

LPP STEERING COMMITTEE MEETING

Minutes

Date: September 17, 2024

Location: Zoom

Time: 4:00 to 5:00

Attendance

Committee Members	Present	Excused
Judge Amber Mettler		X
Anastasia Boyko	X	
Brooke Byall	X	
Emily Lee (Bar Staff)		X
Jackie Morrison	X	
John Seegrist (Secretary)	X	
Jon Wayas (LPP Administrator)	X	
Laura Pennock	X	
Leslie Staples	X	
Lindsey Brandt	X	
Melissa Parache	X	
Monte Sleight (Chair)	X	
Scotti Hill		
Tonya Wright		X
David Clark (Bar IT Staff)	X	

Minutes from Meeting

- 1. Welcome**
 - Monte Sleight
- 2. Recognition of Quorum and Approval of Previous Minutes**
 - A quorum was confirmed with over 50% attendance.
 - The minutes from the previous meeting were approved without opposition.
 - A question still exists about who needs to receive the minutes from this meeting directly.
 - Action: Jon Wayas will follow up and report.
- 3. Primary Committee Goal:** Increasing Interest and Participation in the LPP program.
 - (Discussion on hold)
- 4. Reports**
 - **Update from the Bar Presenter, Jon Wayas**
 - i) (Discussion on hold)
 - **Update from LPPs**

i) (Discussion on hold)

5. Update on Forms Approval

- **From Submission for Review:**

Our forms must be listed on the forms committee agenda. Once included, this will bring the matter to their attention and expedite the review process.

- **Committee Advocacy:**

From the perspective of our committee, if we believe the form is adequate, should we anticipate advocacy from another party in the forms committee? It is necessary for someone to present the form to the committee. Lindsey Brandt has volunteered to attend the meeting and present the form.

6. Landlord Tenant Forms:

- Suggestions for two new landlord-tenant forms:

- (1) Tenant's Notice to Provide Deposit Disposition

- (2) Notice of Deficient Condition under the Utah Premises Act

- How should we address these proposals with the forms committee? Will it suffice for our Licensed Paralegal Practitioner (LPP) to advocate for these forms, or will an experienced attorney be expected to affirm their accuracy?

- **Consultation with Legal Expert:**

The committee plans to consult Emily, a legal expert, to determine whether Licensed Paralegal Practitioners can handle specific aspects of landlord-tenant law. She will clarify whether this practice falls within the scope of their licensing. Upon Emily's assessment, the committee will swiftly review the forms and conduct a vote. If Emily approves, we will motion to submit the forms to the forms committee for adoption. The goal is to expedite the process, ensuring all committee members review the forms and respond promptly via email.

- **Self-Help Center Input:**

Nathaniel Player from the Self-Help Center has been effective as a liaison to introduce and discuss the forms. We can request his feedback on the proposed forms. However, Nathaniel is retiring and will be taking a two-year sabbatical, making it imperative to seek his insights soon, ideally before his departure on November 8th, as he has just stepped down from the LSI Committee Board. His expertise would be invaluable in assessing the forms' adequacy for the forms committee process.

- **Form Distribution:**

The forms will be forwarded to the rest of the committee, reviewing them with any expertise they can provide by Friday. Brooke is the best resource for questions. They will then be sent to Nathaniel Player for his input and recommendations before being submitted to the forms committee.

- **Legal Service Forms:**

These legal service forms are available online for public use and should be accessible to LPPs; however, they still require approval from the Judicial Council. The Judicial Council and the Forms Committee are anticipated to inquire about two key points: the necessity of these forms for LPPs and their alignment with permissible practices.

- **Form Advocacy:**

Nathan is driving this initiative, and we can emphasize that nonprofit organizations widely utilize these forms to address landlord-tenant issues, which should help alleviate concerns regarding the legal quality of the documents and affirm their reliability.

- **Committee Voting Procedure:**
Since we are technically an ad hoc advisory committee, the recommendation is to vote to signal that we, as the advisory committee, believe these forms should be approved. While we do not have the authority to approve them directly, our role is to provide advice supporting their approval for use by Licensed Paralegal Practitioners (and others). There appears to be no restrictions on who can propose new forms to the forms committee.
- **Streamlined Recommendation Process:**
I am confident that the Judicial Council, alongside our committee, would welcome a more streamlined process for recommending forms. Presenting recommendations through an official channel may result in more favorable consideration.
- **Presentation to Forms Committee:**
When the forms are presented, they will be accompanied by a recommendation from the Licensed Paralegal Practitioner Committee after Nathan's review. These forms are commonly used by nonprofits addressing specific landlord-tenant issues, which should lend weight to their approval process.
- **Common Inquiries:**
The forms will support the two most frequent inquiries we receive about issues related to the Premises Act and the return of security deposits.

7. Discovery From Approval:

- Improvement of the discovery process to address challenges and limitations.
- **Discovery Request Template Concerns**
 - i) We may need to reconsider our approach to the discovery request template because it hasn't yet been approved for family law use. We do not have a timeline for when Emily will approve an approach.
 - ii) There's a new program in collaboration with Legal Aid. If Legal Aid has forms available, it is recommended that we pursue that route first. Since their advocates can use Legal Aid documents, it stands to reason that Licensed Paralegal Practitioners (LPPs) should also be able to use them. It would be more beneficial to leverage any existing forms from other bar programs that have been authorized for courtroom use.
- **Sample Discovery Requests Development**
 - i) We should focus on creating sample discovery requests that address the most common issues in divorce cases, allowing users to check off items as needed. Some members are concerned about granting Licensed Paralegal Practitioners (LPPs) general discovery authority, as discovery can be complex and pivotal in determining case outcomes. The complexity of discovery often leads to evidentiary hearings, where courts may face more significant challenges. While some judges have previously ordered discovery requests, it may be safer to have a judge order the LPP to draft them rather than using a form without clear approval. The form was proposed to include items that should already be disclosed in the initial disclosures. However, lawyers sometimes fail to disclose these items or may choose to withhold them strategically until the court orders a discovery request.
- **Limitations of Initial Disclosures**
 - i) Judges and other stakeholders may be comfortable with a discovery form limited to specific items. Essentially, it would function like a motion to compel, asserting that a party must produce documents that should have been disclosed. Rather than relying solely on the rules, it would come with a court order mandating compliance. If the

- form requests information that should have been provided in the initial disclosures, judges appear to support the idea of allowing Licensed Paralegal Practitioners (LPPs) to use this form to enforce existing discovery rights.
- **Navigating Formal Discovery**
 - i) The distinction between what Lindsey describes as a statement of discovery issues and what Melissa, Leslie, and Tonya are working on—an actual motion for discovery—needs clarification. They are developing discovery requests to produce documents and interrogatories, which function similarly to depositions but in writing. This process preserves rights, allowing a party to file with the court if responses are not provided, potentially leading to deemed admissions.
 - **Clarifying Discovery Types:**
 - i) For a Licensed Paralegal Practitioner (LPP) in family law who does not receive the necessary information as part of the initial disclosures, there may already be a motion to compel form available in the forms bank. This could be used to request the court enforce the obligation to provide initial disclosures, presenting the motion to the judge to compel compliance.
 - **Common Challenges with Initial Disclosures**
 - i) The focus here is on written discovery, which involves sending requests for interrogatories, admissions, and production of documents to the opposing party rather than filing a motion with the judge. This process is akin to a deposition but conducted in writing. If the other party fails to make the necessary disclosures, you can inform them that they must produce specific documents or face potential discovery disputes. If they do not comply, you can initiate a Rule 37 motion and engage in a meet and confer process, potentially under Rule 33, to address the discovery issues. However, this is separate from the initial disclosures and involves written discoveries directed at the opposing party. They have the right to object, claiming the requests are vague, ambiguous, or overly broad, complicating the process. There are numerous objections that the opposing party can raise, making written discovery a complex area that requires careful navigation.
 - **Cost Minimization Strategies**
 - i) When discussing formal discovery, we refer to processes such as interrogatories, requests for admissions, and setting depositions. This type of discovery is typically restricted, with courts generally prohibiting Licensed Paralegal Practitioners (LPPs) from engaging in these formal discovery methods.
 - **Effectiveness of Standard Forms**
 - i) Clarifying the distinction between basic and formal discovery. Formal discovery includes methods like interrogatories, requests for admissions, and depositions, which are primarily the domain of attorneys. Regarding document production, it refers to situations like those in Colorado, focusing on financial disclosures. If parties provide only minimal information, such as 30 days of bank statements from just one account, they aren't fulfilling their obligations. This is a common issue that many Licensed Paralegal Practitioners (LPPs) in family law encounter, leading to significant frustration. While not advocating for interrogatories, emphasizing the importance of thorough document production and requests, which fall under the category of formal discovery. However, requests for admission are not necessary for our purposes.
 - **Empowering Licensed Paralegal Practitioners (LPPs)**

- i) Initial disclosures require certain actions, but they are limited in scope. I think Melissa suggests a checklist tailored to specific cases, recognizing that not all situations will involve business ownership or real estate documentation. However, the challenge with this discovery form is that the discovery available in divorce cases is restricted. For instance, you can typically only submit 10 interrogatories, which can include subparts. Utilizing a Colorado form that combines questions might exhaust your limit with a single interrogatory. Additionally, the financial declaration form requests only three months' worth of bank statements, which may not provide a comprehensive view of a person's financial situation. While a statement of discovery issues could be useful if someone fails to meet the minimum disclosure requirements, you are often left at a disadvantage in the process once you obtain the bare minimum.
- **Trial Concerns and Discovery Rights**
 - i) Question for the Licensed Paralegal Practitioners (LPPs) who practice family law: Are you frequently encountering situations where the minimum in initial disclosures is insufficient to manage a divorce case effectively? Is this a common issue where the limited information provided hampers your ability to develop the case adequately?
 - ii) Yes, we will need more than the initial disclosure provides. With pro se parties, the issue often arises because they have been separated for a long time, which complicates matters. It's important to retrieve data from the date of separation, not just the present. Trying to minimize client costs increases their expenses, such as drafting subpoenas and having them served. Motions to compel also add to their financial burden compared to simpler interrogatories or requests for specific documents.
- **Trust in Licensed Paralegals**
 - i) There is a question on the effectiveness of using standard forms. If the other party is inclined to resist providing information, they will likely respond with boilerplate objections to the interrogatories regardless of the form used. Simply having a form doesn't guarantee compliance; if they're unwilling to provide the information, they likely won't, regardless of the method used. There may be shortcomings in the rules regarding initial disclosures, which often leave attorneys unable to navigate divorce cases adequately. This has created a loophole that some attorneys are exploiting. As independent practitioners, we cannot file or argue certain discovery issues, which must be addressed during the hearing itself. This means clients may have to argue independently, complicating the situation further. Such complexities can hinder access to justice. The primary objective should be to help clients secure the justice they deserve at the lowest possible cost. A straightforward "check the box" method is far more efficient than drafting motions, orders, or subpoenas, which then require service. This streamlined approach ultimately benefits clients who may not be able to afford extensive legal procedures.
- **Proposed Discovery Issues Form**
 - i) In your experience as a Licensed Paralegal Practitioner (LPP), how often are initial disclosures inadequate?
 - ii) All the time. That's why we send out subpoenas and engage in formal discovery and go to court. It's the reality of the situation.
 - iii) Are Licensed Paralegal Practitioners (LPP) encountering similar challenges as independent practitioners?

iv) Navigating these issues can be particularly difficult without an attorney. Unlike those at firms who can fill out forms to assist clients, many of our clients lack the financial resources to hire legal representatives, often jeopardizing their cases in the process. I feel they find themselves at a disadvantage when they miss discovery deadlines.

◦ **Next Steps and Collaboration:**

i) The challenges we face may be beyond our ability to resolve as a committee. If the rules on initial disclosures are insufficient, leading to inadequate information exchange between parties, it's unclear whether a discovery form would effectively address the issue. Simply submitting a form that states, "You were supposed to provide this information; now I want it for real," may not change the situation significantly. Nonetheless, we can propose the form for consideration, potentially gaining approval to establish Licensed Paralegal Practitioners' (LPPs) authority to handle basic discovery tasks. This could be a valuable step toward empowering LPPs to engage in discovery requests and enhancing their confidence in doing so.

◦ **Research on Additional Forms**

i) In many firms, paralegals are often responsible for drafting admissions requests and managing other discovery-related tasks. However, a significant concern arises during the trial when disputes emerge over whether the opposing party preserved their rights in discovery or whether malpractice has occurred due to improper handling of the discovery process. While it may not seem critical at the outset of a case, these issues can escalate significantly in contested cases, leading to procedural complications and potential appeals. If an LPP incorrectly responds to discovery requests or fails to make necessary objections, this could disadvantage the client during the trial, creating further problems.

8. Clarity on the educational requirements: (Not Discussed)

9. Roles and responsibilities of the Steering Committee: (Not Discussed)

10. Potential Areas for LPP Expansion: (Not Discussed)

- Guardianship
- Workplace Protection Order
- Expungements
- Practicing In Commissioner's Court.
- Simple Probate
- Practicing In Small Claims
- Uncontested Adoptions
- Stepparent Adoption
- Foster-Parent Adoption

11. Adjourned: 5:17

12. Licensed Paralegal Practitioner Steering Committee Meeting Times and Dates (Third

Tuesday at 4 pm):

- October 15, 2024
- November 19, 2024
- December 17, 2024
- January 21, 2025
- February 18, 2025

- March 18, 2025
- April 15, 2025
- May 20, 2025
- June 17, 2025
- July 15, 2025
- August 19, 2025
- September 16, 2025