

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

**February 13, 2009
Matheson Courthouse
Salt Lake City, Utah**

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

Members Excused: Prof. James H. Backman; Rep. Neil Hansen; Robert Jeffs.

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

Welcome and review of meeting minutes

Judge Baxter welcomed all present. The minutes of December 12, 2008, were approved by consensus.

Finding limited legal help on the court's website.

Jessica Van Buren showed Finding Limited Legal Help, which includes vocal instructions for navigating the website. She noted that a law library blog is being worked on, which will include announcements when new forms are available, classes that are available, and other announcements.

Mary Jane Ciccarello indicated that the Self-Help Center has expanded services to the 7th District. Ms. Van Buren distributed copies of an article about the Self-Help Center services that was published in the Price Sun Advocate. There is an Access to Justice section in the 2009 Annual Report of the Courts that highlights the court's self-help projects. Ms. Ciccarello and Ms. Van Buren are applying for several grants to maintain the self-help project and assembling a fact sheet for Jay Kessler to take to private donors.

Meeting schedule

Tim Shea indicated that the Judicial Council has directed its standing committees to cut back on the number of meetings they hold. As a result, he is proposing this committee meet three times a year, with the other two committee meetings held in 2009 held on June 12, and October 16. The other meetings that have been scheduled for the year will be canceled. The committee agreed to the change in schedule.

TRO forms

Mr. Shea said this committee recommended that a group of forms for requesting a temporary restraining order (TRO) be presented to the Board of District Court Judges for approval. The Board in turn appointed a workgroup to review and edit the forms. One member of the workgroup, Commissioner Arnett, is arguing against having TRO forms. He concludes that TRO procedures are too complex to try to reduce to a set of forms and are too infrequent to justify when there are many other unmet needs.

Discussion followed with the following points made:

Jay Kessler indicated that he can understand Commissioner Arnett's concerns, but the law does not say only attorneys can get TROs, even though they are complicated. If it is an emergency and if there is

irreparable harm, the process should be available to the lay person. The judges will know whether a TRO is warranted in particular circumstances.

Judge Page agreed that people should have the opportunity to bring a TRO even without an attorney. What people end up doing is using the protective order system, which is even worse. Though he shares Commissioner Arnett's concerns, he thinks there is a need to have the forms.

Mr. Shea indicated there is a TRO form as part of the rules of civil procedure that is much more cursory than what we have developed so far.

Judge Page stated that if the other side is represented, judges do not grant a TRO without talking to the attorney, unless they are really convinced it is an emergency that cannot wait. But it is the judge's job to determine whether a TRO is appropriate. Judge Baxter and Judge Shumate agreed it is the judge's job to determine whether a TRO should be granted.

Judge Shumate indicated that Mr. Kessler's case provides the reason these form ought to be available. Every time he signs an order there is a potential for mischief, but it is bad public policy to take the position that this person who has a problem cannot be provided with the means to fix it.

Mr. Ralphs said that the clinics run by Legal Aid and Legal Services have TRO forms and his staff do not review the claims for sufficiency because they cannot give legal advice. Mr. Ralphs stated he agrees with Commissioner Arnett that in many of the TROs, counsel has done it badly, but if the court has the TRO process, how can it not have the forms? Forms and instructions will improve quality.

Prof. Smith noted that Commissioner Arnett's comments that people are not going to focus on irreparable harm might cause this committee to redraft the affidavit so instead of a checkbox for irreparable harm, the litigant has to describe the harm that the litigant thinks will happen and why it is irreparable. Judge Shumate suggested that some other term be used instead of "irreparable."

Mr. Shea stated that he will present this committee's observations to the Board along with its recommendation to proceed with the TRO forms. Commissioner Arnett can make his case as well, and the Board will decide. Assuming they agree the forms are needed, the forms subcommittee will redevelop what needs to be fixed and then work with the Board's workgroup to come up with a product.

Judge Shumate suggested that the thrust of the presentation to the Board should be that the TRO process is in the law and some forms already exist. We can improve on those, and we should not deny access to the law if a person does not have an attorney.

Limited legal help subcommittee report

Judge Page said the subcommittee has not met since the last committee meeting, but have been working on various projects.

Prof. Smith indicated the Law School is planning on holding a workshop on April 17 and 18. The dean has invited some people from around the country to the workshop who are actively engaged in this challenge. Judge Page distributed a copy of the tentative agenda for the workshop to the committee.

Ms. Ciccarello noted that the Bar has agreed to do CLE sessions. One will be held at the fall forum, and in between, smaller CLEs will be held.

Sue Talia, the national expert from California is holding a program in March that will be videotaped. The ABA section on the delivery of legal services is posting it on their website. It has been suggested that we do some kind of survey of lawyers and judges as to what is going on with unbundled services and how they feel about it. Massachusetts has done such a survey. Ms. Ciccarello is speaking with them to figure out how to get good information about what people want to see. She indicated that the Utah Bar is not quite stepping up to the plate. The Bar's pro bono program has defaulted to Utah Legal Services.

Ms. Smith expressed that if Connie Howard is the only person at the Bar who is in charge of this in addition to everything else she does, it is a problem. Having the president of the Bar on board is important, but that person turns over frequently and everyone has their own mission. She said she does not know how to get movement in the Bar.

Judge Page said Sue Talia, said you have to get somebody in the Bar take this on. We need somebody who is persistent, consistent, and continues on with it. He suggested this might be Lowry Snow.

Judge Baxter will approach James Lee and Marty Olsen about the possibility of taking this on. Both are ABA delegates who have a lot of respect in the Bar.

Education subcommittee

Judge Baxter has connected with Salt Lake Community College and will be meeting with some administrators there in early March. He will be asking if he or someone else on the committee can speak in some of their classes about self-represented parties. Also, Judge Baxter will be teaching new judges.

Ms. Van Buren stated that Maurie has been visiting the libraries in Salt Lake County and Salt Lake City, talking to them about the resources that are available. She teaches them and they in turn are able to help patrons who come to them with questions.

Jay Kessler said he refers many people to OCAP but someone at the library needs to be able help them through OCAP.

Judge Shumate said he would be willing to spend time in his corner of the state with librarians.

Forms for waiver of fees and costs

Mr. Shea noted that the temporary order forms are now available on the court's website. He presented the voluntary relinquishment forms to the Board of Juvenile Court Judges and they basically bought off on them after Mr. Shea reviews them with the Guardian ad Litem and Attorney General's office.

The forms for waiver of fees and costs are being reviewed by the Board's workgroup and will then be submitted to the Board.

The meeting was adjourned.