

Agenda

Committee on Resources for Self-represented Parties

June 12, 2015
12:00 to 1:30 p.m.

Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Judicial Council Room, Suite N31

Welcome and approval of minutes	Tab 1	Judge Marsha Thomas - Chair
Announcements		Judge Marsha Thomas
Affordable Attorneys for All		Sean Toomey, Rob Rice
Adoption of Strategic Plan	Tab 2	Judge Marsha Thomas
Law Student Practice Rule	Tab 3	Carl Hernandez
Self-Help Center/Law Library Updates		Jessica Van Buren
Timeline Development for Strategic Plan Priorities		Judge Marsha Thomas
Other Business/Future Meetings		Judge Marsha Thomas

[Committee Web Page](#)

Proposed Quarterly Meeting Schedule: Matheson Courthouse, Judicial Council Room, 12:00 to 1:30 p.m. unless otherwise stated.

September 11, 2015
December 11, 2015
March 11, 2016
June 10, 2016

TAB 1

Minutes of the Committee on Resources for Self-represented Parties

March 13, 2015

Draft. Subject to approval

Members Present

Judge Marsha Thomas, Carol Frank, Jessica Van Buren, Barbara Procarione, Jaclyn Howell-Powers, Virginia Sudbury, Chris Martinez, Leti Bentley, Sue Crismon

Members Excused

Eric Mittelstadt
Judge Douglas Thomas
Lisa Collins
Carl Hernandez
Susan Griffith

Staff

Nancy Sylvester

Guests

Mary Jane Ciccarello

(1) Welcome and approval of minutes.

Judge Marsha Thomas welcomed everyone and asked for a motion to approve the minutes. Ms. Crismon made the motion and Ms. Sudbury seconded it. The December 2014 minutes were approved as written.

(2) Announcements: Rule Change and New Member

Ms. Sylvester announced that Utah Code of Judicial Administration rule 1-205, which adds a representative from the Self-Help Center to the committee, will go into effect on May 1, 2015. That means Mary Jane Ciccarello will now be an official member of the committee by the committee's next meeting.

Judge M. Thomas announced that the Utah Bar is in the process of seeking out replacements for the Bar representative position. Robert Jeffs has been on the committee since 2007 and his term ended in January. Judge M. Thomas and Ms. Sylvester got in touch with John Baldwin about this and they will send 3-4 potential replacements for the Judicial Council to consider.

Judge M. Thomas then made a few more announcements:

Ms. Sylvester and Judge Thomas met with John Baldwin, Michelle Harvey, and Elizabeth Wright (Bar leadership) at the Bar since the last time the committee met. The five of them discussed all of the projects the committee is doing. The Bar leadership said the web-based triage is moving forward. They confirmed the issues with malpractice insurance and then told a story about issues with sign language interpreters and modest means. They said in one case, the sign language interpreter's rate was more than

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the modest means attorneys, which was hugely problematic. Ms. Crismon suggested that it could be possible to tap into student interpreters as a resource in those cases. Ms. Sudbury then asked whether we can use court interpreters. Ms. Van Buren and Ms. Ciccarello said that wouldn't be possible because court interpreters can only be used in court proceedings.

Judge M. Thomas went on to discuss further the meeting with the Bar. She said that document assembly was the next project to focus on and the Bar leadership said they agreed. But they expressed concern with OCAP documents, saying some pro bono attorneys won't help with OCAP because of the nature of the documents and complications with answering them. The Bar meeting then discussed the virtual grant and Ms. Ciccarello's lawyer of the day project, which is part of a Legal Services grant. Bar leadership was very positive about both of these.

Regarding document assembly, Ms. Crismon asked what the real issue was with this. Ms. Crismon said, and Ms. Sudbury echoed this, that attorneys probably prefer their own version and that it's hard to respond to OCAP documents. She said it may be worthwhile to poll attorneys on exactly why they don't like OCAP documents.

Judge Thomas continued to discuss the meeting with Bar leadership. She said they also discussed the language access issue and the 3rd year practice rule. Elizabeth Wright (general counsel) is the one to work with on this. They also discussed the Bar's website and its directories. They indicated that they were in the process of trying to improve it. They said they sent out about 300 postcards to solo practitioners regarding the new directory but they got only 15 back – so more education is needed of attorneys on this issue. Another thing they brought up was the fact that the futures commission was looking into raising small claims' jurisdiction to \$15k.

Judge Thomas suggested that John Baldwin may have talked to Lincoln Mead regarding the website because Lincoln then got in touch with Judge Thomas. He suggested that there may be ways to do more filtering and that an email could be sent to the attorney when a referral is made. Lincoln also said Ty Barra (courts) came up with an idea on OCAP. At the end of the petition, it could link up somehow with the new Bar directory.

Ms. Ciccarello said the directory is a huge issue – the Self-Help Center wants to refer to attorneys, but can't because people will disappear on the directory from one day to the next. They are now telling people to Google attorneys. Ms. Sylvester suggested that perhaps the committee could write a Bar Journal article once the new directory is up. Judge M. Thomas and Lincoln could co-write it. Ms. Crismon said it is helpful to know what we want in a directory and to tell the Bar. What is currently operating is not working but there are new things launching over the summer.

Judge M. Thomas then talked about her meeting with Judge Evershed. She met with him while she was in Vernal recently. She said he is going to try to a pilot project in 8th District. He is going to put a link in the summons to the courts' YouTube video regarding what to expect when you come to court. He is also going to poll judges and clerks regarding what's wrong with self-represented parties' forms that's causing so many headaches.

(3) Subcommittee Reports

Education Subcommittee

Mary Jane Ciccarello gave the update.

There are 3 areas they are focusing on – increasing classes and videos; fotonovelas and webpages; and educating professionals

Ms. Ciccarello said that she covered much of this in the report attached to the agenda. Much of this is already being done by the Law Library and the Self-Help Center. But it takes tremendous resources and labor.

They are trying public library classes and will report back. They intend to spread these around the state once they learn how it goes.

Regarding the webpages and fotonovelas, they are working as quickly as they can. There is not much the committee can do. The biggest problem is that there is a resource issue. They simply need more money for more staff.

Regarding educating professionals, including educating judges and court staff on what is needed and how to deal with self-represented parties, this is more of an internal court issue and that's why there is an Education Department.

Carol Frank and Barbara Procarione volunteered what the issues are for clerks. The clerks try not to fill out OCAP, and instead send court patrons down to the library for help. They said where judges and clerks stumble is if something changes with respect to court resources. They said the administration needs to educate more. Ms. Ciccarello noted that this is an internal issue that can be worked on and she also said that in rural areas, more libraries can help. Ms. Ciccarello referenced a one-time grant to train public librarians that the Self-Help Center piggybacked on.

Ms. Ciccarello then elaborated on the challenges the Self-Help Center faces, primarily the fact that it is almost entirely staffed by part-time people. She said we need a more substantial Self-Help Center; we need full-time employees in the center because that is where many of these educational efforts will take – and are taking – flight. She said the committee can still make suggestions on education that's needed.

Ms. Ciccarello also discussed a project she is working on with a clerk. She is working on finding out how to better help pro se litigants at commissioner hearings. One solution is to create a template for minute entries during the hearings. Clerks would send the template to the Self-Help Center, and the Self-Help Center could then create the orders electronically and send them right back.

The next step for this subcommittee is putting in the Strategic Plan more funding for the Self-Help Center. This must be a top priority for this committee. Ms. Ciccarello said the Self-Help Center was recently part of a nationwide study. We are at only 1% of what California spends on

their self-help centers, which means we are at the bottom of the barrel in terms of spending on self-represented litigants.

Forms Subcommittee

Ms. Van Buren gave the update and said they will continue to do what they are doing. She laid out process and noted that topics come to them as Ms. Ciccarello flags what is needed (i.e. orders to show cause; motions to excuse mediation). The way Ms. Ciccarello knows what is needed is if they get recurring requests for forms in the Self-Help Center or when clerks come to Ms. Ciccarello and tell her they have repeated requests for something. Ms. Ciccarello suggested that perhaps Judge Evershed would like to join the subcommittee since he is putting some of his own ideas into practice in his district. Ms. Ciccarello noted for the committee's benefit that the subcommittee is different than OCAP, which is legislatively formed. She also noted that local courts have forms that they use for their own practices.

Language Access Subcommittee

Mary Jane Ciccarello and Leti Bentley gave the update.

Ms. Ciccarello began by stating that there is an overwhelming need to prioritize language access, including access for the functionally illiterate. Referencing what New York is doing successfully, she said Utah needs to start on a very small scale a court navigator program in the 3rd and 7th Districts. These navigators would help non-English speakers complete forms, go through OCAP, and navigate around court.

Ms. Crismon noted that she has seen the success of navigation at Utah Legal Services, too. She said she has an attorney who took an illiterate client around to all the agencies she needed to access to right her legal problems (i.e. social security, vital statistics, etc.). She suggested working with the Hinkley institute to pull student navigators. Ms. Van Buren has already done this in the Law Library – she has an undergrad intern every semester, which has been tremendously helpful. She works hard to make sure they are trained and able to help court patrons.

Ms. Ciccarello noted that anyone who comes on as a court navigator must have an incentive to do the work, such as an intern getting school credit, or a fellow receiving a stipend. She suggested also working with the Bennion Community Service Center and Salt Lake Community College's paralegal program. She said if this works and can show this is what we have done, then we can apply for a JusticeCorps grant the way California has done. AmeriCorps doesn't have enough placement opportunities in Utah, but the money is there.

Ms. Bentley then elaborated on Ms. Ciccarello's report. She said she read the report that Ms. Ciccarello sent regarding what New York is doing. The Moab Multicultural Center is already doing a lot of these things; she said the biggest work they do is navigate. They don't give legal advice and are very scared to cross the line. They stay far behind it as much as they can. They go to court with clients and also do a lot of social work, such as going to agencies like DCFS and law enforcement (for police reports) with their clients. They also take notebooks to court and write

down everything the judge orders and then explain it to their clients. She noted that people from other countries, especially Central and South American countries, are afraid to be in front of the judge. It is a different experience in their countries where the legal systems are corrupt so often times they just plead guilty to get it over with or don't take advantage of opportunities to pay less of their fines. For example, in cases of driving without a license, the judge will give their clients the option to either pay a hefty fine or take driving classes and get a real license. Often times, they would just pay the fine. Now the Multicultural Center is offering classes to teach people the contents of the driving booklet. This allows them to pay fewer fines, which in turn helps their families. Judge Tubbs from the Moab Justice Court is now recognizing work that the Multicultural Center is doing and is noting its effectiveness, although he was initially skeptical. This works still needs the support of this committee if it's going to gain wider acceptance. Navigators really address these problems holistically, so this should be a big focus of the committee.

Ms. Crismon inquired whether this could become a program like the Court Visitor Program, where there are staff people centrally who dispatch volunteers to courthouses across the state. Ms. Bentley said at least in Moab, the University of Utah extension could give credit to social worker students for navigating, although they must be bilingual. Ms. Ciccarello said New York identifies its navigators with t-shirts so that the court staff know why they are there. She also said that the Moab Multicultural Center, and those like it, should become court partners since they are increasing access to justice and making compliance by non-English speakers more possible.

Rules, Legislation, Funding Subcommittee

Ms. Howell-Powers gave the update on this subcommittee. She said they met at BYU last month and tried to determine what the current 3rd year law student practice rule looks like and what the issues are. She said they used research from a survey that students did a year ago. The subcommittee tried to pinpoint areas where changes could be made. They identified 3 possible changes to the rule:

- 1) The current rule gives unwarranted authority to opposing counsel, which bogs things down, so we should get rid of this. Utah is the only one doing this.
- 2) There is movement in the law schools for 2L's to be able to appear before a judge. 26 other states allow 2L's to appear in front of a judge, and with Utah not being able to do this, it's creating a disadvantage for 2L's who would like to appear. Changing the rule would also mean more help for public interest organizations.
- 3) Expand opportunities for students to practice outside of the presence of attorneys. Currently, students must have the presence of an attorney at all times except in default divorce proceedings. The subcommittee is trying to brainstorm other areas that students can do without attorneys.

They will do a redline edit of the current rule and send it out to faculty, deans, etc. before moving to change the actual law. Judge Thomas said Elizabeth Wright (Bar general counsel) would be interested in helping and being involved.

Ms. Crismon asked any rule changes could also take into account the fact that 3L's must file a form to make an appearance. If 3L's could instead enter a limited appearance on the record, i.e. "Your honor, NAME entering appearance under rule X," this would make for much less hassle and paperwork. Ms. Howell-Powers said this was something the subcommittee would also consider doing.

Self-Help, Triage Subcommittee

Judge Thomas went over the objectives of this sub-committee; asked if any could be eliminated or moved. The committee agreed that the education work needed to be moved to the education subcommittee.

Regarding delivery of legal services, Ms. Crismon reported that the committee needed to encourage improvement of ALL legal services, i.e. all lawyer directories.

The committee agreed to support the triage webpage that ULS and the Bar were doing.

Regarding the malpractice insurance issue, the committee agreed to support the creation of signature programs through the Bar..

Mr. Martinez brought up the fact that the Tuesday calendar is a pretty open door for helping self-represented people in Salt Lake County. He said patrons can ask clerks to get on that calendar if their case is before commissioners.

The committee will look to see if there is a way to broaden the scope of malpractice, i.e. expanding the Tuesday calendars to other areas of the state.

(4) Development of Strategic Plan

Judge Thomas went around the table to see if everyone had had a chance to weigh in on what the Strategic Plan would focus on.

Ms. Frank said they have an access problem in the middle of the state. ULS does do one Skype clinic and they have partnered with the crisis center. Ms. Crismon said ULS's vision is that once it launches its Zoom clinics in the 7th District, then it would go to 6th and then statewide. She said Richfield is in the middle of the state, but the district is so huge that it makes tackling problems difficult. Virtual is nice because patrons can call in from other parts of state to an attorney in Salt Lake and a law student in Provo, for example. ULS is in the process of trying to locate places in the state as access places for these services.

Ms. Proccarione said they need a Multicultural Center in Price. The university is there but they need more social workers and case managers to act as navigators like in Moab.

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Ms. Howell-Powers is interested in educating the legal community and law schools on where they can send people who need help. She said she gets multiple calls a day from people needing help. Ms. Crismon said this is why the triage webpage needs to happen. She said if for some reason the Bar backs out of that effort, ULS would take it up.

(5) Next steps

Judge Thomas noted how hard this committee is. She said this is a “roll up your sleeves and do it” kind of committee. She recommended that we just chip away at these issues, i.e. brown bag trainings, requesting funding, etc.

Judge Marsha Thomas and Nancy Sylvester will present the Strategic Plan at the April Judicial Council meeting.

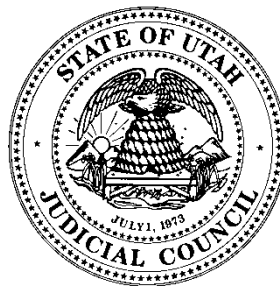
The meeting adjourned at 1:38.

TAB 2



Utah State Courts

Committee on Resources for Self-represented Parties



Strategic Plan
April 27, 2015

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

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(1) Executive Summary

The Committee on Resources for Self-represented Parties has been a standing committee of the Judicial Council since 2005. The committee completed two prior strategic plans in 2006 and 2011, and those plans have guided the direction of the committee to date. Just as in 2005, vast numbers of self-represented parties continue to patronize the Utah State Courts today.

In the current strategic plan, the committee recommends a) continued support including increased funding for the Self-Help Center; b) the development and implementation of a court navigator program; c) continued forms development; d) changes to the third year practice rule; e) improvement of lawyer directories and the development of a guided webpage for referral to legal services; f) increased availability of malpractice insurance for volunteer attorneys; g) support for the development of virtual legal services delivery; and h) increased education for those who interact with self-represented parties.

(2) Committee History

This committee was created to study and make policy recommendations to the Judicial Council concerning the needs of self-represented parties. [Rule 3-115 of the Utah Code of Judicial Administration](#) provides the charge for the committee and [CJA Rule 1-205 \(1\)\(B\)\(viii\)](#) sets the committee composition.

Rule 3-115 dictates that the committee shall provide leadership to identify the needs of self-represented parties, coordinate resources to meet those needs, assess available services, forms, and gaps in those forms; ensure court programs are integrated into the statewide planning for legal services; recommend measures for improving how the legal system serves self-represented parties, and develop an action plan for managing cases involving self-represented parties.

The committee began meeting in June 2005. Committee members first assessed self-represented parties' needs by use of a questionnaire. 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 revealed that "self-represented parties require more time than represented parties, they 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."

[The 2006 Strategic Plan](#)

Based on the results of the survey, the Committee presented a strategic plan to the Judicial Council in July 2006.¹ In that strategic plan, the Committee recommended the following goals for any programs developed to assist self-represented parties: ensure access to the legal system; increase education of court

¹ The 2006 strategic plain is available at <http://www.utcourts.gov/committees/ProSe/Strategic%20Plan%20Self%20Rep.pdf>

users, court personnel, and community organizations; clarify the court system so it is understandable by ordinary citizens; increase the efficiency and effectiveness of the court system by reducing the time required of judges to explain court procedures and, in turn, reduce the number of continuances; and increase understanding of court orders.

The overarching principle of the plan was that any services provided had to be equally available throughout Utah to all parties involved (defendants as well as plaintiffs); available regardless of income; and be designed to supplement and not to supplant legal representation.

The plan envisioned a web of services – some by the courts, some by community organizations, and some by lawyers. The 2006 plan gave specific recommendations including the creation of a self-help support center; development of materials and resources for clinics and workshops, and greater assistance from judicial support staff. The plan recommended 1) having the state law library educate and promote statewide access to legal information; 2) providing forms, instructions and information; 3) improving the court website, and 4) improving clerical and judicial training. The plan further recommended rule changes to allow clerical assistance with forms by a broader audience, support for unbundled legal services, and support for low- and no-fee representation.

[The 2011 Strategic Plan](#)

2011 saw the 2006 Strategic Plan updated with new recommendations and expanded prior recommendations.² The 2011 Strategic Plan recommended expanding the Self-Help Center service area to the entire state, continuing to develop forms, and preparing instructional videos. Additionally, the plan recommended developing improved working relationships with the Online Court Assistance Program (OCAP) committee and the Utah State Bar, and also the study of alternative processes for self-represented parties.

Accomplishments

Most of the recommendations from the two prior strategic plans have been completed.

- The [Self-Help Center](#) was created and is flourishing state wide.
- A forms subcommittee was created and they in turn have created (and created and created) many [forms](#).
- Instructional videos have been created and posted on the courts' [YouTube channel](#).
- The unauthorized practice of law rule, [Special Practice Rule 14-802\(c\)\(3\)](#), was changed to allow clerical assistance in completing a form when no fee is charged to do so.
- The [Utah Courts website](#) was redesigned to feature self-help resources.

² The 2011 strategic plan is available at <http://www.utcourts.gov/committees/ProSe/Strategic%20Plan%202011.pdf>

- The Utah State Courts Education Department now offers classes to court staff and judges on working with self-represented parties.
- And committee members, including John Baxter, Lowry Snow, Marsha Thomas, and others, have made presentations to judges on best practices in self-represented litigation.

(3) Self-Represented Parties in Utah

The following chart shows the percentages of self-represented parties in selected district court case types during fiscal year 2014.³

2014 Data

Case Type	Cases	Both Parties with Attorney	One Party with Attorney	No Party with Attorney	Self-Represented Petitioner	Self-Represented Respondent
Adoption	1,432	1%	75%	23%	23%	6%
Civil Stalking	973	8%	15%	77%	87%	83%
Conservatorship	153	1%	78%	21%	22%	3%
Contracts	2,853	20%	76%	4%	6%	77%
Custody and Support	1,314	11%	49%	40%	45%	84%
Debt Collection	66,717	1%	96%	2%	2%	98%
Divorce/Annulment	14,088	12%	29%	60%	64%	84%
Estate Personal Rep	2,077	0%	82%	18%	18%	0%
Eviction	7,770	3%	82%	16%	16%	97%
Guardianship	1,540	2%	32%	67%	68%	4%
Name Change	971	0%	17%	82%	82%	1%
Paternity	1,142	23%	43%	34%	40%	71%
Protective Orders	4,674	8%	20%	71%	84%	79%
Small Claim	5	20%	20%	60%	80%	60%
Temporary Separation	59	14%	25%	61%	61%	86%

By comparison, the following table was included in the 2006 Strategic Plan. The data is from 2005 and while it does not include the expansive amount of case types shown in the table above, in the cases types where there is overlap (such as divorce), the 2014 data reflects an overall increase in the number of cases where neither party is represented.

³ Provided by Kim Allard, Director of Court Services, in December 2014.

2005 Data

Case Type Cases	Percent w/2 Attorneys	Percent w/ 1 Attorney	Percent w/0 Attorneys	Percent Self- Represented Petitioners	Percent Self- Represented Respondents
Divorce 12,828	17%	36%	47%	49%	81%
Protective Orders 5,219	13%	33%	54%	59%	82%
Stalking 898	7%	17%	76%	84%	84%
Evictions 8,251	3%	79%	19%	19%	97%
Small Claims 15,692	0%	2%	98%	99%	99%
Debt Collections 56,733	2%	97%	1%	1%	97%
Guardianship 1,319	1%	41%	58%	59%	2%

(4) Proposed future priorities

(a) Continue support for the Self-Help Center.

The Self-Help Center serves thousands of self-represented parties each year. Due to the Judicial Council's commitment to continue its financial support of the Center, the Center, in turn, continues to increase the services it provides.

The committee supports additional funding for the Self-Help Center to allow expansion of the services they provide to self-represented parties, and also to increase educational efforts to judges, court staff, social services, government agency staff, and to self-represented parties.

(b) Develop and implement a court navigator program.

Building on successful models from other states, the Utah State Courts could design a program whereby AmeriCorps/JusticeCorps members and/or court clerks could provide procedural and navigational assistance to self-represented court patrons.

The committee recommends investigating how other states have developed these programs, and if feasible, supports implementation of a pilot program.

(c) Continue to develop forms.

A forms subcommittee meets regularly to review forms and forms-related issues, and also create new forms and informational web pages. Proposed forms are forwarded to appropriate judicial leadership for review, and once finalized, are posted on the Utah courts' website and used extensively.

The committee recommends continuing the forms subcommittee and process.

(d) Analyze and improve the third year practice rule.

The purpose of the 'third year practice rule' ([Rule 14-807 of the Utah Code of Judicial Administration](#)) is "to provide eligible law school students and recent law school graduates with supervised practical training in the practice of law for a limited period of time and to assist the Bar and the judiciary to discharge their responsibilities to help create a legal system which helps provide access to those individuals of limited means."

The committee recommends analyzing and suggesting changes to the third year practice rule in order to increase valuable skills-building opportunities for law students and also increase access to legal services for individuals of limited means.

(e) Encourage improvement of lawyer directories, webpage triage efforts, and referral sources.

The Utah State Bar provides directories for lawyer referral services and it is also in the process of creating a guided referral webpage to direct consumers and social service providers to the appropriate legal resources.

The committee recognizes the importance of these directories, guiding webpages and referral sources for self-represented parties. The committee

recommends supporting these efforts and increasing collaboration between the providers and users of these directories and webpages so that the end result is comprehensive and beneficial to all users.

(f) Support increasing availability of malpractice insurance for volunteer attorneys in all capacities.

The Utah State Bar and some legal service providers currently provide malpractice insurance for volunteer attorneys, but generally the attorneys must take on a full case to be covered. So there is still a gap in coverage for volunteer attorneys that provide legal services other than those requiring an appearance to be entered, such as simple legal advice and document preparation.

The committee recommends that this area be studied and that recommendations be made to close this gap and enable more attorneys, including non-traditional attorneys, to volunteer.

(g) Support the development and implementation of virtual services in rural areas.

The delivery of legal services to rural communities is often the first thing to be impacted when non-profit legal service organizations' funds are cut. But new technology is now changing how and in what circumstances legal services can be provided to these communities. Virtual services, such as remote document preparation, offer new hope for self-represented litigants who are isolated by geography and a lack of meaningful access to legal services.

The committee supports the increased use of technology to provide virtual legal services delivery to self-represented parties, especially to those in rural communities. Both Utah Legal Services and Timpanogos Legal Clinic are currently working on rural virtual service delivery projects and the committee supports their efforts and those like them.

(h) Suggest opportunities for educating those who interact with self-represented parties.

The responsibility for educating those who interact with self-represented parties is shared among many organizations.

The committee recognizes and promotes the importance of efficiently announcing new resources for self-represented litigants to those stakeholders who educate judges, court staff, law school personnel, and social service providers.

(5) Committee on Resources for Self-Represented Parties

Judge Marsha C. Thomas	Chair, City of Taylorsville Municipal Justice Court
Nancy Sylvester	Staff Attorney, Administrative Office of the Courts
Leti Bentley	Director, Moab Valley Multicultural Center
Mary Jane Ciccarello	Director, Self-Help Center
Sue Crismon	Attorney, Utah Legal Services
Lisa Collins	Clerk of Court, Utah Court of Appeals
Judge Michael DiReda	Second District Court
Judge Ryan Evershed	Eighth District Juvenile Court
Carol Frank	Judicial Case Manager, Sixth District Court
Susan Griffith	Executive Director, Timpanogos Legal Center
	Adjunct Professor, BYU J. Reuben Clark Law School
Carl Hernandez	Associate Professor, BYU J. Reuben Clark Law School
Jaclyn Howell-Powers	Career Counselor
	University of Utah S. J. Quinney College of Law
Chris Martinez	Attorney, Legal Aid Society of Salt Lake City
Eric Mittelstadt	Deputy Director, Utah Legal Services
Barbara Procarione	Judicial Team Manager, Seventh District Court
Virginia Sudbury	Attorney, Law Office of Virginia Sudbury
Judge Doug Thomas	Seventh District Court
Vacant	Utah State Bar Representative
Jessica Van Buren	Director, Utah State Law Library

TAB 3

Committee on Resources for Self-Represented Parties

Subcommittee on Rules/Legislation/Funding Report for June 4, 2015

Focus: To expand *Utah R. Judicial Admin Rule 14-807* (Lexus 2014), or, the “third year practice rule”.

Update:

Our committee is currently working with Elizabeth Wright of the Utah Bar to compile a final edit of the current third year practice rule. Once complete, our committee as a whole, as well as our law school clinical supervisors/faculty will have an opportunity to review the edits and to propose changes. From there, our committee will be working with the Bar to propose the changes to the Bar Commission.

Rule 14-807. Law student and law graduate legal assistance.

(a) The purpose of this rule is to provide eligible law school students and recent law school graduates with supervised practical training in the practice of law for a limited period of time and to assist the Bar and the judiciary to discharge their responsibilities to help create a legal system which helps provide access to those individuals of limited means.

(b) Subject to the inherent power of each judge to have direct control of the proceedings in court and the conduct of attorneys and others who appear before the judge, the courts of Utah are authorized to allow eligible law school students and recent law school graduates to participate in matters pending before them consistent with this rule.

(c) In order to be eligible to participate under this rule an individual must be either:

(c)(1) a law school student in good standing who must have completed the first year of legal studies amounting to at least two semesters or the equivalent if the school is not on a semester basis at an ABA approved law school and be enrolled in a clinic or externship which is supervised by law school faculty or participating in pro bono work for an approved legal services organization; or

(c)(2) a law school graduate who must have graduated from an ABA approved law school and have submitted an application for admission to the Bar in time for the first regularly-scheduled bar examination after graduation.

(d) Subject to all applicable rules, regulations and statutes, a law student or law school graduate may:

(d)(1) Negotiate for and on behalf of the client subject to final approval thereof by the supervising attorney or give legal advice to the client, provided that the law student or law school graduate:

(d)(1)(A) Obtains the approval of the supervising attorney to engage in the activities;

(d)(1)(B) Obtains the approval of the supervising attorney regarding the legal advice to be given or plan of negotiation to be undertaken by the law student or law graduate; and

(d)(1)(C) Performs the activities under the general supervision of the supervising attorney;

(d)(2) Appear on behalf of the client in depositions, provided that the law student or law school graduate:

(d)(2)(A) Obtains the approval of the supervising attorney to engage in the activity;

(d)(2)(B) Performs the activity under the direct supervision and in the personal presence of the supervising attorney; and

(d)(2)(C) Obtains a signed consent from the client on whose behalf the law student or law school graduate acts approving the performance of such acts by such a law student or law graduate;

(d)(3) Appear in any court or before any administrative tribunal in this state on behalf of any person if the person on whose behalf the law student or law school graduate is appearing has consented in writing to that appearance and the supervising attorney has also indicated in writing approval of that appearance. In each case, the written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, the law student or law school graduate shall orally advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. A law student or law school graduate may appear in the following matters:

(d)(3)(A) Civil Matters. In civil cases in any court, the supervising lawyer is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.

(d)(3)(B) Felony Criminal Matters on Behalf of the State. In any felony prosecution matter in any court, the supervising attorney must be present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

(d)(3)(C) Infraction or Misdemeanor Criminal Matters on Behalf of the State. In any infraction or misdemeanor matter in any court with the written approval of the supervising attorney; the supervising attorney is not required to be personally present in court, however, the supervising attorney shall be present during any misdemeanor trial.

(d)(3)(D) Felony Criminal Defense Matters. In any felony criminal defense matter in any court, the supervising attorney must be present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

(d)(3)(E) Infraction or Misdemeanor Criminal Defense Matters. In any infraction or misdemeanor criminal defense matter in any court, the supervising attorney is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney shall be present during trial.

(d)(3)(F) Appellate Oral Argument. In any oral argument in the Utah Supreme Court and the Utah Court of Appeals, but only in the presence of the supervising attorney and with the specific approval of the court for that case. Notwithstanding anything

hereinabove set forth, the court may at any time and in any proceeding require the supervising attorney to be personally present for such period and under such circumstances as the court may direct.

(d)(4) Under the general supervision of the supervising attorney, but outside his or her personal presence, a law student or law school graduate may:

(d)(4)(A) prepare pleadings and other documents to be filed in any matter in which the law student or law school graduate is eligible to appear, but such pleadings or documents must be signed by the supervising attorney;

(d)(4)(B) prepare briefs and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney;

(d)(4)(C) provide assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court (if there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney);

(d)(4)(D) render legal advice and perform other appropriate legal services, but only after prior consultation with and upon the express consent of the supervising attorney.

(e) For any student participating under this rule, the law school Dean, or his or her designee, shall certify to the supervising attorney that the student is in good standing, has completed the first year of law school studies and, in the case of a clinic or externship, that the student is enrolled in a law school clinic or externship.

(f) The supervising attorney is responsible for ensuring that the conduct of the law school student or law school graduate complies with this rule which includes verifying the participant's eligibility.

(g) Before participating under this rule, a law school graduate shall:

(g)(1) provide the Bar's admissions office with the name of his or her supervising attorney; and

(g)(2) provide the Bar's admissions office with a signed and dated authorization to release information to the supervising attorney regarding the law school graduate's Bar applicant status; and

(g)(3) provide the Bar's admissions office with a signed and dated letter from the supervising attorney stating that he or she has read this rule and agrees to comply with its conditions.

(h) A law school student shall not receive any compensation or remuneration of any kind from the client on whose behalf the services are rendered.

(i) A law school student's or law school graduate's eligibility to provide services under this rule terminates upon the earlier occurrence of:

(i)(1) cessation of enrollment unless by reason of graduation in the case of a law school student; or

(i)(2) in the case of a law school graduate:

(i)(2)(A) failure to submit a timely application for admission under (c)(2);

(i)(2)(B) the Bar's admissions office's or its character and fitness committee's decision to disallow the law school graduate to take the first regularly-scheduled bar examination;

(i)(2)(C) notification of the law school graduate's failure to successfully pass the first regularly-scheduled bar examination; or

(i)(2)(D) the law school graduate's failure to be admitted to practice at the first regularly-scheduled admission ceremony.

Rule 14-807. Law student and law graduate legal assistance.

(a) The purpose of this rule is to provide eligible law school students and recent law school graduates with supervised practical training in the practice of law for a limited period of time and to assist the Bar and the judiciary to discharge their responsibilities to help create a legal system which helps provide access to those individuals of limited means.

(b) Subject to the inherent power of each judge to have direct control of the proceedings in court and the conduct of attorneys and others who appear before the judge, the courts of Utah are authorized to allow eligible law school students and recent law school graduates to participate in matters pending before them consistent with this rule.

(c) In order to be eligible to participate under this rule an individual must be either:

(c)(1) a law school student in good standing who must have completed the first year of legal studies amounting to at least two ~~four~~ semesters or the equivalent if the school is not on a semester basis at an ABA approved law school and be enrolled in a clinic or externship which is supervised by law school faculty or participating in pro bono work for an approved legal services organization; or

(c)(2) a law school graduate who must have graduated from an ABA approved law school and have submitted an application for admission to the Bar in time for the first regularly-scheduled bar examination after graduation.

~~(d) The law school student's or graduate's participation shall be limited to civil, misdemeanor or administrative cases.~~ Subject to all applicable rules, regulations and statutes, a law student or law school graduate may:

~~(d)(1) Negotiate for and on behalf of the client subject to final approval thereof by the supervising attorney or give legal advice to the client, provided that the law student or law school graduate:~~

~~(d)(1)(A) Obtains the approval of the supervising attorney to engage in the activities;~~

~~(d)(1)(B) Obtains the approval of the supervising attorney regarding the legal advice to be given or plan of negotiation to be undertaken by the law student or law graduate; and~~

~~(d)(1)(C) Performs the activities under the general supervision of the supervising attorney;~~

~~(d)(2) Appear on behalf of the client in depositions, provided that the law student or law school graduate;~~

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(d)(2)(A) Obtains the approval of the supervising attorney to engage in the activity;

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(d)(2)(B) Performs the activity under the direct supervision and in the personal presence of the supervising attorney; and

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(d)(2)(C) Obtains a signed consent from the client on whose behalf the law student or law school graduate acts approving the performance of such acts by such a law student or law graduate;

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(d)(3) Appear in any court or before any administrative tribunal in this state on behalf of any person if the person on whose behalf the law student or law school graduate is appearing has consented in writing to that appearance and the supervising attorney has also indicated in writing approval of that appearance. In each case, the written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, the law student or law school graduate shall orally advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. A law student or law school graduate may appear in the following matters:

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(d)(3)(A) Civil Matters. In civil cases in any court, the supervising lawyer is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.

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(d)(3)(B) Felony Criminal Matters on Behalf of the State. In any felony prosecution matter in any court, the supervising attorney must be present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

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(d)(3)(C) Infraction or Misdemeanor Criminal Matters on Behalf of the State. In any infraction or misdemeanor matter in any court with the written approval of the supervising attorney; the supervising attorney is not required to be personally present in court, however, the supervising attorney shall be present during any misdemeanor trial.

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(d)(3)(D) Felony Criminal Defense Matters. In any felony criminal defense matter in any court, the supervising attorney must be present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.

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(d)(3)(E) Infraction or Misdemeanor Criminal Defense Matters. In any infraction or misdemeanor criminal defense matter in any court, the supervising attorney is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney shall be present during trial.

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(d)(3)(F) Appellate Oral Argument. In any oral argument in the Utah Supreme Court and the Utah Court of Appeals, but only in the presence of the supervising attorney and with the specific approval of the court for that case. Notwithstanding anything

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hereinabove set forth, the court may at any time and in any proceeding require the supervising attorney to be personally present for such period and under such circumstances as the court may direct.

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(d)(4) Under the general supervision of the supervising attorney, but outside his or her personal presence, a law student or law school graduate may:

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(d)(4)(A) prepare pleadings and other documents to be filed in any matter in which the law student or law school graduate is eligible to appear, but such pleadings or documents must be signed by the supervising attorney;

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(d)(4)(B) prepare briefs and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney;

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(d)(4)(C) provide assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court (if there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney);

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(d)(4)(D) render legal advice and perform other appropriate legal services, but only after prior consultation with and upon the express consent of the supervising attorney;

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~~(e) A law school student's or graduate's participation shall be under the direct and immediate personal supervision and in the presence of a resident attorney admitted to practice law before the court, except that the presence of the supervising attorney shall not be required at default divorce proceedings which are not contested and where the appearing party is represented by a non-profit public service legal agency.~~

(e) For any student participating under this rule, the law school Dean, or his or her designee, shall certify to the supervising attorney that the student is in good standing, has completed the first year of law school studies and, in the case of a clinic or externship, that the student is enrolled in a law school clinic or externship.

(f) The supervising attorney is responsible for ensuring that the conduct of the law school student or law school graduate complies with this rule which includes verifying the participant's eligibility.

~~(g) A law school student's or graduate's participation shall be agreed to by written stipulation of counsel for all parties to the action and filed in the case file.~~

~~(gh)~~ Before participating under this rule, a law school graduate shall:

~~(gh)~~(1) provide the Bar's admissions office with the name of his or her supervising attorney; and

(g)(2) provide the Bar's admissions office with a signed and dated authorization to release information to the supervising attorney regarding the law school graduate's Bar applicant status; and

(g)(3) provide the Bar's admissions office with a signed and dated letter from the supervising attorney stating that he or she has read this rule and agrees to comply with its conditions.

(h) A law school student shall not receive any compensation or remuneration of any kind from the client on whose behalf the services are rendered.

(i) A law school student's or law school graduate's eligibility to provide services under this rule terminates upon the earlier occurrence of:

(i)(1) cessation of enrollment unless by reason of graduation in the case of a law school student; or

(i)(2) in the case of a law school graduate:

(i)(2)(A) failure to submit a timely application for admission under (c)(2);

(i)(2)(B) the Bar's admissions office's or its character and fitness committee's decision to disallow the law school graduate to take the first regularly-scheduled bar examination;

(i)(2)(C) notification of the law school graduate's failure to successfully pass the first regularly-scheduled bar examination; or

(i)(2)(D) the law school graduate's failure to be admitted to practice at the first regularly-scheduled admission ceremony.