

Agenda

Committee on Resources for Self-represented Parties

February 10, 2012
12:00 to 1:30 p.m.

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

Welcome and approval of minutes	Tab 1	Judge John Baxter
Introduction of Emily Chiang		Judge John Baxter
OCAP Report		Russ Minas Stewart Ralphs
Resolution day proposal	Tab 2	Virginia Sudbury
Self-help Center	Tab 3	Mary Jane Ciccarello Jessica Van Buren
Domestic violence webinar	Tab 4	Judge John Baxter
Expanded limited legal help categories		Tim Shea

Committee Web Page: <http://www.utcourts.gov/committees/ProSe/>

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

May 11, 2012
August 10, 2012
November 9, 2012

Tab 1

Minutes	Committee on Resources for Self Represented Parties				
Meeting Date	August 12, 2011			Meeting Room	Education Room
Committee Member	Present	Excused	Committee Member	Present	Excused
Fred Anderson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Jose Lazaro	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pat Bartholomew	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Russ Minas	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Judge John Baxter, Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Mary Jane Ciccarello	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Shauna O'Neil	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
David Dominguez	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Barbara Procarione	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Judge Michael DiReda	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Stewart Ralphs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Carol Frank	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Virginia Sudbury	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Robert Jeffs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judge Douglas Thomas	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Judge Scott Johansen	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Jessica Van Buren	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Staff	Tim Shea				

Topic	Approve minutes of May 13, 2011	By	Judge Baxter
Motion:	Approve as prepared.	By	Acclimation
Vote:	Yes All No Abstain	Pass	<input checked="" type="checkbox"/> No Pass <input checked="" type="checkbox"/>

Topic	Review of strategic planning session	By	Tim Shea
<p>Discussion: Mr. Shea reviewed the draft strategic planning document to confirm that it appropriately characterized the discussion at the planning meeting. Completion of the Self Help Center as a statewide program remains the committee's first priority. Judge Baxter reported that the Judicial Council remains committed to the program, and that all we need is money. Mr. Shea reported that Ms. O'Neil and Ms. Sudbury had joined the forms workgroup, which has started its work on guardianship forms and information.</p> <p>Ms. Van Buren reported that videos of the live classes had been posted on the court's YouTube channel. Because Mr. Stewart and Mr. Minas were not able to attend today, the report on OCAP activities will have to wait until the next meeting.</p> <p>Ms. Sudbury volunteered to speak with Lincoln Mead at the Bar to try to get the Bar to expand the categories for limited legal help in the online lawyer directory. If Ms. Sudbury's efforts are not successful, then Judge Baxter will write a letter asking for the addition of additional categories.</p> <p>Ms. Sudbury distributed a summary of a "resolution day" calendar. The program is designed to pay lawyers a modest amount to review a pro se party's documents, identify problems, screen cases and prepare cases for hearings. The program has been successfully implemented in other states. The committee will consider the program in more detail at its next meeting.</p>			

Topic	Cost and benefits of self help programs	By	Jessica Van Buren
Discussion: Ms. Van Buren reported that John Greacen in an article in the Judges' Journal attempts to show whether money spent on self help services yields economic savings. Mr. Greacen 's research suggests that there are savings to the court and savings to the parties by spending money on self-help services. Although the findings are couched in qualifying language, the analysis shows that money spent on self help services does produce savings, sometimes significant savings, whether considered from the perspective of the party or the taxpayer.			

Topic	Report on Self-Help Center	By	Mary Jane Ciccarello Jessica Van Buren
Discussion: Ms. Ciccarello and Ms. Van Buren reported that the SHC has expanded its services to the Fifth District. Only the Third and Fourth Districts remain unserved. The number of calls has been increasing continually since the program started. The number of missed calls has dropped from about 5 missed calls for every answered call to about 2 missed calls			

Topic	Financial declaration form	By	Mary Jane Ciccarello
Discussion: Ms. Ciccarello reported that in anticipation of new rule of civil procedure 26.1 she has been working with judges, commissioners and lawyers to develop a financial declaration form. She reported that there are now several forms in use: the form approved by the Board of District Court Judges for temporary orders, a form developed by the Third District Court, and a form used by Commissioner Dillon in Second District. She said that everyone appears to want one form, except that Commissioner Dillon still recommends a shorter form for child support cases. She indicated that the executive committee of the family law section had approved the draft that was distributed to the committee.			

Topic	Proposed meeting schedule	By	Judge John Baxter
Discussion: Judge Baxter asked the committee to add the proposed meeting dates to their calendars: February 10, May 11, August 10, and November 9.			

Tab 2



LAW OFFICE OF VIRGINIA SUDBURY

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FAMILY DISPUTE RESOLUTION DAY and the LOVS / FDRD ATTORNEY PROGRAM

1. WHAT IS FAMILY DISPUTE RESOLUTION DAY IN COURT (FDRD)?

FDRD is a hearing calendar made up of only *pro se*, or self-represented, parties. Cases on this calendar are heard by court commissioners. This calendar will have cases where self-represented parties appear on their own or with a FDRD attorney hired for the specific purpose of appearing at the hearing.

If only one self-represented party hires a FDRD attorney, the other party will continue to be self-represented.

2. WHAT IS THE LOVS/ FDRD ATTORNEY PROGRAM?

The LOVS FDRD Attorney Program is a private, for-profit program run by the Law Office of Virginia Sudbury (LOVS) that provides a flat fee, low cost FDRD attorney to help the self-represented party with court hearings on motions for an order to show cause or for temporary orders. The flat fee is \$150 and is payable at the time the party registers with LOVS (after filing their Motion).

The RFDC attorney will represent the self-represented party for this hearing only. The FDRD attorney's representation is on a "limited scope" or "unbundled" basis. The FDRD attorney's representation ends at the close of the hearing.

3. WHO CAN USE THIS PROGRAM?

It is only available when BOTH parties¹ to a family law action are self-represented. (*"pro se"*).

¹ This may change and allow one party to be represented.

4. WHAT KIND OF HEARINGS ARE HEARD UNDER THE FDRD PROGRAM?

The RFDC calendar includes only Orders to Show Cause (OSCs) and Motions for Temporary Orders FDRD calendar. These hearings are called “Law and Motion” or “proffer” hearings. They are heard by a court commissioner and not a judge in several courthouses around the state. There is no ‘live’ testimony and no one gets on the witness stand. The only evidence that is admitted will be the Affidavits provided by the parties and supportive documents. The party—or their FDRD attorney—“proffers” (states aloud) the content of the affidavits to the court. No other evidence is allowed.

5. WHAT IS THE PROCEDURE IF A SELF-REPRESENTED PARTY WANTS TO PARTICIPATE IN THE LOVS/ FDRD ATTORNEY PROGRAM AND HIRE AN FDRD ATTORNEY?

- a. When a response to a Motion for an Order to Show Cause or a Motion for Temporary Orders is filed with the court, the case is **automatically calendared** by the court clerk and assigned to a specific Resolution Day in Family Court (FDRD) calendar.
- b. The **clerk will send or give** the self-represented party information about the program.
- c. If a self-represented party would like to hire a FDRD attorney, the party contacts LOVS and completes a short summary so the case can be screened and the client registered. The self-represented party must then pay LOVS the sum of \$150. This fee will be split with the
- d. Then, the FDRD attorney reviews and summarizes each self-represented party’s case file. The attorney will have a good idea how far each case has progressed and the ‘merits’ of the issues that will be heard at the upcoming hearing.

6. WHAT HAPPENS AT THE FDRD CALENDAR?

- a. The FDRD calendar begins when the court commissioner takes the bench, and talks to all the parties in the courtroom. The commissioner gives a short overview of the Order to Show Cause or Temporary Order process, and what the parties can expect from this hearing. On some days, one of the FDRD attorneys might explain this process.

- b. On the day of the FDRD calendar, the FDRD attorney will meet their self-represented party before the hearing, after the commissioner explains the process to all the self-represented parties in the courtroom. The FDRD attorney will talk about the issues that will be presented to the commissioner in the hearing, and discuss the options and likely results and outcomes that the court may order. The FDRD attorney will also strategize with the self-represented party and then offer the chance to discuss those issues with the opposing party (or with their FDRD attorney, if they have one). If possible, the parties will make agreements to resolve their disputes so the commissioner does not have to decide those issues in the hearing.
- c. Once the overview is done, the FDRD attorneys organize the parties by their needs. For example, some parties might be assigned to a mediator to work out contested issues (for an additional fee). Or, if the parties do NOT reach agreement, the attorney will explain the next steps for the self-represented party to follow. If the parties have reconciled, they can dismiss their case. The FDRD attorney will prepare a stipulated order of dismissal for the court to sign in such instance.
- d. If an agreement is reached, the FDRD attorney will draft a court order which each self-represented party will approve by signing it. The parties will then go into the courtroom, with the FDRD attorney and the attorney will read the agreement onto the court record. The commissioner will ask each of the parties if they understand the agreement and if they agree with it. If they agree, the commissioner will sign ("Recommend") the order. Then the Order goes to the Judge for final signing. If neither party Objects to the Order, it is binding ("enforceable") and the parties will be legally required to obey the order.
- e. In the event the parties do *not* reach agreement, the issues are usually narrowed, and the parties are better prepared for the hearing.
- f. All parties are required to read and sign a notice and disclaimer of representation before proceeding, and the FDRD attorneys must also sign the disclaimer and indicate the disposition of the case. LOVS will then collect the disclaimers and send them back to the LOVS FDRD Program, which will maintain records for the program.

7. What if the parties are close to agreement and want to use the services of a Mediator?

The non-profit mediation center Uresolve and Family Mediation of Utah will support the FDRD program by having mediators on site on the day FDRD hearings are scheduled. The mediators will be court qualified domestic mediators. Parties may opt into mediation with or without an FDRD attorney. The mediator will work with the parties to see if they can reach an agreement or partial agreement. If an agreement is reached, it will be written out in a stipulation and read before the court to enter it into the record.

8. Is there a separate fee for the Mediator?

Yes. The fee for mediation services is anticipated to be \$25 per case.

Frequently Asked Questions:

- A. **Do both parties have to be self-represented?** Yes. If one party already has a lawyer, then the case will not be put on the FDRD calendar. However, **this may change** depending on the number of participants who require services when the other party is represented.
- B. **Does every self-represented party have to hire a FDRD attorney?** No! Again, it is possible that only one self-represented party will hire a FDRD attorney, and the other party will continue to be self-represented.

Meeting with the FDRD attorneys to attempt to resolve issues with the opposing party is **entirely voluntary**. Neither party has to meet with a FDRD attorney if they do not want to. Nor do they have to meet with the other party if they do not want to.

If the self-represented party would like to try to resolve the issues with the help of a FDRD attorney but does not feel comfortable being with the other party in the same room, the court bailiff will be notified and s/he will arrange to have two separate rooms available. The meeting may be ended at any time by any party. The meeting will probably last no more than 20 minutes.

C. **Can the court commissioner order self-represented parties to FDRD?** No, unless it is made clear that they do not have to participate in the program and hire a FDRD attorney. On the flip side, it likely would help BOTH parties, even if only one is utilizing a FDRD attorney.

D. **What are the benefits of using this FDRD Program?**

1. The courts are able to move through hearings more quickly.
2. The cases are "kept on track" more effectively and efficiently.
3. Based on success in other states, the success rate in reaching final decrees at these dockets is approximately 70%. Those that don't resolve are either ordered to continue to mediate, or, set for an Evidentiary Hearing on the unresolved issues. If the case remains unresolved and needs to go to an Evidentiary Hearing, the party would either have to hire an attorney or continue *pro se*.

E. **Who runs the LOVS / FDRD Attorney Program?** The program is managed by private attorneys who are recruited and compensated by LOVS. After orientation, new attorneys observe several sessions before conducting sessions on their own.

F. **How often is the FDRD Self-represented Calendar held?** Resolution Days in Family Law Court are held 1 or 2 days a month depending on the number of cases. Court commissioners set hearings on Motions for Orders to Show Cause or Motions for Temporary Relief on **specific calendars** on the same day.

Tab 3

Webpages and Forms

(1) Progress since last meeting

- [Custody Evaluation](#)
- [Financial Declarations](#)
- [Motion to Enforce a Domestic Order](#)

(2) Planned

(a) Priority

- Divorce and Divorce-related Web Pages
- Guardianship
- Motion to Enforce Divorce Decree
- Motion to Appoint Child-Custody Evaluator (Parent Coordinator)
- Petition to Modify Divorce Decree (Generic)
- Landlord/Tenant (Debbie)

(b) Petition Topics

- Petition to Unseal Adoption File
- Petition to Annul Marriage
- Petition for Temporary Separation
- Petition for Judicial Review of Final Agency Action (informal adjudicative proceedings)

(c) Motion Topics

- Motion to Forfeit Bail to Judgment Creditor
(http://www.utcourts.gov/courts/dist/distsites/3rd/docs/3rd_Defendants_Motion_to_Release_Bail.pdf)
- Motion to Set Aside Default Judgment
- Motion to Vacate Dismissal and Reinstate Petition
- Motion to Reschedule Hearing
- Motion to Appear by Telephone
- Motion to Appoint a Guardian ad Litem
- Motion to Change Venue
- Motion for Order Nunc Pro Tunc

(d) Juvenile Court Topics

- Petition to Modify Custody
- Petition to Terminate Parental Rights (private petition)

(e) Probate Topics

- Informal probate (with will)
- Informal probate (without will)

(f) Miscellaneous

- Notice of Limited Appearance (URCP 75).
- Debt collection cases
- Abstract of judgment

(3) Done

- [Motions](#)
- [Modifying Child Custody](#)
- [Motion for Alternative Service](#)
- [Adopting a Minor Step-child](#)
- [Recognition of a Relationship as a Marriage](#)
- [Satisfaction of Judgment](#)
- [Notice of Hearing Template \(English & Spanish\)](#)
- [Motion to Renew Judgment](#)
- [Motion to Shorten Driver's License Suspension](#)
- [Self-Help Front Page](#)
- [Answer](#)
- [Default Judgment](#)
- [Fees and Fee Waiver](#)
- [Going to Court](#)
- [How to Collect a Judgment](#)
- [Lawsuits Involving Military Service Members](#)
- [Modifying a Parent-time](#)
- [Modifying Child Support](#)
- [Motion to Appoint Parent Coordinator](#)
- [Motion to Waive 90-day Waiting Period](#)

- [Motion to Waive Divorce Education](#)
- [Non-public Records](#)
- [Parenting Plans](#)
- [Petition to Expunge Records](#)
- [Petition to Register a Foreign Custody or Support Order](#)
- [Service Member Attorney Volunteers](#)
- [Small Claims](#)
- [Summons](#)
- [Writ of Execution](#)
- [Writ of Garnishment](#)
- [Petition to Expunge Records](#)
- [Modifying a Parent-time Order](#)
- [Motion to Appoint Parent Coordinator](#)
- [Default Judgment](#)
- [Lawsuits Involving Military Service Members](#)
- [Service Member Attorney Volunteers](#)

Tab 4



Utah State Courts

Focus on Domestic Violence



A Webinar Series for Judges and Commissioners

Sponsored by a grant from the Utah Office for Victims of Crime

Curriculum

This is a series of one-hour webinars running **from 12:15 to 1:15 PM** on each of the dates below. The series is sequential. We suggest you register for all, but it is not required. Prior signup is requested.

 **Plan Now**
[Click here to Register](#)

Dates

- **February 8 (Wednesday)**
DOMESTIC VIOLENCE 101 – THE CYCLE OF VIOLENCE
Katie Sutton, Training Coordinator, Utah Domestic Violence Council
- **March 5 (Monday)**
VICTIM CENTERED JUDICIAL PROCESS – THE NEW PARADIGM
Sim Gill, Salt Lake County District Attorney
- **March 27 (Tuesday)**
CIVIL LAW AND PROCEDURE IN DOMESTIC VIOLENCE CASES
Joanna Sagers, Attorney, Legal Aid Society of Salt Lake
- **April 17 (Tuesday)**
CRIMINAL LAW AND PROCEDURE IN DOMESTIC VIOLENCE CASES
Kris Knowlton, Assistant Attorney General, Children's Justice Div.

Contact for additional information:

Mark Bedel, mgbedel@utcourts.gov, 801-578-3938



Utah State Courts

Participation

You have three choices to participate:

1. Remotely via the Internet
 2. In-person at the Matheson Courthouse Third Floor Education Room
 3. By viewing the recorded webinar later
- **Register at:** <https://www.surveymonkey.com/s/PVSSVZ8>
 - **You will receive a GroupWise appointment** for each webinar within 3 business days. **Click to “accept”** and add the webinar to your calendar.
 - **Remote participants:** A link to each webinar session will be emailed to you. A brief online training on “How to use Adobe Connect” will be available prior to each webinar. If you are unable to participate in the live session, a link to each recorded webinar will be provided later.
 - **In-person participants:** Please bring your own brownbag lunch. This program is funded with a grant from the US Dept. of Justice, Office of Violence Against Women. Food cannot be provided with grant funds.
 - **CLE Credit:** 1 hour for each webinar

More in this Domestic Violence Series...

(dates to be announced)

- **FEDERAL FIREARMS DISQUALIFICATION**
Ed Berkovich, Utah Attorney General’s Office
- **WITNESS AND EVIDENCE ISSUES**
Ed Berkovich, Utah Attorney General’s Office
- **EVIDENCE BASED SENTENCING**
Moises Prospero, Consultant and
Jacey Skinner, Utah Sentencing Commission
- **DOMESTIC VIOLENCE BENCH BOOK UPDATE**
Brent Johnson, General Counsel, Administrative Office of the Courts