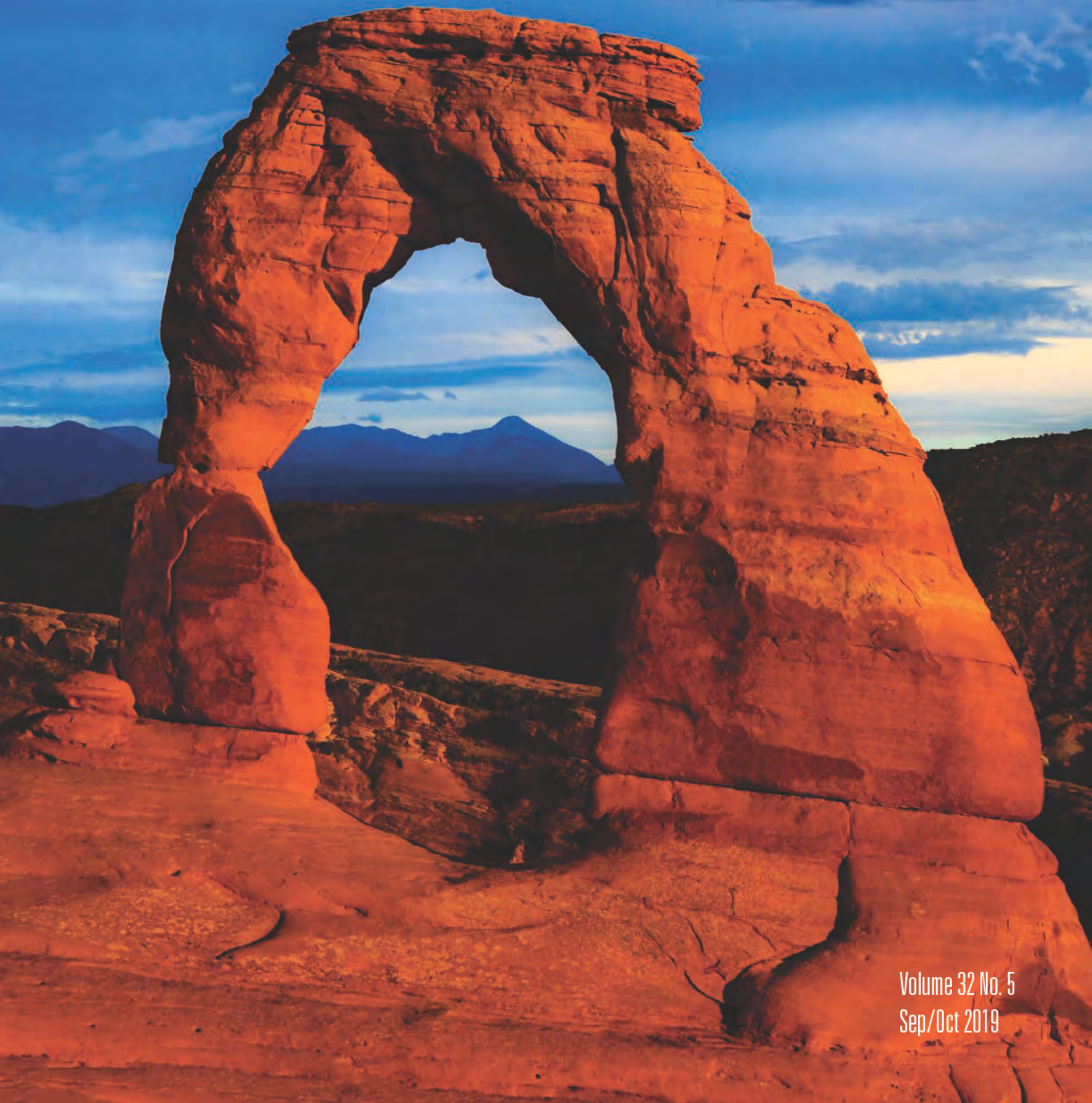


Utah Bar.® JOURNAL



Volume 32 No. 5
Sep/Oct 2019



FALL FORUM INFORMATION INSIDE!

Utah Lawyers Give Hope to Hundreds of Utahns with Criminal Records

by Keith A. Call and Jacob Smith

In August 2017, Amy Daeshel hit rock bottom. Years before, she had a successful career in the mortgage industry. But foot surgery and prescription pain pills led to a heroin addiction. Heroin led to unemployment. Unemployment led to selling meth to feed her addiction. Homeless and hopeless, she found herself in the revolving door of arrest, jail, release, repeat. Six times. Then, in August 2017, something different happened. She was arrested again as part of Operation Rio Grande, a massive effort to root out crime in a Salt Lake neighborhood that had become known for drug dealing. As part of this arrest and \$67 million in state funding, she was given the chance to participate in genuine drug treatment. See Katie McKellar, *Want Your Records Expunged? Salt Lake County Has Hired an 'Expungement Navigator' to Help*, DESERET NEWS (June 25, 2019), available at <https://www.deseretnews.com/article/900076882/salt-lake-county-utah-record-expungement-clean-slate.html>.

Amy took the chance. She successfully completed the treatment and other requirements to graduate from drug court. She now works as a full-time peer recovery coach for Utah Support Advocates for Recovery Awareness and volunteers at other recovery programs. She has her sights on a college degree. See *id.*

"But something's still holding her back." *Id.* She still has drug-related misdemeanor charges on her criminal record, some four or five years old. She has found it "beyond frustrating" that her past criminal record prevents her from

getting housing and employment. "I did everything the justice system told me to do. I graduated drug court. I paid all of my fines. I did everything that was expected of me to get this behind me and taken care of, but yet it still lingers," she said. "It's hard enough to pull your life around from that dark of an addiction... I know what I had to go through. I completed everything successfully... Now I want that stigma erased and just be able to move on with my life." *Id.*

Amy, and hundreds of people like her, have found that their past criminal records prevent them from moving forward with life. So many of them hit a wall when seeking employment, housing, education, and other life-stabilizing opportunities. These barriers can lead to relapse and continuing problems in the justice system.

On June 26, 2019, the litigation section, the Utah State Bar, Salt Lake County, and several other community organizations collaborated to do something about it by hosting a free "Expungement Day." Sixty lawyers and forty-six non-lawyers volunteered their time to help people like Amy begin the process of expunging their criminal records.

Expungement is a statutory process by which reforming individuals can have certain past crimes eliminated from their formal record. Salt Lake County District Attorney Sim Gill, who may have prosecuted some of the clients served at Expungement Day, was one of the volunteers.

KEITH A. CALL is a shareholder at Snow, Christensen & Martineau. His practice includes professional liability defense, IP and technology litigation, and general commercial litigation.



JACOB SMITH, J.D., was hired in 2019 by the Criminal Justice Advisory Council of Salt Lake County for the new position of Expungement Navigator. He asks that any attorneys interested in pro bono expungement work please contact him at JaSmith@slco.org.





The volunteers served 348 individuals seeking expungement. Out of those participants, more than 200 filled out an application, the first step toward expunging their records.

The results of these events are incredible. As part of Salt Lake County's first Expungement Day in 2018, participants were asked whether Salt Lake County could contact them six months after having their records expunged to see how their lives had changed. Many said yes, and participants reported the following:

Our whole notion of the criminal justice system is premised on the notion of rehabilitation. On the premise that when you pay your debt to society, we welcome you back into our community to be an equal partner and an equal contributor to the success of our society. Expungement Day is us delivering on that promise.

See Rosie Nguyen, *A Second Chance at Life: Hundreds Seek to Clear Criminal Record on Expungement Day*, ABC4 Utah (June 27, 2019) <https://www.abc4.com/news/a-second-chance-at-life-hundreds-seek-to-clear-criminal-record-on-expungement-day/> (last viewed July 13, 2019).

- 73% said it is now easier for them to find housing.
- 50% said they are now in stable housing, which they did not have previously.
- 30% received a raise at work.
- 15% received a promotion at work.
- 40% are now accessing educational opportunities they could not previously.
- 70% reported they feel less stress and anxiety.
- 80% reported that they are now happier about life.

Lack of funds and a complex process play huge roles in preventing individuals from expunging their records. Of the 348 people surveyed at this year's Expungement Day, close to half reported incomes below \$30,000 per year and that they had not previously sought expungement because they lacked the financial resources and did not know how to proceed. For those with no legal training, expungement requires an "intimidating amount of paperwork, understanding of legal jargon, months of waiting, and perhaps hundreds of dollars in fees." See McKellar, *supra*. And that doesn't count the legal fees.

Utah lawyers are uniquely situated to help these individuals and families find more solid footing to move forward with life. We have the legal knowledge and skills to understand and navigate the "system." The expungement process is easy to learn. In fact, the volunteer lawyers learned all they needed to know during a short CLE taught by Utah Legal Services's Hollee Petersen at the start of Expungement Day. And volunteering our time to help those in need costs us nothing but a few hours of our time.

Utah Rule of Professional Conduct 6.1 provides, in part: "Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of *pro bono publico* legal services per year..." Utah R. Prof'l Conduct R. 6.1.

Any low-income individuals seeking expungement services are encouraged to contact Jacob Smith at JaSmith@slco.org. Some individuals may also qualify for financial assistance for fee waivers, including the fee for the required background check.

You can help, too. The litigation section, the Utah State Bar, and Salt Lake County will be teaming up for another Expungement Day in October. Watch for details, and plan to set aside a few hours in your week to make a genuine difference in the lives of Utah citizens.

Every case is different. This article should not be construed to state enforceable legal standards or to provide guidance for any particular case. The views expressed in this article are solely those of the authors.

Many thanks to those lawyers and other volunteers who donated a few hours to provide genuine service to hundreds of grateful citizens. The attorney volunteers at the June 26 Expungement Day were:

Paul Amann	Alex McBean
Elizabeth Apgood	Benjamin McMurray
Eric Ashton	Grant Miller
Robert Avery	Marlene Mohn
Mark Baer	Jason Nelsen
Warren Barnes	Phillip Nelsen
Matthew Barraza	Silvia Pena-Chacon
Franklin Bennett	Dori Petersen
Kevin Bischoff	Hollee Petersen
Kenneth Bresin	Cameron Platt
Brian Burn	Candice Ragsdale-Pollock
Elisabeth Calvert	John Riley
Kenneth Carr	Polly Samuels Mclean
John Delaney Jr.	William Schiffgen
Scott Dopp	Lisa Schull
Brenda Flanders	Lori Seppi
Richard Fox	Jeremy Shimada
Tony Graf	Nathalie Skibine
Aaron Hart	Douglas Springmeyer
Jennifer Hernandez	Deborah Stewart
Trina Higgins	Nicholas Stiles
William Holyoak	Noella Sudbury
Brent Huff	Travis Terry
Dennis James	R. Kyle Treadway
Edwin Jang	Tineke Van Dijk
Jill Jaspersen	Staci Visser
Richard Johnson Jr.	Joseph Watkins
Sarah Larsen	Elizabeth Whitney
Michelle Lesue	Charlotte Wightman
Thad Levar	Francis Wikstrom
Robert Lunt	Brandon Wood
Kayla Mahoney	DeAnn Wright