

Minutes of the Committee on Resources for Self-represented Parties

September 26, 2014

Approved 12/12/2014

Members Present

Judge Marsha Thomas, Carol Frank, Chris Martinez, Virginia Sudbury, Lisa Collins, Barbara Procarione, Jessica Van Buren, Eric Middlestadt, Sue Crismon, Susan Griffith, Carl Hernandez

Members Excused

Leti Bentley, Judge Doug Thomas, Robert Jeffs, Judge Michael DiReda

Staff

Nancy Sylvester

Guests

Judge John Baxter

Mary Jane Ciccarello

Tim Shea

(1) Welcome

All members introduced themselves and said how they interacted in their respective employment with self-represented parties.

(2) Approval of minutes.

Judge M. Thomas noted that there were two sets of meeting minutes that needed to be approved. Virginia Sudbury moved to approve the minutes, Mary Jane Ciccarrello seconded. The minutes from October 2013 and June 2013 were approved by unanimous vote.

(3) Honoring Judge Baxter

Judge M. Thomas gave the history of the committee and honored Judge John Baxter for his years of service. Judge Baxter gave a few remarks thanking everyone on the committee and in the AOC for their work.

Judge Thomas announced the history of the committee as follows:

The committee first met in June 2005. One of the first things that they did was to begin meeting to study the needs of self-represented parties, and to develop policy recommendations concerning those needs. They came up with a questionnaire – and that alone took several committee meetings, and in 2006 those surveys were collected from 15

rural and urban district and justice courts. Self-represented parties, judges, clerk staff, and attorneys were surveyed.

The 2006 survey found the following – and I’m reading from the survey that “self-represented parties require more time than represented parties – expect court staff to provide advice they are not allowed to give, lack reasonable expectations about case outcomes, and fail to bring necessary witnesses and evidence to court and to understand procedural and evidentiary rules.”

Based on the results of the survey, the Committee presented a strategic plan to the Judicial Council in July 2006. In that strategic plan, the Committee recommended goals for programs to assist self-represented parties including ensuring access to the legal system; increasing education of court users, court personnel, and community organizations; clarifying the court system; increasing efficiency and effectiveness of the court system by reducing the time required of judges to explain court procedures; reduce the number continuances; and to increase understanding of court orders.

The principles of the court services provided described is that they should be equally available throughout Utah; available to all parties involved (so defendants as well as plaintiffs) and should be available regardless of income. They should also be designed to supplement and not supplant legal representation.

They envisioned a web of services – some by the courts, some by community organizations, and some by lawyers. Court sponsored recommendations included the Self-Help Support Center; clinics and workshops (for self-represented parties on topics most commonly of interest to them; for clinic and workshop volunteers and for court personnel and community organizations); assistance from clerks and a self-help work space in each court; having the state law library promote statewide access to legal information and to provide forms, instructions and information; to improve the court website; and to improve clerical and judicial training. They recommended some rule changes to allow clerical assistance with forms by a broader audience, and recommended support of unbundled legal services, and support of low, no-fee representation.

I like to say the committee, came, saw and conquered under the direction of the Judge Baxter and the support of the judicial council and court staff.

The committee gave 12 specific recommendations in that 2006 strategic plan and there was a subsequent strategic planning session in 2011 that updated those recommendations – and if you look at those - most have been completed. For example, under the wing and nurturing of Jessica Van Buren (the state law library director) and Mary Jane Cicerello, the Self-Help center was born. It is now flourishing and is state wide. A forms subcommittee was created and they in turn created and created and created many forms. The most recent recommendations of this committee were to begin to include flowcharts and to study a program to review the court forms before they are filed by a pro se party, not for content, but for completeness. There were videos on small

claims and landlord tenant uploaded – you can still see Tim Shea on YouTube talking about how to collect a judgment. Attorneys were trained, too. One project I remember was training attorneys to provide limited representation to service members. The unauthorized practice of law rule was changed to allow clerical assistance in completing a form where no fee is charged to do so. The website redesign happened using more user-friendly language. There was and still is a class available for court clerks on self-represented parties, and Judge Baxter and Judge Shumate went and learned about best practices in Self-Represented litigation and shared what they learned through presentations to other judges. This committee also wanted to investigate processes that may help the pro se party at the hearing. What we saw in that area was the development of the LOVs clinic in third district – initially called “Family Law Resolution day” – blossom into an example of a process that can work in this area, where Virginia Sudbury and Mary Jane and Legal Aid (Chris Martinez) appear and help parties try to finalize their cases one way or another in Commissioner Sager’s Order to Show Cause calendar. It took time to do all of this – it was just last year at this time that the self-help center reported in the minutes they had completed their first fiscal year operating as a state-wide program. The forms committee is constantly meeting and creating. The resolution day idea or LOVs clinic is in the process of growing and expanding.

So, now the main question is what is next for us?

(4) Why we are here and what we have done

Judge M. Thomas had committee members read through Rule 3-115, which governs the committee’s projects. She also read through statistics from 2013 showing the percentages of self-represented parties within the state court system and in which areas they are most prevalent. She noted that you can see the top four are name changes, civil stalking, guardianships, and divorce (where 46% of the cases have no attorneys involved).

(5) Committee composition & membership

Ms. Sylvester went over the committee composition under Rule 1-205. She noted that there was a vacancy for a representative from the University of Utah Law School and that one would be appointed from the pool of three during the month of October. The candidates have been sent to the Management Committee for selection and then will go to the Judicial Council for final approval. Ms. Sylvester also noted that there would be a vacancy for the Bar Representative position in January and discussed the possibility of tailoring this position to the Bar’s Pro Bono Coordinator. Committee members decided that it was better to keep the position broad in order to potentially attract Bar leadership to the position, which could help in accomplishing projects at the Bar.

(6) Subcommittees and new projects

Ms. Sudbury talked about LOVS Clinic with 3rd District and its successes. The clinic has taken over the four commissioners' designated pro se calendars to help provide on the spot legal advice and procedural information to pro se litigants. She hopes to expand it state-wide.

Ms. Griffiths discussed her clinic, Timpanogos Legal Clinic, which helps people through their domestic cases. She also discussed limited representation, which matches law students with clients, and limited court representation, which matches pro bono attorneys with clients. TLC's goal is to help people by maximizing the usefulness of pro bono attorneys.

Ms. Van Buren brought up an appellate court pro bono project, which has been a collaboration of Ms. Ciccarello, Ms. Collins, and Ms. Van Buren and was initiated by Judge Michele Christiansen. The process is as follows: gather the cases that are pro se, have a round table to look at the cases, and use a panel to assign them to volunteer attorneys. They are not going to have income restrictions and they are currently updating the forms. Ms. Crismon pointed out that the Check Yes survey shows that 30-40 attorneys are already willing to take appellate case. The screening and assigning cases will be done by a panel of attorneys, but the court could help with getting the record to those attorneys. Mr. Hernandez weighed in and said that law students could help with the appellate cases. Ms. Crismon brought up the challenge of matching students, that there is a need for faculty willing to do this. Mr. Hernandez said that there are clinical alliances at BYU that could be tapped.

Ms. Crismon said the Bar has contacted ULS about doing a guided referral, so that idea could have funding now.

Ms. Crismon also brought up the fact that 2006 was the last "needs survey" done.

Ms. Van Buren brought up the fact that the FY 2013 statistics on self-rep parties were not entirely accurate due to some system glitches.

Judge M. Thomas had everyone look at the list in the agenda and write their ideas down on sticky notes that they wanted to focus on under the various categories: Document Assembly/Assistance/Case Resolution; Education; Rules/Legislation/Funding; Self-Help/Triage; and Other Ideas. Judge M. Thomas then went through each category and read off the ideas to group things together.

(7) Upcoming items for the Committee

Before concluding, Judge M. Thomas discussed some upcoming items. Next month – in October – she and Ms. Sylvester will present to the Judicial Council on the status of the committee. The full committee will meet again in December. Between now and that meeting, she and Ms. Sylvester will compile the results of the committee's project ideas and incorporate that into the existing strategic plan. She said she anticipated activating some subcommittees based on the needs of the projects the committee selected. She and Ms. Sylvester would email the list to the committee members individually in order to find out where they want to put their time. Then, when the committee meets in December, we will look at the next required steps.

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The meeting adjourned at 1:30 p.m.