

Minutes of the Committee on Resources for Self-represented Parties

October 11, 2013

Approved 9/26/2014

Members Present

Judge John Baxter, Chair, Lisa Collins, Mary Jane Ciccarello, Barbara Procarione, Judge Douglas Thomas, Jessica Van Buren

Members Excused

Fred Anderson, Emily Chiang, David Dominguez, Judge Michael DiReda, Carol Frank, Robert Jeffs, Judge Scott Johansen, Jose Lazaro, Russ Minas, Shauna O'Neil, Stewart Ralphs, Virginia Sudbury,

Staff

Tim Shea

Guests

Nicole Montgomery, law library intern

(1) Approval of minutes.

Judge Baxter noted the lack of a quorum and deferred consideration of the minutes of June 14, 2013.

(2) Pro bono family law calendar

In Ms. Sudbury's absence, Ms. Ciccarello delivered the report. Ms. Ciccarello said that Ms. Sudbury has been attending the monthly order-to-show-cause calendar held by a court commissioner at the Matheson Courthouse. Ms. Sudbury started the service by herself in July, but now has two attorneys who also help.

Ms. Sudbury meets with self-represented parties before the start of the calendar and answers any procedural questions. She does not represent any of the parties at the hearing. Ms. Sudbury also explains the outcome of the hearing and encourages the parties to pursue further help from the Legal Aid Society of Salt Lake, which has an office in the courthouse, or from the law library or from the self help center.

(3) Attorneys for guardianship respondents

Mr. Shea described the "signature program" he has been developing with bar representatives. Utah statutes require the district court judge to appoint a lawyer to represent a respondent in an adult guardianship case if the respondent does not have a lawyer of his or her choice. The law has existed for many years, but the judges do not have a pool of lawyers to select from. Over the years the practice has developed that the petitioner's lawyer will recruit a lawyer to represent the respondent. Another common practice is for a lawyer to prepare the petition and other documents for the petitioner and appear in court

as lawyer for the respondent. The result of these practices is that respondents are not getting the independent and zealous representation they have the right to expect.

The signature program is technically a pro bono program. The volunteer lawyers cannot expect to be paid, but the statutes allow the respondent's lawyer to be paid from the respondent's estate. The hope is that lawyers will be more willing to volunteer if there is at least the chance of being paid. For the program to work, the clerks of the district court will have to play a role in placing a respondent with a lawyer. The clerk will have a list of the lawyers who have volunteered for service in the clerk's judicial district, and the clerk will email a notice to those lawyers of the need to find a volunteer. If that effort fails, a Board consisting of representatives from several bar organizations would assist in placing the client with a lawyer.

Ms. Collins expressed interest in developing a similar program for lawyers to represent self represented parties in an appeal. She said that several lawyers have contacted her about the possibility of serving. Mr. Shea suggested that she could take the lead in bringing people together to organize a program, but that she would probably want the appellate section of the bar to recruit lawyers and train them in appellate representation. She asked whether she might make the initial effort to try to place a client with a lawyer. Mr. Shea suggested that she ask for an opinion from Brent Johnson. Ms. Ciccarello suggested involving the paralegal section of the bar to provide on-going administrative support for the program.

(4) E-filing through OCAP

Ms. Van Buren reported that OCAP will not support e-filing by self represented litigants until Spring at the earliest. She said that some OCAP users believe that their papers have been electronically filed at the conclusion of the OCAP interview. She said that there were technical glitches when OCAP was first rolled out using HotDocs, but these have been getting better.

(5) Self Help Center report

Ms. Ciccarello reported that the SHC had recently completed its first fiscal year of operating as a statewide program. She said that the SHC has one full-time attorney and 5 part-time attorneys. She said that all of the attorneys are bi-lingual and able to carry on a complete interview in English or Spanish. She said there have been almost 40,000 contacts since the SHC started, with about 16,000 contacts during FY 2013. She said there are about 90 contacts per day.

She said that about 91% of the contacts are English speakers and about 5.5% are Spanish speakers. About 47% earn less than \$30,000 per year and another 22% earn less than \$60,000 per year. Judge Thomas said that a few of the comments from attorneys on his evaluation surveys were to the effect that, by referring self-represented parties to the SHC, he was giving the party too much help. Ms. Van Buren said that the SHC is not taking clients from lawyers because the SHC's clients cannot afford a lawyer.

Ms. Ciccarello described the SHC's efforts to reach out to many communities, including the Vietnamese community and the Latino community. She said that the SHC helps screen cases for the bar's pro bono program and modest means program.

Draft: Subject to approval

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(6) Pre-filing document review

Mr. Shea reminded the committee that for their next priority they had decided to try to develop a program in which a self-represented party could have his or her pleadings and other documents reviewed before filing. He asked the committee to think about possible models to achieve this: an appropriation to hire people to perform that service around the state; hire people to perform that service as part of the self help center; try to develop a signature program through the bar; or any other approach that might prove successful. The committee will discuss this topic more fully at the next meeting.