

**Minutes of the Utah Judicial Council's  
Standing Committee on Resources for Self-represented Parties**

October 13, 2017

**Members Present**

Judge Barry Lawrence (chair), Sue Crismon, Jacob Kent, Shaunda McNeill, Kristin Godwin (Johnson), Judge Doug Thomas, Judge Catherine Roberts, Virginia Sudbury, Lisa Collins, Jacob Kent, Monica Fjeldsted, Nathanael Player

**Members Excused**

Judge Elizabeth Knight, Carl Hernandez, Carol Frank (remote), Jessica Van Buren, Susan Griffith, Christopher Martinez, Jaclyn Howell-Powers

**Staff**

Nancy Sylvester

**Guests**

Kara Mann, Rick Davis, Kim Free

**(1) Welcome, approval of minutes, introduction of new members.**

Judge Barry Lawrence welcomed everyone to the meeting and entertained a motion on the minutes. Judge Roberts moved to approve the minutes and Shaunda McNeill seconded them.

**Discussion of new bar section**

Rick Davis introduced himself. He is on the 3<sup>rd</sup> District Pro Bono Commission with Judge Lawrence. He said that has been successful in terms of getting large firms to send people to projects like the landlord tenant and debt collection calendars. He said they are always looking for more attorneys to donate their time. Mr. Davis said he went to law school to do good in the world, but wasn't always getting to do so in his practice. He spoke about his service as an LDS bishop in an ethnically diverse ward. He said they were all afraid of justice system, but he was able to help with landlord tenant, domestic relations, and other legal issues. He said that part of the job was at least as fulfilling as his ecclesiastical duties. He's now very motivated to help with immigration issues. He has since talked to friends who are retired and retiring. Every person said they'd like to

help with these needs but they wanted to know how. Mr. Davis said he has spoken with John Baldwin, who has reserved the senior attorney section for this pro bono group.

He listed names of those whom he thinks would be involved early: Jeff Fillmore, Paul Wood, Carolyn Montgomery, Mike Needer, Wally Rasmussen, Brad Parker, and Jim McConkie. He said Ms. Montgomery might be section head and Mr. Fillmore will likely be vice chair. The senior attorney section with the bar used to be a social section but it fell out about 5 years ago, which is why it is now available. He said the focus will be to provide services for the unrepresented or underrepresented in this community.

Mr. Davis then described how the attorneys will be able to help. He said the ABA issued a report on standards for programs providing civil pro bono legal services to persons of limited means, which will be helpful as they get up and running. Additionally, other sections have forms that they have said they will share, which will help these lawyers get up to speed. Judges are thrilled to have attorneys come and represent the client, especially those who are seasoned.

One challenge they will undertake is the unrealistic expectations of clients. Most of the service will be limited to representation on a motion or a hearing or working out a contract between two parties, etc. It will be limited to the desire of the inactive attorney. Once the attorney gets too far into it, they can refer it to a non-profit or elsewhere. The attorney can decide in advance how much time they are going to commit.

Attorneys like to see a problem fixed and resolved, which makes this a satisfying experience. Attorneys who are retiring want a bit of time to enjoy retirement but then they want to get back into practice. He said the Bar's website is not the best way to get people to volunteer; it's communications between people. He also noted that there are 350 inactive and 3000 active attorneys over the age of 65. Inactive dues for these retiring attorneys will be \$105 per year. Per Rule 14-803, inactive status still gives attorneys the ability under certain conditions to provide pro bono service.

Ms. Sudbury asked Mr. Davis to come talk to the limited scope section. Family law is always a big need. Judge Thomas asked about malpractice insurance. Mr. Davis responded that if you're part of a Bar sponsored program, which the pro bono calendars are, they are covered by the Bar's insurance. Mr. Davis said there would be an announcement by the first of the year about the section. There will be no age requirement and lawyers can come do tutorials on certain areas. Mr. Davis was thanked and excused.

**Update on Annual Judicial Conference panel presentation**

Judge Lawrence talked about the conference panel discussion. Judge Lawrence, Judge Thomas, Judge Roberts, Nancy Sylvester, Nathanael Player, and Tyler Needham were on the panel. The committee discussed the things that happen in SLC, but the focus was primarily on rural areas. Mr. Sylvester talked about remote hearings.

Judge Lawrence said the commissioner system came up during the course of the presentation as a suggestion for better handling pro se litigants. With the commissioner system, judges don't typically get involved in domestic cases until they are ready for trial.

Vernal and St. George don't have commissioners. The committee discussed that we have the ability with technology to have remote access in those places. And we have people in Salt Lake willing to do pro bono work. The committee discussed the idea of getting commissioners to help in 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> districts or having another commissioner here doing hearings remotely. Volunteer attorneys could communicate with patrons by phone, etc., thus taking advantage of people and resources here in SLC.

Judge Doug Thomas said he doesn't think commissioners are needed. He used to cover Duchesne. He's concerned that no one will be present in the courtroom except for the party. He said that no judges in 7<sup>th</sup> district will say they need a commissioner. He is hard pressed to think the workload demands it. There are two judges in Vernal. In 3<sup>rd</sup> district, the caseload demands commissioners, and the caseloads in 2<sup>nd</sup> and 4<sup>th</sup> district also anticipate commissioners, but not the more rural areas. Judge Lawrence said he appreciated Judge Thomas's candor.

Judge Thomas said the bigger need is on the parties' side. There is a need for pro bono attorneys, but the rural areas don't have them. They need to have the ability for attorneys to visit with people before the hearing. The committee discussed bringing the attorneys in Salt Lake remotely to the rural districts. The committee then discussed pairing legal help with parties prior to hearings. On every law and motion calendar in 7<sup>th</sup> District, Judge Thomas said, there are both domestic and criminal cases.

The committee discussed a goal of two to three times per month getting attorneys to the parties in the rural districts. Judge Thomas noted that one of the biggest needs is in debt collection. There is never any representation for debtors and the calendars are always set up based on creditors' schedules, which they batch in 15-20 cases. Judge Thomas also thinks there are a lot of attorneys in rural Utah who are of the view that we shouldn't make it easier for self-represented parties because it will take away business

from attorneys. Judge Thomas noted that although the Domestic Case Process Improvements report was overwhelmingly adopted, there are still several very vocal people who are concerned that we are providing too many services for self-represented parties.

Ms. Crismon spoke about new fee structures lawyers are providing. Judge Lawrence then asked if we should be asking Salt Lake lawyers to provide pro bono services outside their community. Ms. Crismon spoke about conflicts in rural areas, which she said happen frequently. Judge Thomas said ULS comes down to 7<sup>th</sup> District on protective orders. Ms. Godwin then raised a concern about the amount of protective order cases ULS will take on in Moab. Jacob Kent said he'd talk to that office about her complaint. The committee then discussed Limited Licensed Paralegals (LLP's) and how they could help. The committee concluded that there may be very few in rural areas.

The committee discussed that the best option may be to have calendars where there are already attorneys volunteering line up between Salt Lake and the rural areas. Judge Thomas said he prefers a list of attorneys willing to help. He said there is simply a need for more lawyers to do pro bono. Ms. Crismon mentioned that attorneys can now get up to 6 hours of CLE credit doing pro bono work. And she said New York is now forcing law students to do 50 hours of pro bono work before they can even sit for the bar.

Ms. Godwin talked about doctors who are incentivized to move down to rural areas and receive loan forgiveness. The committee then discussed loan forgiveness for attorneys. Mr. Player discussed what happens in San Francisco with debt collection cases – a notice is generated to the debtor that tells them to act or they will get a default, unlike here where the same is not generated.

## **(2) Committee discussion**

### **Subcommittee discussions**

#### *Education and Outreach Subcommittees*

Education Subcommittee membership: Judge Catherine Roberts (chair), Kim Free (ex officio), Jessica Van Buren, Nathanael Player, Lisa Collins, Nancy Sylvester, Monica Fjeldsted.

Judge Roberts gave an update from this subcommittee's meeting. She said the committee needs to focus on educating people about what we're doing, including knowing their options when they come to court, such as the Self-Help Center, etc. She

also noted that the self-help modules need updating. Kim Free said she is keen on Geoff Fattah giving a greater social media presence to pro se options and also having the media highlight the good things that are happening in court. She said the justice court clerks' conference will have a session on self-represented parties. Judge Roberts noted that the video for self-represented parties is outdated and needs to be updated. She then said this would be her last meeting due to her retirement but that she would follow up on her replacement. The committee discussed a recommendation to allow media to film a day in the life of a court case and the potential privacy implications around it.

Outreach Subcommittee membership: Judge Barry Lawrence (chair), Judge Doug Thomas, Judge Elizabeth Knight, Judge Catherine Roberts, Shaunda McNeill, Jaclyn Howell-Powers, and Professor Carl Hernandez.

Judge Lawrence said the University of Utah is having its pro bono week next week and that he, Ms. Sylvester, and Tyler Needham would be attending. Ms. Sylvester said they needed another judge and an attorney. Ms. Sudbury volunteered to be on the panel. The committee then discussed video recording in court.

#### *Rural Services Subcommittee*

Rural Services Subcommittee membership: Susan Griffith (chair), Carol Frank, Judge Thomas, Kristin Godwin (Johnson), Jessica Van Buren, Jacob Kent, and Leti Bentley (ex officio).

This subcommittee's work was discussed above.

#### *Court Updates/Self-Help/Non-Lawyer Assistance Subcommittee*

Self-Help Center/Non-lawyer Assistance/Court Updates Subcommittee membership: Nathanael Player, Jessica Van Buren, Nancy Sylvester, Chris Martinez, Kristin Godwin (Johnson) and Virginia Sudbury.

Mr. Player said there are new adult adoption forms online. Judge Lawrence asked about the new process of the forms going through the standing committee. Mr. Player said it is fairly slow for now, but he said he can see a need for the discussion around the form. Ms. Mann, the Language Access Program Coordinator, then introduced herself and said she is now on the forms committee. She said a lot of forms were approved at the last committee meeting.

The committee then discussed the new pro se calendar in Tooele. Legal Aid Society is now there. Ms. Mann said she has made sure there are more interpreters available at the calendars, too.

There was also a discussion on the problem of notarios. Ms. Sudbury discussed what they do and said people pay these non-lawyers thousands to file papers when they don't have to – and the papers are almost always legally incorrect. Ms. Sudbury will be attending the Unauthorized Practice of Law Committee meeting soon.

### **Wrap up**

Judge Thomas said we need to get the message out clearer to judges and clerks regarding the resources for self-represented litigants. Ms. Sylvester and Judge Lawrence also talked about the request to have a presentation on the differences between procedural and substantive legal advice. They said they would follow up on this for next year's annual judicial conference.

### **(3) Adjournment**

The committee adjourned at 2:00 p.m.

The next meeting is scheduled for December 8, 2017 at 12 p.m. in the Judicial Council Room of the Matheson Courthouse.