

## **Minutes of the Committee on Resources for Self-represented Parties**

December 12, 2014

### **Members Present**

Judge Marsha Thomas, Leti Bentley, Virginia Sudbury, Eric Mittelstadt, Jessica Van Buren, Chris Martinez, Susan Griffith, Judge Doug Thomas, Jaclyn Howell-Powers, Sue Crismon, Carl Hernandez

### **Members Excused**

Carol Frank

### **Staff**

Nancy Sylvester

### **Guests**

Keri Sargent (in Carol Frank's place)

Mary Jane Ciccarello

Stewart Ralphs

### **(1) Welcome and approval of minutes.**

Judge Marsha Thomas welcomed everyone and proposed an amendment to add Judge Evershed to the members present in September's minutes. Mr. Mittelstadt moved to approve the minutes as amended. Mr. Martinez seconded. A unanimous vote approved the minutes.

### **(2) Introduction of new member**

Judge M. Thomas introduced Jaclyn Howell-Powers, who is the new University of Utah School of Law representative. She has been at the law school since 2010 and is also a former court clerk in 2<sup>nd</sup> District court. The entire committee then introduced themselves.

### **(3) Legal Aid Society of Salt Lake**

Mr. Ralphs spoke about Commissioner Sager's pro se calendar in the Third District. He explained that it started in January 2014 and they moved on to also doing the dismissal calendar. Judge Hansen was thrilled with it so now all four commissioners doing domestic cases in the courthouse are doing 2 calendars per month, which works out to two calendars per week for Legal Aid, et. al. Mary Jane Ciccarello of the Self-Help Center, Legal Aid Society of Salt Lake, and the LOVS Clinic are all involved, as well as a cadre of local attorneys. Parties get a word document generated at these calendars—this helps the court, the clerks, the parties, and the system as a whole. But it takes the cooperation of all players: members of the bench, clerks, Legal Aid Society, LOVS, the Self-Help Center, etc. Clerks send calendars to Legal Aid and they can do conflict check. Goal: people walk out of court with court order. Have a cadre of private lawyers that now help. Legal Aid doesn't have access to pleadings, and not everyone

brings theirs to court. Clerks will often have to print out the pleadings. Lawyers go over pleadings within minutes and then take a bifurcated approach of some legal argument, and then parties fill in facts to the judge. Even people on dismissal calendar are walking out with orders. Some will say, I just want to get a divorce, and they are able to get it done quickly. Mr. Ralphs went through the handout of current services. The following is a sample of what he covered:

- 1) Legal advice on Thursday afternoons— Parties can get advice before they file and the attorneys make sure they are asking for appropriate things. By the time pro se parties get to hearings if they don't have this advice, the case is often times a train wreck. They won't have what they asked for. Parties at this clinic are representing themselves, but just getting legal advice.
- 2) Mediations— almost all family law cases are subject to mediation now. Set up on Tuesday afternoons. If parties come to a resolution in the mediation, they can walk into a courtroom and put it right on the record.
- 3) Representation at pre-trial settlement conference— commissioners can hear parent time and custody in an informal manner under Utah Code of Judicial Administration Rule 4-904. Pro se parties are relieved of the burdens of rules of evidence, and the commissioners are free to ask the questions they need to ask.

Ms. Crismon asked the question of whether financial matters can be worked in mediation and then put on the record in these 4-904 conferences (since only judges, not commissioners, can decide financial matters). Mr. Ralphs said yes. Mr. Ralphs said the hearings usually end up with the same result as if done by, but they done more quickly and for free. Domestic cases nowadays are way too long and way too expensive for the average moderate income Utahn to get through the system. Legal Aid is able to help 6-8 people per week that they couldn't help in-house. The target income range <300% of the federal poverty level. There is no means test. The attorneys do a formal appearance on the record, they treat the parties as clients for the day, but after that, the parties have to come back on the Thursday afternoon to get further advice. Stewart sells the program to potential Legal Aid clients by telling them it's free and it's faster if you do it yourself. That is because Legal Aid still has a sliding scale fee if they do it in-house.

Judge Doug Thomas asked about the jurisdiction of Legal Aid. Mr. Ralphs explained that it is only Salt Lake County.

Ms. Crismon. brought up the online programs that are starting up.

Ms. Crismon also asked if there was a need for more attorneys. Ms. Sudbury said they need 8 lawyers on each calendar. Ms. Crismon said there is education that ULS provides on domestic cases for lawyers that do not regularly practice domestic.

Ms. Ciccarello noted that there is a great need for interpreters, but fortunately in this courthouse, there are interpreters fairly easily available, although there is an issue with them being used as scribes.

Mr. Martineze said they need more attorneys, more scribes.

#### **(4) New Strategic Plan**

Judge M. Thomas brought up the need for a new strategic plan. She said the sticky notes on the wall at the last meeting were summarized into the yellow handout, and then Judge M. Thomas summarized the old strategic plans into the blue sheet. Judge Thomas said she and Nancy met with Dan Becker, who was very positive about the ideas the committee came up with. He gave some ideas on some different things to be working on. Judge Thomas and Nancy reported to the Judicial Council on the ideas and will be going back to the Judicial Council in the spring with the strategic plan. She noted that sub-committees have been formed to work on projects and that there was still time to express interest in them. She asked the subcommittees to start thinking about priorities. For the strategic plan, there will be 6-12 priorities from the committee as a whole. She said it's okay that some sub-committees have overlapping projects because the committee will then break them into the different priorities that will comprise the strategic plan.

#### **(5) Subcommittee updates**

Self-Help/Triage:

Ms. Ciccarello gave the update. She said the guided referral idea will be a long-term triage effort through the Utah Bar. Sean Toomey expressed interest in the idea. The program will ask what the patrons needs are, much the way a Utah Legal Services intake does this. It will then provide online resource to help guide people to better referrals. The Bar had a meeting held a meeting with ULS to discuss whether this was something they would be willing to fund. The concern was raised that this may not rise to the level of adoption in the strategic plan. There is a grant to develop virtual services delivery, and the courts are not grant recipient. Mr. Mittelstadt talked about the grant and what it required. Ms. Bentley volunteered that the virtual services are not that efficient. For example, patrons will go on a Skype call at a DV shelter for legal assistance, then go to Multicultural Center for further assistance, and then the Multicultural Center still calls the Self-Help Center for help. Ms. Sargent echoed this—she said virtual services are dependent upon technology in local library. Ideally, in rural communities, a student or legal aid would be sent once a month to sit down and help patrons. Ms. Griffiths said the technology they now use is different from Skype and the session is not just limited to 30 minutes. She said this gives TLC so much more flexibility. This is document preparation, not just legal advice. You can even access it on smart phone. Ms. Crismon noted that by the time a patron is at the document assembly stage, they should have already been referred there. They should be coming in with procedural history known. Regarding web-based screening this committee is going to be acting as a support because it's not a courts project. Ms. Ciccarrello echoed that grant recipients can be supported by the committee. Ms. Van Buren then discussed how the bar website is a mess because no one can look up lawyers now based upon practice areas. She said the committee needs to put pressure on the bar since the Law Library and the Self-Help Center can't refer to private attorneys. Attorneys should be concerned.

Doc Assembly/Assistance/Resolution:

Ms. Sylvester reported on the concern of malpractice insurance as a barrier to the attorneys being able to provide clinical pro bono efforts. She suggested based upon the sub-committee's feedback that the

Bar should be able to take on better insurance for attorneys. Ms. Crismon then informed the committee that the Bar is a 501c(6) so it is tied to only a certain kind of insurance. The Bar is not able to cover clinics and modest means, although she noted new attorneys can get a policy for about \$500. Limited legal advice clinics are approved Bar efforts, though, and ULS already does reverse referrals like Michigan. Ms. Griffiths said the clinics that need coverage are the big concern. Ms. Crismon said that the Office of Professional Counsel must be covered, so the Bar is concerned about losing its insurance if it takes on too much. She said the committee needs to bring in John Baldwin on the conversation. Ms. Crismon suggested that organizing the Pro Bono Commission as separate non-profit could be a possible solution. Ms. Ciccarello said the subcommittee needs to gather this information and bring it back to the full committee. She also noted that the Pro Bono Commission is expanding, which is a good thing.

#### Rules/ Legislation/ Funding:

The subcommittee is focusing on the 3<sup>rd</sup> and 4<sup>th</sup> year practice rule. Ms. Howell-Powers reported on this. She said all of the research has already been done on this topic, but a big issue right now is that opposing counsel must give permission for law student to appear. No other states do this. 26 states allow law students to appear in court. One state allows 1L students to appear, but generally, students can't be paid, the dean must certify them, and certain classes must be completed. Professor Hernandez noted that we have 2 of the best law schools in the country in this state and should be using the students more. He said he has a group of students working on this project in his legislation class and noted that California's rule, for example, is completely different than Utah's. This is putting students at a disadvantage in the learning process.

#### Education:

Judge M. Thomas noted that Ms. Ciccarello is on every subcommittee. Ms. Ciccarello reported on the public education classes by the Self-Help Center. She said her attorneys are offering classes in local libraries on the courts, including in Spanish and noted a good partnership between the Self-Help Center and the Salt Lake County library system. One of her staff is also presenting a series of public education classes in Spanish at the West Valley City courthouse. The first class was on service of process in Mexico. Subsequent classes will be on OCAP programs. This is not advice, but information for people doing this on their own. She said the face-to-face classes offer real advantages to people. Another project they are working on is telenovelas. They are using PowerPoint, images, a script, and this is all low cost or no cost to put on court website. They will be working on educating other professionals on resources, too.

#### Language Access/working with Bar

The Language Access Committee reported the need to increase the relationship with the Bar. Ms. Ciccarello, Ms. Bentley, and Ms. Van Buren also said language access is one of the biggest issues facing the courts. ULS and TLC agree in a big way because they see it every day. The need for interpreters is also a big issue. Ms. Van Buren has a program now where an undergrad is assigned to go through forms with people. They act as scribe. But one student working 12 hours per week is not enough. California is on the

forefront with Justice Corps. They have created a roster of students to help at courts. Justice Corps could be something that this committee could help launch. This is part of AmeriCorps but would be all court-based.

#### Forms subcommittee

Ms. Ciccarello, Ms. Van Buren, and Brent Johnson comprise this subcommittee and it operates quietly. They just forwarded 3 packets to Jason Ralston (webmaster) on 402 reductions, forms related to opening pieces of adoption, and excess funds. The process is that the form once its ready starts with a small subcommittee of the Board of District Court Judges, then it goes to the full Board, then it's packaged and sent on to Mr. Ralston to put on the website. They are currently working on revisions to protective order forms, they also have an approved new summons form, which added that if you want to answer the complaint, here is the link on the court's webpage, and if you need to find legal help, links to that page.

Judge D. Thomas—brought up issues with needing more pro bono attorneys and more law students. He said the bench would be supportive of law students' assistance.

#### **(6) Next steps**

Marsha will take "starred" items and those will go in the strategic plan. Subcommittees will continue to meet. The next meeting is in March.

The meeting adjourned at 1:36 p.m.