578-3962 Guardian Ad Litem
531-6100 Guadalupe School
(Spanish Street Law Site)
486-4877 Indian Walk-In Center (Street Law Site)
532-5444 Legal Defenders
531-9077 Lawyer Referral Service
or 1-800-698-9077
536-8500 Office of Recovery Services
or 1-800-662-8525
363-7710 St. Vincent De Paul, Ext- 114
(Street Law Site)
297-7037 Tuesday Night Bar
581-6438 U of U Library
532-4841 Utah Dispute Resolutions
(collect calls accepted)
521-2035 Utah Issues
297-7049 Pro-Bono Placement
328-2561 Utahns Against Hunger
483-5444 Valley Mental Health
355-2804 YWCA (Street Law Site)

COURTS

238-7300 3rd District [7801] (press 5 for civil dept.) or
238-7480 3rd District Civil Department [7802]
535-6300 Salt Lake [7762]
565-5700 Sandy [7760]
982-2400 West Valley [7892]
238-7967 Supreme [7852]
578-3900 Appeals [7848]
524-6100 Federal District Court [7847]

HOUSING AUTHORITY

487-2161 Salt Lake City Housing Authority [7740]
284-4400 Salt Lake County Housing Authority [7441]
963-3320 West Valley Housing Authority [7442]

DEPARTMENT OF WORKFORCE SERVICES

524-9000 Expo Mart [7661]
468-0000 Family Center [7660]
536-7000 Metro [7664]
269-4700 South Valley [7663]
567-3800 Midvale [7662]
435-833-7310 Tooele [7665]
435-665-7874 Wendover [7671]
840-4400 West Valley [7666]

The numbers in brackets are speed dial numbers - enter the four digit code to dial.