

# Agenda

## Committee on Resources for Self-represented Parties

February 12, 2016  
12:00 to 2:00 p.m.

Administrative Office of the Courts  
Scott M. Matheson Courthouse  
450 South State Street  
Executive Dining Room

Approval of Minutes/ Announcements	Tab 1	5 minutes	Judge Marsha Thomas
Updates on Subcommittees & Strategic Plan Priorities <ul style="list-style-type: none"> <li>• Forms (appellate; general)</li> <li>• Lawyer Directories &amp; Referral Sources (Unbundled Section of the Bar; Pro Se Clinic &amp; Order to Show Cause Clinic; Update on AAA task force; Paralegal Practitioners; Pro Bono Efforts List)</li> <li>• Education (Updating Self-Represented Parties Curriculum for Justice Courts; educational videos on courts web page)</li> <li>• Malpractice Insurance</li> </ul>	Tab 2	5 minutes 30 minutes          15 minutes          5 minutes	All
New assignment from Judicial Council	Tab 3	15 minutes	Nancy Sylvester
Update on Implementation of Law Student Assistance Rule	Tab 4	10 minutes	Carl Hernandez/ Nancy Sylvester
Other Business		5 minutes	Judge Marsha Thomas

[Committee Web Page](#)

**Proposed Bimonthly Meeting Schedule:** Matheson Courthouse, Judicial Council  
Room, 12:00 to 2:00 p.m. unless otherwise stated.

April 1, 2016

June 10, 2016

August 12, 2016

October 14, 2016

December 9, 2016

# TAB 1

## **Minutes of the Committee on Resources for Self-represented Parties**

December 11, 2015

Draft. Subject to approval

### **Members Present**

Judge Marsha Thomas, Carol Frank (remotely), Jessica Van Buren, Sue Crismon, Carl Hernandez, Mary Jane Ciccarello, Susan Griffith, Shaunda McNeill, Chris Martinez, Eric Mittlestadt. Lisa Collins, Virginia Sudbury, Judge Barry Lawrence

### **Members Excused**

Leti Bentley  
Barbara Procarione  
Jaclyn Howell-Powers  
Judge Ryan Evershed  
Judge Douglas Thomas

### **Staff**

Nancy Sylvester

### **Guests**

Rob Rice  
Cynthia Mendenhall

### **(1) Welcome and approval of minutes.**

Judge Marsha Thomas welcomed everyone and introduced Judge Barry Lawrence, the committee's new district court judge. Judge M. Thomas then asked everyone to introduce themselves to Judge Lawrence. Judge Lawrence described his experience on the debt collection calendar, which has a pro se component, and his desire to expand it. Judge Thomas then recognized Judge DiReda (not present) for his service on the committee. She also recognized Carol Frank and Lisa Collins who were both reappointed by the Judicial Council. Judge M. Thomas then corrected (4)(a) on the September minutes, which was missing a word ("question"). Mary Jane also made a correction to include "Vietnamese" under the languages on (4)(b). Judge M. Thomas then asked for a motion to approve the minutes. A motion was made and seconded. The September 2015 minutes were approved as written.

### **(2) Portal/Directory Progress & "Courthouse Steps"**

Rob Rice spoke about the AAA taskforce, which stands for Affordable Attorneys for All. It was organized by Angelina Tsu as a result of the Bar's Futures Commission Report. About 2 dozen action items were identified. AAA is the execution arm of the report. Mr. Rice then spoke about the attorney directory. The idea of it is to be a one-stop place for finding an attorney. It will include languages spoken, fees, areas of practice, etc. There will be a meeting next week that Mary Jane Ciccarello will be invited to

in order to take a look at the beta stage of the directory. He encouraged members to contact him if they have ideas on what it should do. He expressed his desire that it would provide a good resource to organizations like the Self-Help Center and also to self-represented parties. The Bar is hoping to roll it out at the end of January or early February. The “lawyer bucket” of the directory will be filled with the enhanced lawyer directory information and other lawyers who are willing to help out early on. The other bucket includes the consumers. The Self-Help Center will be a good referring organization on the consumer side. Phase 2 is going to involve getting the broader Bar to populate the list.

Mr. Rice then spoke about Courthouse Steps, which is basically a paid Tuesday Night Bar program. It’s staffed at this point by Open Legal Services but he anticipated that modest means practicing lawyers will be able to sign up, too. It costs around \$100 and was rolled out on 12/3/15.

Sue Crismon then noted that JoLynn Spruance runs the Pro Bono Initiative and there has been some talk of adding document preparation to PBI.

### **(3) Announcements**

At the last meeting, Judge Thomas intended to focus on the Strategic Plan, but time ran out so she met one on one with the subcommittees to focus on the goal.

### **(4) Update on Subcommittees and Strategic Plan Priorities**

#### **(a) Law Student Practice Rule**

Carl Hernandez and Nancy Sylvester reported on the Law Student Practice Rule (Rule 14-807). The main concern with the old rule, Mr. Hernandez said, is that in order for the law student to practice, it required the stipulation of both parties. He discussed how the rule was one of the most restrictive in the nation. Mr. Hernandez said that one of the concerns the justices had when he and Ms. Sylvester presented the rule to the Supreme Court was about students appearing before the Supreme Court. He said Justice Lee was also concerned about students not having taken Evidence and Criminal Procedure before appearing in court. They also discussed having the clients’ approval on each activity. Mr. Hernandez and Ms. Sylvester would be making some amendments to the rule and taking it back up to the court for further discussion.

#### **(b) Self-Help Center**

Mary Jane Ciccarello discussed the updates on the Self-Help Center. She said there is a study involving 8 sites, which includes Utah. They have been working on this for over a year. There is a report and it will be out in the beginning of 2016. It’s meant to be a representation of best practices for states contemplating beefing up remote delivery services or rolling it out. All of the states have court-based self-help centers, with the exception of Idaho, which is a hybrid. Utah and Alaska are the only totally virtual self-help centers, but Alaska only deals with family law. Many states that have established self-help centers are moving far more into case management systems. Ms. Sylvester asked about conflicts. Ms. Ciccarello said the Self-Help Center never has to conflict out because no attorney-client privilege is entered into.

Ms. Ciccarello also discussed the LLLT committee's report. She said there are different levels to doing things and what Washington is doing is too onerous. She said what the Self-Help Center would prefer is the Court Navigator Program that Leti Bentley is doing. The Self-Help Center doesn't have the resources to do this, but if they did they could provide training to people. Ms. Crismon asked if there was any movement on having one dedicated clerk in each district to act as a navigator. Ms. Ciccarello and Ms. Sylvester hadn't heard anything about this. Judge Lawrence asked if the law schools were on board. There was some general discussion about what the law schools were doing.

### **(c) Virtual Services/Court Navigator Program**

Cynthia Mendenhall is the Project Coordinator for the Lawyer of the Day project. She discussed what the project is about. She said it's an opportunity for attorneys to do pro bono work from the comfort of their offices Monday through Friday for an hour or two at a time. Mary Jane is working to forward the documents ahead of time so that the lawyer can have an opportunity to review them before meeting with the court patron.

Utah Legal Services have set up e-modules for CLE credit so that they can get non-family law attorneys to participate, too. They are trying to get attorneys signed up from the sections. Jessica Van Buren then went over the statistics from the Self-Help Center. Ms. Mendenhall said the lawyer of the day funding comes from a 2-year grant from Legal Services Corporation. They are hoping to expand beyond family law. Ms. Ciccarello said everyone who has called in has been excited to be transferred to the lawyer.

Ms. Griffiths reported on virtual services through Timpanogos Legal Clinic (TLC). She said the process has been arduous getting the forms signed by clients for consent to the clinic. But they are streamlining. She said the technology is flawless. The person clicks on the link and the program pops up (no downloading). They schedule a volunteer attorney, law student, and a client. A TLC person pops in and out. They try to assign a law student prior to the clinic so that all of the headings are set up right. Right now they are doing 4<sup>th</sup> and 7<sup>th</sup> districts. It's designed to be a rural access project but they have had trouble getting clients. They haven't advertised that they are doing it to 3<sup>rd</sup> District, but they are set up to take the clients if they are sent to them. The orders to show cause and petitions to modify are harder than the ones that have a quicker turn around. They usually send them to the Self Help Center.

### **(d) Forms**

Eric Mittlestadt reported about OCAP. They are not working on anything new, but the court staff are working on improving how documents are printed and making it easier to access things that need to be corrected. Chris Martinez discussed how people are having trouble getting things notarized, for example, because their name is wrong on some documents. Ms. Sylvester asked if the checklist from the courts' webpages could be on programming so that people know going in what they need to complete their documents. Mr. Mittlestadt said they do have some links in OCAP to the courts' webpages. The committee had a discussion on being able to print out, for example, just a summons.

### **(e) Lawyer Directories & Referral Sources**

Draft: Subject to approval

Minutes of the Committee on Resources for Self-represented Parties

December 11, 2015

Page 4

Virginia Sudbury spoke on the creation of an unbundled section. Rob Rice said John Baldwin had mentioned it to him and John just needs to get the paperwork together. He recommended that Virginia make a presentation to the Bar Commission in January. Sue Crismon mentioned that Virginia should write a Bar journal article.

## **(5) Other Business/Future Meetings**

The committee did not get through all of the business it had on the agenda. Judge Marsha Thomas discussed a change in the meeting schedule: she suggested having the committee meet for two hours every other month, rather than quarterly and only for an hour and a half. Judge Lawrence asked about having a list of what all of the different committees were doing about pro bono assistance. Ms. Sylvester said she would need to create it.

The next committee meeting will be February 12, 2016.

The meeting adjourned at 1:38 p.m.

# TAB 2



## **Access to Justice Efforts in Utah**

### **And Justice for All**

The mission of “AND JUSTICE FOR ALL” is to increase access to civil legal services for the disadvantaged and for individuals with disabilities in Utah by creating and sustaining resources to support civil legal services, sharing and consolidating resources so that services are delivered in a cost-efficient and effective manner, and strengthening the member agencies and the distinct roles they play in the delivery of civil legal assistance. Members include Utah Legal Services, the Legal Aid Society of Salt Lake, and the Disability Law Center.

Maintains the AJFA Fellowship Program.

<http://andjusticeforall.org/>

### **Court Navigator**

Moab Valley Multicultural Center

Staff help people fill out forms and accompany people to court and take notes so they can explain what happened at the hearing.

Leti Bentley is on staff.

<http://www.moabvalleymulticulturalcenter.org/>

### **Courthouse Steps**

An unbundled family law “clinic” that seeks to offer its program in the Matheson courthouse. \$100 flat fee. Currently only staffed by one law firm: Open Legal Services.

### **Futures Commission of the Utah State Bar**

Report and Recommendations

[https://www.utahbar.org/wp-content/uploads/2015/07/2015\\_Futures\\_Report\\_revised.pdf](https://www.utahbar.org/wp-content/uploads/2015/07/2015_Futures_Report_revised.pdf)

Mary Jane Ciccarello was on this commission.

### **In Court Status Conference**

Rule 16 and other case review

Commissioner Sagers

Self-Help Center attorneys staff.

### **Lawyer of the Day**

Utah Legal Services + SHC + volunteer attorneys

When Self-Help Center staff have a caller needing legal advice, they can transfer the call to the scheduled attorney, and email relevant pleadings.

May be using volunteers from the YLD soon.

### **Legal Clinics throughout Utah**

<http://www.utcourts.gov/howto/legalclinics/>

### **Modest Means – Utah State Bar**

Attorneys offer full or limited scope legal services at reduced rates for income-qualified clients

Mary Jane Ciccarello was on the original committee.

<https://www.utahbar.org/modest-means-lawyer-referral-program/>

### **Pro Bono Initiative-S.J.Quinney College of Law of the University of Utah State Courts**

Maintains and staffs several legal clinics in the Salt Lake area.

<http://www.law.utah.edu/pro-bono-initiative/free-legal-clinics/>

### **Supreme Court Task Force to Examine Limited Legal Licensing**

(aka LLLT Committee)

Recommendations:

[http://www.utcourts.gov/committees/limited\\_legal/Supreme%20Court%20Task%20Force%20to%20Examine%20Limited%20Legal%20Licensing.pdf](http://www.utcourts.gov/committees/limited_legal/Supreme%20Court%20Task%20Force%20to%20Examine%20Limited%20Legal%20Licensing.pdf)

Mary Jane Ciccarello was on the task force and chaired one of two working groups. Sue Crismon was on the task force.

### **Supreme Court Paralegal Practitioner Steering Committee**

Implementation committee of the recommendations made by the Supreme Court Task Force to Examine Limited Legal Licensing.

Committee work starts in February 2016. Mary Jane Ciccarello and Sue Crimson are members.

### **Timpanogos Legal Center**

Document Clinic

Offered in 4<sup>th</sup> and 7<sup>th</sup> districts

Remote document preparation using Legal Zoom videoconference software

Susan Griffith is the TLC executive director.

### **Utah Bar Foundation**

<http://www.utahbarfoundation.org/>

The Utah Bar Foundation is a non profit corporation that exists to provide funding in the following categories:

1. To promote legal education and increase the knowledge and awareness of the law in the community.
2. To assist in providing legal services to the disadvantaged.
3. To improve the administration of justice.
4. To serve other worthwhile law-related public purposes.

### **Utah Judicial Council's Children and Family Law Standing Committee**

Domestic Case Process Improvements – Judicial Council Study

Scheduled to report its findings to the Judicial Council July 2017

## **Utah Judicial Council's Standing Committee on Resources for Self-Represented Parties**

Created in 2005

Created Self-Help Center in 2007

Forms Committee

<https://www.utcourts.gov/committees/index.cgi>

## **Utah State Bar – Affordable Attorneys for All Task Force**

Rob Rice and Angelina Tsu, co-chairs

- Developing sustainable business models for lawyers to provide affordable legal services;
- Expanding lawyers' ability to provide unbundled legal services through innovative community lawyering programs;
- Building an effective web-based communications solution to connect clients to affordable legal services;
- Partnering with the Legislature to identify ways to expand legal services that are affordable to all;
- Joining with Utah law schools to assist law school graduates in the transition to a sustainable law practice.

Nancy Sylvester and Shaunda McNeil are part of this task force.

## **Utah State Bar Pro Bono Commission**

### **Utah State Bar – Unbundled Section**

Effort spearheaded by Virginia Sudbury.

### **Utah State Bar Signature Programs**

- Child Support Enforcement in 2<sup>nd</sup> district
- Debt Collection Calendar – 3<sup>rd</sup>
- Eviction Calendar in West Jordan?
- Guardianship – attorneys for respondents – Statewide; <http://www.utcourts.gov/howto/family/gc/signature/>
- Pro Se Calendar – Virginia Sudbury, Chris Martinez, Mary Jane Ciccarello

### **Utah State Courts Self-Help Center**

<http://www.utcourts.gov/selfhelp/contact/>

Mary Jane Ciccarello is the director.

### **Utah State Courts Website**

[www.utcourts.gov](http://www.utcourts.gov)

### **Utah State Law Library**

<http://www.utcourts.gov/lawlibrary/>

Jessica Van Buren is the director.

Undergraduate interns and community volunteers help patrons complete OCAP and other court forms in person or by phone.

# TAB 3

## **Courthouse Steps at Matheson and Improved Domestic Case Efficiency: Conceptual Framework**

*Goals: 1) Streamline the court process surrounding domestic cases, preferably at the early stages; 2) make it easier for court patrons to access attorneys who can generate competent court documents; and 3) maintain the judiciary's impartiality.*

### INTRODUCTION

The Affordable Attorneys for All (AAA) Committee, which is an implementation arm of the Utah State Bar's Futures Commission [Report](#) recommendations, has created a pay-per-task clinic called Courthouse Steps. The clinic seeks to provide the public with easier access to domestic law attorneys who provide affordable rates on document preparation and legal advice. The AAA Committee has asked the judiciary if it can use space in its courthouses for the clinic. This request coincides with a [charge](#) to the Judicial Council from the Supreme Court's Task Force to Examine Limited Legal Licensing. The charge is to implement a pilot program of "assisted resolution of family law and/or debt collection cases involving self-represented parties,"<sup>1</sup> and the Judicial Council has asked its Standing Committee on Resources for Self-represented Parties to develop it. Because both tasks are interrelated and the efforts on one could benefit the other, this document examines in outline form what each task involves and how the AAA Committee and the Committee on Resources for Self-represented Parties can work together to accomplish both objectives. It also examines some of the legal issues surrounding having a paid clinic at the courthouse and how they are overcome.

### COURTHOUSE STEPS

- What is Courthouse Steps?
  - Courthouse Steps is a Utah Bar-endorsed clinic that handles domestic cases; the charge is \$100 per session regardless of income, which includes document preparation and legal advice. The project originated with the Bar's AAA Committee.
  - It is currently staffed by Open Legal Services only.
  - Press release: "Open Legal Services offers divorce and custody document preparation and legal advice on a one-time basis for a \$100 flat fee regardless of income. Assistance will be available for initial or final divorce documents, temporary orders, orders to show cause,

---

<sup>1</sup> SUPREME COURT TASK FORCE TO EXAMINE LIMITED LEGAL LICENSING, REPORT AND RECOMMENDATIONS 40-42 (2015)

parentage/paternity documents, and other documents on case-by-case basis. Clinics are held on the first Thursday of the month from 6-8:00 p.m. at the Utah State Bar, 645 S 200 E, Salt Lake City, 84111. No appointment needed.”

- The Bar’s AAA Committee has asked that Courthouse Steps be provided space in the Matheson courthouse.
- What are the concerns about Courthouse Steps using space in the courthouse?
  - Attorneys are charging for services.
  - Only one provider is currently staffing the clinic.
  - The judiciary cannot support a single-provider paid clinic, but would appear to if the clinic were provided space at the courthouse.
- Where do these concerns originate and how can they be addressed?
  - The judiciary must not only maintain its factual neutrality, but must also maintain the appearance of it. CANON 1, RULE 1.2 OF THE UTAH CODE OF JUDICIAL CONDUCT.<sup>2</sup> To appear to provide preferential treatment to a single legal services provider that charges for its work would directly impact the public’s perception of the judiciary’s neutrality.
  - If Courthouse Steps were Utah State Bar administered, rather than endorsed, and the list were open to all interested attorneys and operated on a rotating basis, this would remove some of the Office of General Counsel’s concerns about it using space in the courthouse and the judiciary being able to refer court patrons to it.
  - Court personnel and judges are not permitted to refer court patrons to specific attorneys (or other service providers) under the Code of Judicial Conduct. This is demonstrated by the situations addressed in the following Ethics Advisory Informal Opinions:
    - **Ethics Advisory [Informal Opinion 99-2](#)** addressed the situation in which a request was made to hang a plaque in the Matheson Courthouse announcing the trial lawyer of the year. The committee stated, “A courthouse is a symbol of impartial justice that reflects upon all the judges who work in the building as well as upon the judiciary as a whole. A plaque identifying particular advocates as ‘Trial Lawyer of the Year’ in a court facility may imply to those seeing the plaque that the judiciary thinks more highly of particular

---

<sup>2</sup> Canon 1, Rule 1.2 of the Utah Code of Judicial Conduct provides, “A judge should act at all times in a manner that promotes-and shall not undermine-public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.

lawyers. The Committee is particularly concerned about the effects upon litigants who might be involved in litigation against a client of one of the lawyers listed on the plaque. Because displaying the plaque may raise perceptions of partiality, displaying the plaque is inappropriate.”

- **Ethics Advisory [Informal Opinion 10-2](#)** addressed the issue of judicial referrals to specific mediators as follows: “Canon 1, Rule 1.3 states that a judge ‘shall not abuse the prestige of judicial office to advance the personal or economic interests of . . . others or allow others to do so.’ Canon 2, Rule 2.2 states that a judge ‘shall perform all duties of judicial office . . . impartially.’ Rule 2.4 states that a judge ‘shall not permit family, social, political, financial, or other interests or relationships to influence the judge’s judicial conduct or judgment.’ The concern in this situation is that a judge would be using his or her office to advance the pecuniary and reputational interests of a mediator, and that the judge’s underlying motives might be based on a relationship with the mediator. ”
- With respect to provider referrals, generally, **Ethics Advisory [Informal Opinion 12-02](#)** provides that “the court may create a preapproved roster as long as the criteria the court creates for being admitted to the roster are reasonable and directly related to the services that the court needs and any interested individual or entity may apply to be included on the roster. Referrals should generally be made on a rotating basis or by allowing the [party] to select a provider.”
- The judiciary may not refer to Courthouse Steps or provide it space in its courthouses as the program is currently constituted. But it could refer to the program and provide it space if the list were administered by the Bar and open to any interested attorney. As referenced above, the judiciary’s impartiality would not be at issue in this scenario.
- If the Bar is concerned about attorney competency in domestic cases by being required to open it up to any interested Bar member, there are ways to address this. For example, attorneys could be required to take Utah Legal Services’ domestic training modules or certify to competence in domestic cases prior to being added to the list. A similar requirement is contained in the [Guardianship Signature Program](#) now.



- When could the Bar-administered Courthouse Steps be held?
  - After hours: At the same time as Divorce Education Classes or Family Law Clinic (preferred) so that security is already staffed and conference rooms are available. This may also be convenient for court patrons who work during normal business hours.
    - There is an advantage to holding Courthouse Steps at the same time as the Family Law Clinic. If an issue is complex or the person is over income, the person can immediately walk over to Courthouse Steps to speak with an attorney or have their document prepared.
  - During court hours: There may be an advantage to this time as well since the courthouse is fully staffed, but there is a disadvantage in that there will be an impact on conference room availability for court personnel and also commissioner availability (see below). The Office of General Counsel also has general “floodgates” concerns about providing space during normal courthouse hours; it is disinclined right now to provide the space during those hours.

### IMPROVED DOMESTIC CASE EFFICIENCY

- How can domestic case efficiency (Task Force report charge) be improved in conjunction with Courthouse Steps?

*The following is a non-exhaustive list of potential ways in which domestic case efficiency could be improved in the Utah State Court system. The list includes both proposals from the Task Force and proposals already being explored by Third District Commissioner Joanna Sagers, some of which are in conjunction with Courthouse Steps. The Supreme Court’s Task Force recommended “assisted resolution of litigation involving self-represented parties []: get the parties into the courthouse; provide them with an opportunity to explain their circumstances and their preferred outcomes; and then have the resources in place to reach and finalize an acceptable outcome.”<sup>3</sup> The Committee on Resources for Self-represented Parties will need to flesh out more completely how this can be done within the context of [Utah Rule of Civil Procedure 16](#).*

- **Domestic Commissioners & Open Court Hours (Courthouse Steps):**
  - Commissioners would rotate weekly but be available in their courtrooms for 1-2 hours to enter items on the record or conference with parties. Judicial assistants would also need to be available.

---

<sup>3</sup> SUPREME COURT TASK FORCE TO EXAMINE LIMITED LEGAL LICENSING, *supra* at 40.

- If the commissioners were available at the same time as an after-hours clinic like Courthouse Steps, they could sign clinic prepared orders, put agreements on the record, and even conference with the parties – as long as both parties were there – on how a case should proceed.
- Disadvantage to after-hours: commissioners and judicial assistants must be willing to stay. Like the attorney list, this could be done on a rotating basis.
- **Early Case Conferences (Task Force charge):**
  - Commissioners could run reports monthly on all cases, and where the parties are pro se or where an attorney has withdrawn (and no new attorney is attached to case), place those cases on an early case conference calendar. *See pages 40-42 of the [Report of the Supreme Court Task Force to Examine Limited Legal Licensing](#) below.*
  - The case conference would allow pro se parties to have direction on what to do next. URCP Rule 16 provides the authority for this.
  - Tie-in with Courthouse Steps: Parties who have their documents prepared at Courthouse Steps are pro se. The purpose of Courthouse Steps and clinics like it is to provide “a la carte” legal services, not ongoing representation, so most of the clients should end up on these specialized commissioner calendars.
  - The Task Force charge also mentioned debt collection cases as needing more active management. This is something the committees will need to flesh out.
- **Commissioner/Judge Assignments & Meetings (improving efficiency internally):**
  - Have a commissioner assigned to a handful of judges quarterly. The commissioner and the judges would meet at the beginning of the quarter to discuss how the judges would like the commissioner to do things (non-case specific).
  - This would eliminate some of the issues of judges having to overturn what commissioners do and create communication where none has previously existed.
  - Currently, there is not an efficient assignment system between judges and commissioners.

- **Modify judicial assistant roles (improving efficiency internally):**
  - Judicial assistants should be able to help with increased case management, including increased document preparation (currently Mary Jane Ciccarello's function on the pro se calendars).
  - Have a judicial assistant in each courthouse trained as a self-help expert, meaning they can show pro se litigants where the pro se forms are. The same training that is giving to the Hinckley Institute interns would be given to the judicial assistants.

### COMMITTEE ROLES

- What are the roles of the various committees in all of this?
  - **Committee on Resources for Self-represented Parties:** Dan Becker, on behalf of the Judicial Council, has asked that this committee take up the charge from the Supreme Court's Task Force on Limited Legal Licensing on pages 40-42 of its [report](#). The committee will need to create a subcommittee or repurpose an existing one to study and implement a pilot program involving Courthouse Steps and early domestic case management, among other projects. The Forms Subcommittee will also work on forms and liaise with the OCAP committee (see OCAP discussion below).
  - **AAA Committee:** Provide members of the Courthouse Steps subcommittee to work with the Self-represented Parties committee on this study and pilot program. Survey the current Courthouse Steps clients on what kinds of questions or issues they are asking to be handled by the attorneys and where in the process the clients are at that moment. This will help inform how the pilot programs proceed.
  - **Domestic Case Process Improvements Judicial Council Study Committee:** The 2016 Judicial Council Study Committee will be conducting a thorough review of domestic case processing statutes, rules, and practices and determining if there are alternatives and improvements that should be considered. The Committee on Resources for Self-Represented Parties Committee will need to liaise with this committee to ensure that efforts are being coordinated and not duplicated. See the attached committee charge.

Pages 40-42 of the [Report of the Supreme Court Task Force to Examine Limited Legal Licensing](#)

(d) ASSISTED RESOLUTION OF CASES INVOLVING SELF-REPRESENTED PARTIES

The basic features for assisted resolution of litigation involving self-represented parties are: get the parties into the courthouse; provide them with an opportunity to explain their circumstances and their preferred outcomes; and then have the resources in place to reach and finalize an acceptable outcome. Alaska, California, Colorado and Minnesota have experienced good results with their programs.

In cases involving self-represented parties, Alaska conducts a hearing, early in the life of the case, at which attorneys are available to complete documents if a case is resolved. Only 2% of parties failed to appear at the hearings, 80% of new cases fully resolved with only one hearing, and 77% of modifications resolved with only one hearing. Only 5% of resolved cases required a further hearing within the next year.

Colorado and Minnesota have similar programs in which self-represented parties have a conference with a judge early in the case. Both states include an exchange of initial disclosures before the conference.

In Minnesota, an “evaluator” meets with the parties before they meet with the judge to try to mediate a settlement. If the case does not settle, the parties meet with the judge who tries to mediate a settlement or establishes deadlines for moving the case toward a litigated resolution. In Colorado 34% of cases fully resolved with stipulations and another 25% had no further hearings. Cases within the Colorado program resolved about 2 months more quickly than other similar cases.

[Rule of Civil Procedure 16](#) provides the court with sufficient authority to structure a conference in just about any way that makes sense for this purpose. The authority exists; all that is needed is someone to plan, design, organize and implement a program and to examine whether the program is achieving its goals.

Utah has a program of assisted resolution of family law cases, but the conference and assistance occur toward the end of case, rather than the beginning. The Utah program is currently operating with court commissioners in the Third District Court, and there are plans to implement it in the Fourth District Court. In the Utah program the case management system screens family law cases for cases in which there has been no activity for 180 days. Our rules permit these cases to be dismissed without prejudice, provided the parties are given an opportunity to show cause why the case should not

be dismissed. The court commissioners schedule a special calendar consisting only of cases with self-represented parties. The commissioners also schedule other law and motion matters involving only self-represented parties on this calendar. Volunteer attorneys are available at the hearing, as are volunteer mediators and self-help center lawyers, who provide staff support. All of these people work with the parties to resolve the matter or, if the matter is not settled, to move the case to the next steps in the process.

The Third District Court has a similar program for debt collection cases, in which volunteer lawyers represent a self-represented defendant. In many cases the volunteer lawyers are able to negotiate a settlement or a payment plan with the plaintiff.

If an opportunity for assisted resolution were provided early in the case, instead of after 6 months of inactivity, it would be a substantial improvement. Our experience may show that there remains a purpose to providing an opportunity for assisted resolution rather than dismissal.

We recommend that the judicial council establish a pilot program of assisted resolution of family law and/or debt collection cases involving self-represented parties. The council should consider the features of the Alaska, California, Colorado and Minnesota programs, which include mutual initial disclosures, a conference early in the case with defined objectives, and the resources – mediators, lawyers, judges, commissioners and staff – to reach and finalize an outcome.

As part of the pilot program, the council should address a practical problem with the OCAP application. OCAP allows a party to prepare the appropriate forms for a divorce, but it does not include the capability to complete any particular form. This limitation hampers the self-help center lawyers who staff the calendar and prepare the necessary documents. The judicial council should work with the OCAP board and staff to develop this capability, or it should work with the committee of resources for self-represented parties to develop and approve the necessary stand-alone forms.

## **Judicial Council Study: Domestic Case Process Improvements**

### **Committee Charge:**

The Judicial Council's Children and Family Law Standing Committee is charged with conducting a thorough review of existing domestic case processing statutes, rules, and practices and determining if there are alternatives and improvements that should be considered. This study should be limited to domestic cases and shall not include juvenile delinquency or child welfare proceedings. Specifically, the committee should:

- Examine programs in place in other jurisdictions that are aimed at simplifying process, reducing the adversarial nature of domestic proceedings, protecting children of divorcing parents, and reducing time and costs for litigants in order to determine what constitutes "best practices" in the adjudication of domestic disputes.
- Conduct an inventory of current practices and programs and assess both their effectiveness and the extent to which they are consistent with best practices in the field.
- Compile and examine data on the management of domestic cases, including case processing performance indicators, so as to identify promising practices that should be more broadly replicated.
- Conduct the study so as to take into account the individual perspectives of children, litigants, victims, self-represented litigants, attorneys, judges, commissioners, advocates, and service providers.
- Examine programs and services, such as OCAP, Self-Help Center, and forms to determine if additional or improved services are needed.
- Examine the commissioner process and determine if efficiencies are possible in their interaction with district court judges.
- Formulate proposed solutions to problems identified, including attendant resource requirements, statute, and rule changes.

### **Timetable:**

The standing committee should complete its work and report its findings and recommendations to the Judicial Council at the July 2017 meeting of the Judicial Council. This will allow sufficient time to seek the input of various interested parties and allow the Judicial Council time to decide what, if any, legislation should be advanced to the 2018 Legislature.

**Membership:**

The standing committee will conduct this study through a sub-committee composed of the following membership appointed by the Management Committee of the Judicial Council:

- |   |                                       |
|---|---------------------------------------|
| (2) district court judges                       | (1) Member of the Senate              |
| (2) court commissioners                         | (1) Member of the House               |
| (1) Legal Services attorney                     | (1) mediator                          |
| (2) family law attorneys                        | (1) Member of a child advocacy organ. |
| (1) Department of Human Services representative | (1) child development professional    |
| GAL director                                    | (1) an AOC administrator              |
| Self-Help Center representative                 |                                       |

A committee chair will be named by the Management Committee of the Judicial Council.

Staff support to the committee will be assigned by the state court administrator

The committee will operate under the oversight of the standing committee which shall monitor the work and progress of the committee. The chair of the standing committee shall file the committee's report with the Judicial Council, indicating whether the standing committee endorses the recommendations contained in the report.

# TAB 4



**Rule 14-807. Law school student and law school 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~~ in discharging their responsibilities to help create a just legal system that is accessible to all.

~~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~~ A law school student in good standing who ~~must have~~ has 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 is either:

(c)(1)(A) enrolled in a law school clinic or externship and supervised by an attorney authorized to practice law in the state of Utah; or

(c)(1)(B) volunteering for, or employed by, a tax-exempt or governmental agency or a for-profit entity, and supervised by an attorney who is authorized to practice law in the state of Utah;

22 or

23 (c)(2) Or a law school graduate who must have graduated~~has graduated~~ from an  
24 ABA approved law school, ~~and will be taking a regularly-scheduled bar exam within one~~  
25 year after graduating from law school, and have submitted an application for admission  
26 to the Bar in time for the first regularly-scheduled bar examination after graduation is  
27 working under the supervision of an attorney authorized to practice law in the state of  
28 Utah.

29  
30 (d) ~~The law school student's or graduate's participation shall be limited to civil,~~  
31 ~~misdemeanor or administrative cases.~~ Subject to all applicable rules, regulations, and  
32 statutes, a law school student or law school graduate as defined under this rule may  
33 engage in the following activities, so long as the client and supervising attorney consent  
34 in writing to each activity, and the supervising attorney remains fully responsible for the  
35 manner in which the activities are conducted:

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

39 (d)(1)(A) obtains the approval of the supervising attorney regarding the legal advice  
40 to be given or plan of negotiation to be undertaken by the law school student or law  
41 school graduate; and

(d)(1)(B) 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 school student or law school graduate:

(d)(2)(A) has passed a course in evidence; and

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

(d)(3) Appear in any court or before any administrative tribunal in this state. In order to participate in any evidentiary hearing, the law school student must have passed a course in evidence, and in the case of a criminal evidentiary hearing, must have also passed a course in criminal procedure. The supervising attorney's and the client's written consent and approval, along with the law school student's certification, must be filed in the record of the case and must be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, the law school student or law school graduate must orally advise the court at the initial appearance in a case that he or she is certified to appear pursuant to this rule. A law school student or law school graduate may appear in the following matters:

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

62     (d)(3)(B) Felony or Class A Misdemeanor Criminal Matters on Behalf of the  
63     Prosecuting Authority. In any felony or Class A misdemeanor prosecution matter in any  
64     court, the supervising attorney must be personally present throughout the proceedings.

65     (d)(3)(C) Infraction or Class B or Class C Misdemeanor Criminal Matters on Behalf  
66     of the Prosecuting Authority. In any infraction or Class B or Class C misdemeanor  
67     matter in any court with the written approval of the supervising attorney, the supervising  
68     attorney is not required to be personally present in court; however, the supervising  
69     attorney must be personally present during any Class B or Class C misdemeanor trial.

70     (d)(3)(D) Felony or Class A Misdemeanor Criminal Defense Matters. In any felony or  
71     Class A misdemeanor criminal defense matter in any court, the supervising attorney  
72     must be personally present throughout the proceedings.

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

79     (d)(3)(F) Appellate Oral Argument. In any appellate oral argument, the supervising  
80     attorney must be personally present and the court must give specific approval for the  
81     law school student's or law school graduate's participation in that case.

(d)(3)(G) Notwithstanding the terms of (d)(3), 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) Perform the following activities under the general supervision of the supervising attorney, but outside his or her personal presence:

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

(d)(4)(B) Prepare briefs and other documents to be filed in appellate courts of this state, provided such documents are reviewed and 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 an attorney of record in the matter, all such assistance must be supervised by the attorney of record, and all documents submitted to the court on behalf of such a client must be reviewed and signed by the attorney of record and the supervising attorney;  
and

(d)(4)(D) Perform other appropriate legal services, but only after prior consultation with the supervising attorney.

~~(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's dean, or his or her designee, must certify to the supervising attorney that the law school 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 law school student is enrolled in a law school clinic or externship. The law school's dean or designee must also certify to the supervising attorney that the student has passed an evidence course if the law school student will be participating in depositions or evidentiary hearings, and also a criminal procedure course if the law school student will be participating in criminal evidentiary hearings.

(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.~~

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

~~(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.

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

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

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

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

(h)(2)(A) failure to submit a timely application for admission to the Bar under (c)(2);

(h)(2)(B) the Bar's admissions office's or its character and fitness committee's decision to ~~disallow~~ not permit the law school graduate to take ~~the first a~~ regularly-scheduled bar examination under (c)(2);

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

143 | (h)(2)(D) the law school graduate's failure to be admitted to practice ~~at the first~~  
144 ~~regularly scheduled admission ceremony~~ within six months of taking and passing the bar  
145 examination under (c)(2).



## **Guidelines<sup>1</sup> for Administering**

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

#### **Eligibility to participate (c):**

##### **1) Law School Students: (c)(1)**

- a. In good standing;
- b. Completed the first year of legal studies (at least 2 semesters or the equivalent) from an ABA approved law school; AND
- c. Enrolled in a law school clinic or externship and supervised by an attorney authorized to practice law in the state of Utah; OR
- d. Volunteering for or employed by a tax-exempt or governmental agency, or a for-profit entity, and supervised by an attorney authorized to practice law in the state of Utah.
- e. Must provide to the supervising attorney the appropriate law school certifications in (e). (See the *Requirements of the Law School* section below.)
- f. Ineligibility to participate: cessation of law school enrollment unless by reason of graduation. (h)(1)

##### **2) Law School Graduates: (c)(2)**

- a. Graduated from an ABA approved law school;
- b. Will be taking a regularly-scheduled bar exam within one year after graduating from law school; (c)(2) AND
- c. Is working under the supervision of an attorney authorized to practice law in the state of Utah.
- d. Must provide to the Bar admissions office: (g)

---

<sup>1</sup> These guidelines are not intended to be an official statement on Rule 14-807. They are provided only for the law schools' convenience.

- i. The name of his or her supervising attorney; (g)(1)
  - ii. A signed and dated authorization to release information to the supervising attorney regarding the law school graduate's Bar applicant status; (g)(2) and
  - iii. 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. (g)(3)
- e. Ineligibility to participate: (h)(2)
- i. Failure to submit a timely application for admission to the Bar under paragraph (c)(2) (within 1 year of graduating); (h)(2)(A)
  - ii. The Bar's admissions office's or its character and fitness committee's decision to not permit the law school graduate to take a regularly-scheduled bar examination under (c)(2); (h)(2)(B)
  - iii. Notification of the law school graduate's failure to successfully pass the bar examination under (c)(2) (within 1 year of graduating); (h)(2)(C) or
  - iv. Failure to be admitted to practice within six months of taking and passing the bar examination under (c)(2) (for example, not taking the oath). (h)(2)(D)

Course Prerequisites for Law Students (d):

- 1) Completed Evidence Course if participating in 1) depositions (d)(2), 2) evidentiary hearings (d)(3), or 3) criminal evidentiary hearings (d)(3).
- 2) Completed Criminal Procedure Course if participating in criminal evidentiary hearings (d)(3).

Permissible Activities (d):

Prerequisites:

- a) The client (if there is one) and supervising attorney must consent in writing to each activity, and the supervising attorney remains fully responsible for the manner in which the activities are conducted. (d)
- b) If appearing in court, the supervising attorney's and the client's written consent and approval, along with the law school student's certification, must be filed in the record of the case and must be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. (d)(3)
- c) The student or graduate must orally advise the court at the initial appearance in a case that he or she is certified to appear pursuant to this rule. (d)(3)

Activities:

*Under the general supervision of the supervising attorney and  
subject to their final approval: (d)(1)*

- 1) **Negotiate for and on behalf of the client**, but the student or graduate must obtain the approval of the supervising attorney regarding the plan of negotiation,
- 2) **Give legal advice to the client**, but the student or graduate must obtain the approval of the supervising attorney regarding the legal advice to be given.

*Under the direct supervision and in the personal presence of the  
supervising attorney: (d)(2)*

- 3) **Appear on behalf of the client in depositions.**

*\*Supervision requirements vary with the following activities: (d)(3)*

- 4) **Appear in any court or before any administrative tribunal in this state.**

- a. **Civil Matters.** In civil cases in any court, the supervising attorney is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising attorney's absence. (d)(3)(A)
- b. **Felony or Class A Misdemeanor Criminal Matters on Behalf of the Prosecuting Authority.** In any felony or Class A misdemeanor prosecution matter in any court, the supervising attorney must be personally present throughout the proceedings. (d)(3)(B)
- c. **Infraction or Class B or Class C Misdemeanor Criminal Matters on Behalf of the Prosecuting Authority.** In any infraction or Class B or Class C 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 must be personally present during any Class B or Class C misdemeanor trial. (d)(3)(C)
- d. **Felony or Class A Misdemeanor Criminal Defense Matters.** In any felony or Class A misdemeanor criminal defense matter in any court, the supervising attorney must be personally present throughout the proceedings. (d)(3)(D)
- e. **Infraction or Class B or Class C Misdemeanor Criminal Defense Matters.** In any infraction or Class B or Class C 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 must be personally present during any Class B or Class C misdemeanor trial. (d)(3)(E)
- f. **Appellate Oral Argument.** In any appellate oral argument, the supervising attorney must be personally present and the court must give

specific approval for the law school student's or law school graduate's participation in that case. (d)(3)(F)

\*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)(3)(G)

**5) Perform the following activities under the general supervision of the supervising attorney, but outside his or her personal presence: (d)(4)**

- a. Prepare pleadings and other documents to be filed in any matter in which the law school student or law school graduate is eligible to appear,** provided such pleadings or documents are reviewed and signed by the supervising attorney; (d)(4)(A)
- b. Prepare briefs and other documents to be filed in appellate courts of this state,** provided such documents are reviewed and signed by the supervising attorney; (d)(4)(B)
- 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 an attorney of record in the matter, all such assistance must be supervised by the attorney of record, and all documents submitted to the court on behalf of such a client must be reviewed and signed by the attorney of record and the supervising attorney; (d)(4)(C) and
- d. Perform other appropriate legal services,** but only after prior consultation with the supervising attorney. (d)(4)(D)

Requirements of the Law School for Participating Students: (e)

- 1) The law school's dean, or his or her designee, must certify to the supervising attorney that
  - a. the student is in good standing;
  - b. has completed the first year of law school studies;
  - c. in the case of a clinic or externship, that the student is enrolled in a law school clinic or externship;
  - d. if the student will be participating in depositions or evidentiary hearings, that the student has passed an evidence course; and
  - e. if the student will be participating in criminal evidentiary hearings, that the student has passed a criminal procedure course.

Requirements of the Supervising Attorney:

- 1) 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. (f)
- 2) The supervising attorney remains fully responsible for the manner in which the activities are conducted. (d) (See generally the *Rules of Professional Conduct*.)
- 3) The supervising attorney may or may not be required to be personally present, but must generally supervise all activities. (d) (See *Permissible Activities* section above for specifics.)