

**STANDING COMMITTEE ON
RESOURCES FOR SELF-REPRESENTED PARTIES
Meeting Minutes**

**June 13, 2008
Matheson Courthouse
Salt Lake City, Utah**

Members Present: Hon. John L. Baxter, Chair; Fred Anderson; Pat Bartholomew; Mary Jane Ciccarello; Hon. Christine S. Decker; Rep. Neil Hansen; Christine James; Robert Jeffs; Jay Kessler; Jose Lazaro; Christina Micken; Hon. Rodney Page; Stewart Ralphs; Hon. James Shumate; Prof. Linda Smith; Jessica Van Buren.

Members Excused: Prof. James Backman; Joe Derring.

Staff Present: Marianne O'Brien; Tim Shea; Carolyn Carpenter

Welcome and Review of Minutes

Judge Baxter welcomed all present. The minutes of 4/11/08 were approved as prepared by acclamation.

Introduction of Christina Micken

Judge Baxter introduced Christina Micken. Ms. Micken is a family law representative on this committee, and a new member. The committee members introduced themselves to Ms. Micken.

Report on Self Help Conference

Mary Jane Ciccarello attended the ABA-NLADA Equal Justice Conference and preconference session on self-represented litigants in Minneapolis. Ms. Ciccarello gave an overview of what she learned about three court-based self-help programs in Wisconsin, Minnesota, and New York City.

Ms. Ciccarello indicated that the virtual part of Minnesota's program is similar to Utah's, and their metropolitan area is similar in size to Salt Lake City, so their program was of special interest. Minnesota is one of the leaders in the nation in access to justice. Minneapolis has an extensive in-courthouse self-help program for Hennepin County. Their self-help call center has 3 attorneys answering phone calls and conducting support work. Their state system has 7 attorneys and regular volunteers. Almost everything is provided in English, Spanish, French, Somali and Hmong. They have discovered that their computer work stations and direct phone lines are not an essential part of what they are trying to do. It is more important that people have the ability to call in, have access to the forms, and access to a live person. The program is run by a coalition and is part of the state plan.

Self Help Center budget request

Tim Shea indicated Judge Baxter will be presenting to the Judicial Council on June 30 on the self-help center. The budget piece of the self-help center will be reviewed today and the committee's recommendation will be presented to the Judicial Council in August, and then ultimately to the state legislature.

Mr. Shea reviewed the results of a survey from those who call the self-help center and were willing to take a survey about their experience. The survey is a sample of people who were able to access the self-help center – nothing is known about those who were unable to get through. It has been estimated that 75% of missed calls eventually get through. Ninety percent are able to get through within 3 days. Most calls fall predominantly in the family law area.

Two-thirds of Ms. Ciccarello's time is spent answering phone calls and the balance in follow up work. A recommendation will be made that rather than the two-thirds to one-third, that she spend half her time for calls and half her time on follow-up work. There are about 10 calls received per day; 40 calls per week, with calls coming in steadily throughout the day. The average time per call is about 15 minutes.

It is estimated that it takes about 845 hours on the phone in the pilot districts, which does not include any time for follow-up work. Ms. Ciccarello is probably spending 24 hours per week on the phone with incoming calls. It is being recommended that she spend 20 hours on phone time and the balance of the time spent on follow-up work.

Mr. Shea indicated that based on the survey results, it is recommended that 4 people be hired to have the self-help center extend statewide. He asked the committee if they should be lawyers or paralegals.

Discussion points:

- The self-help center employees should all be attorneys with experience.
- Getting a para-professional up to speed would require training by a lawyer and supervision by a lawyer.
- Ms. Ciccarello can handle any call that comes in so those hired need to be essentially 4 other Mary Jane Ciccarellos.
- One of the 4 attorneys could also have some managerial duties.

Following discussion, Judge Shumate made a motion that the budget proposal to the Judicial Council ask for four, full time, experienced lawyers for the self-help center. The motion was seconded and carried unanimously.

Motion for Temporary Order Forms; Garnishment Forms

Motion for temporary order forms:

Mr. Shea indicated that he has received some comments, and one of them is regarding the names of children. The motion includes only the initials, and year and month of birth of juveniles. Mr. Shea is developing, along a separate track, a rule of the Judicial Council that states the names and date of birth of minors is private information, so in a public document that requires that private data, there is truncated or redacted data that should be provided instead. The rule is not yet approved.

Linda Smith observed that the motion looks like a motion that works for the person who wants custody and who wants to receive support, but not so well for the person who wants to pay support. The moving party may not be the petitioner. Stewart Ralphs noted that the motion must be party neutral throughout.

Mr. Shea indicated he will review the forms for those things.

Judge Shumate expressed there is not a lot of room in the motion for fine tuning small things that can settle a case.

Ms. Smith observed that inviting gamesmanship into a temporary order situation would not be good. If people have gone to a mediator, have had things written up, let the chips fall where they may because they have taken ownership, but most kids are going to be living with one primary custodian and that person should not be cheated out of the support they need just to be nice.

Mr. Ralphs noted that Legal Aid has moved away from sole custody unless there are restrictions. By default, there is joint legal custody in most cases. Parties need to discuss major decisions, but do not need to agree on all of them.

Statement supporting a motion - This is in the nature of the memorandum of points and authority, anticipating that a pro se party is not going to make legal arguments but can make statements and reasoned arguments. It is intended that for the 10 or 15 paragraphs on the motion itself, there would be 10 or 15 paragraphs supporting those requests.

Ms. Smith expressed concern that people may come up with reasons why health insurance should be split when the real reason is simply because that is what the law says. Mr. Shea will modify the form.

Financial declaration – There were no changes.

Garnishment forms - The forms are based on forms that have been in use for awhile. There has been some success in simplifying them, but Mr. Shea has not reviewed them since the end of May when the Rules of Civil Procedure Committee met with some legislators who have taken an interest on behalf of garnishees. Garnishees are the employers that are making the withholding, and 95% of the work falls to them. Mr. Shea indicated there are some things that can be done, and there are policy questions and he has not had a chance to review the forms with that in mind. What is approved today is subject to change.

Judge Shumate noted that legislation passed this session on the garnishment issue and he expects the issue will carry forward next year. There is a perception on the part of the legislature that there is a burden being borne by the wrong people.

Following discussion, Stewart Ralphs made a motion to provisionally approve the motion and garnishment forms. The motion was seconded and carried unanimously.

Mr. Shea noted the forms are on the website for review. He will make changes on them based on today's discussion, and further comments from the committee are welcomed.

Other Business

Linda Smith announced that Lowry Snow submitted a request to the Ethics Advisory Opinion Committee about brief advice for pro se litigants and ghost writing. That opinion has been issued but is not on the Bar's website. It is available at CCH and on WestLaw. It is a lengthy opinion with a dissent that approves ghost writing.

The meeting was adjourned.