

Agenda

Committee on Resources for Self-represented Parties

March 30, 2018
12:00 to 2:00 p.m.

Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Judicial Council Room, Suite N31

Welcome and approval of minutes.	Tab 1	Judge Barry Lawrence, Chair
Harvard's A2J Lab Presentation on reducing default in debt collection cases	Tab 2	Ericka Rickard
Debt Collection Issues Triaging: subcommittee discussions	Tab 3	Judge Barry Lawrence and committee
Subcommittee updates and projects	Tab 4	All
Other Business		All

[Committee Web Page](#)

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

June 8, 2018
August 10, 2018
October 12, 2018
December 14, 2018

Tab 1

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

February 9, 2018

Draft. Subject to approval

Members Present

Judge Barry Lawrence (chair), Jacob Kent, Shaunda McNeill, Kristin Godwin, Judge Doug Thomas, Virginia Sudbury, Jacob Kent, Monica Fjeldsted, Nathanael Player, Judge Elizabeth Knight, Carl Hernandez, Carol Frank (remote), Jessica Van Buren, Susan Griffith (remote), Leslie Francis (remote), Judge Brook Sessions.

Members Excused

Lisa Collins, Christopher Martinez

Staff

Nancy Sylvester

Guests

AOC Education: Kim Free

AOC Language Access: Kara Mann

Martin Luther King Commission: Carla Kelly, Shawn Newell

Utah Legal Services: Anne Milne

SJ Quinney Pro Bono Initiative: JoLynn Spruance

(1) Welcome and approval of minutes.

Judge Barry Lawrence welcomed everyone to the meeting and discussed the focus of the day's meeting: debt collection and the high rates of default. He listed some of the reasons he thought people may not be responding on debt collection lawsuits: language issues, people afraid of being deported or losing their home, and health issues, among others. He suggested that the last thing those people may care about is getting hit with a judgment when they don't have assets. He also suggested that some people likely aren't responding because they have no idea what to do. At least with those people they need to have the tools to respond and we could alert people about resources.

Judge Lawrence then requested a motion on or changes to the December minutes. An amendment to reflect Judge Sessions's absence at the meeting was made. The committee approved the minutes by acclamation.

(2) Introduction and of and discussions with Martin Luther King Commission, SJ Quinney Pro Bono Initiative, Disability Law Center, and Utah Legal Services

The organizational guests then introduced themselves and the work they do: Carla Kelly and Shawn Newell from the Martin Luther King Commission, Anne Milne from Utah Legal Services, JoLynn Spruance from the SJ Quinney College of Law Pro Bono Initiative, and Adina Zahradnikova from the Disability Law Center.

Debt Collection Issues Discussion

The committee spent some time talking about debt collection issues and suggestions surrounding access, such as the following:

- 1) When defendants are served with a complaint and summons, the notice should be clearer. The summons may not be sufficient to alert someone to their responsibilities. Nathanael Player said he has examples of better notice from around the country. This may require a change to the civil or local rules.
- 2) A defendant may file an answer but then not participate in discovery. We assume they know the civil rules, but they often don't. After the defendant ignores discovery, the plaintiff will file for summary judgment and is likely entitled to it because the defendant may still not respond. The suggestion was made to require notice at the top of debt collection case document that says something like "If you don't respond, you may have a judgment entered against you." It would also include a help number to call. Mr. Player said the Forms Committee approved a revised summons in English and Spanish. It discusses what the person has received and what they need to do next.
- 3) Mr. Player noted that in San Francisco the court sends out notice when a complaint is filed. In New York, a landlord is required to bring a postcard to the court with the tenant's address on it and the court sends it out. This is to avoid so-called "sewer service."
- 4) Mr. Player also discussed studies that said notice of case hearing is not enough in criminal cases; telling the consequences of missing the hearing increases response rate. Our courts have apparently just started robocalls to remind people of hearings.
- 5) Judge Thomas said there is a large collection agency in his district (Seventh) so he sees a lot of these cases. He inquired how often defendants actually prevail

after filing an answer. He said the cautionary tale is that in many cases there are underlying attorney fees provisions. Defendants get tagged with the judgment, attorney fees, court costs, etc., but they may not even have an adequate defense. Yet we are saying they should potentially incur significantly more cost by defending these actions. In Second and Third District, there is a debt collection calendar and volunteer attorneys are there to help these debtors. But that is not true in most other districts.

- 6) Virginia Sudbury suggested that there may be a triage piece that is important before a defendant files an answer.
- 7) Mr. Player suggested that more education about budgeting and consumer finance was important. With mounting debts: non-profit debt collection organizations can help consumers consolidate their debts and make one payment.
- 8) A committee member discussed having a virtual legal clinic like TLC replicated for debt collection.
- 9) The committee discussed the need to build many solutions, including a clinic to talk up front about the downstream problems.
- 10) The committee also discussed outcomes hoped for and determined that the best outcome is having people make an educated decision about how to move ahead. That may mean an answer or could mean a default. The focus should not be on everyone filing an answer.
- 11) Judge Lawrence mentioned that the Bar has started a new Access to Justice Committee which could work on addressing some of these issues and matching attorneys with needs.
- 12) Judge Thomas suggested that there is a need for protection in the judgment. He said he sees a lot of overreaching by debt collectors in judgment, for example miscalculations in the interest. He said there are a surprising number of debt collectors coming in with fees that aren't allowed. He mentioned again that knowing how much defendants are actually prevailing would be useful. He said we'd help debtors most by having good procedures so that creditors aren't overreaching. We also don't want debtors to have unrealistic expectations of success.
- 13) The committee discussed the hope at debt collection calendars: working out a deal to give the debtor a payment plan. But most courts don't have a debt collection calendar; it's a post-judgment calendar to deal with supplemental proceedings. Creditors typically want a judgment in place before they will talk payment plan.

- 14) The committee also discussed the potential for lawyers teaching a class on options: filing an answer vs. bankruptcy, etc. The goal would be to direct debtors down a path.

Community Representatives

The committee then turned to the community representatives for their responses to the question of how to involve people in the process.

Mr. Newell (MLK Commission) said a lot of the communities are fearful of any authoritative documentation they receive. And once they have something in their hands, they don't have a lot of access to computers. He suggested reaching out to community leadership to offer them volunteer clinics so that there is a safe place for folks to go to learn. He said the only way to remove the fear factor is to have leadership disseminate the information. People in these communities don't have the resources to call an attorney. Community centers work on housing and education and this issue may not even be on community centers' radars. He suggested formulating a venue or program for folks where an attorney-compiled toolbox can be handed out and also training the trainers.

Ms. Spruance (PBI) said the law school holds a debtors clinic once a month; anyone who comes in can sit down with a law student. She suggested that the attorneys there could help with the Lawyer of the Day.

Mr. Newell said in terms of tapping into the community leadership, the MLK Commission triages all of the community groups. The Self-Help Center and MLK Commission can work together on connecting resources with people.

Ms. Zahradnikova (DLC) said for persons with disabilities, transportation is a huge barrier. She said the Disability Law Center receives about 300 calls per year regarding debt collection issues from their clients.

The committee then discussed the Lawyer of the Day Program. Attorneys are typically available from 12 to 3 p.m. Monday through Thursday. Utah Legal Services made quite a few modules to train attorneys volunteering for the program. The Licensed Paralegal Practitioners Committee is also looking at creating curricula for paralegals to include debt collection.

Community Outreach

The committee discussed that its job consists largely of outreach. The Policy and Planning Committee takes up the administration rules, the Forms Committee takes care

of forms, and the Civil Rules Committee takes up the civil rules. The Committee can recommend that the other committees look into the issues surrounding debt collection cases and be a coordinating body: articulating what the problem is and understanding it. In this case, it is important for this body to understand whether the default rate is the real problem or whether it is educating people to help them make good decisions.

With respect to the Civil Rules Committee, this committee should recommend mandatory language on the summons so the debtor is fully informed of their rights. The committee can also recommend new clinics and help to leverage existing resources.

Professor Hernandez said he hadn't considered the negative consequences of encouraging people to file answers in debt collection cases. He said the dean at BYU Law is very entrepreneurial and created LawX in order to find creative solutions to common legal problems, like the high default rates in debt collection. They had a software designer and attorney come in to help put the software together. But, he noted, if a debtor files and answer but has no defense to the claim, they not only now owe the debt, but also attorney fees, which is problematic. He didn't think the law school had looked at that aspect.

The committee then discussed having lawyers involved earlier and looking at best practices with respect to these cases. Mr. Newell (MLK Commission) also observed that some people are working 2-3 jobs and can't get to court. Kim Free then noted that 75% of the cases or higher are in justice courts where there is typically no legal help available. The committee discussed that there is incentive to having these cases in district court where judges have more time to focus on them and also potentially studying the consequences of filing in one court versus another.

The committee then discussed online dispute resolution which will pilot in West Valley City's small claims court.

Ms. Milne (ULS) said she received a call from a national consumer advocacy organization that expressed concerns about people not getting legal help, but the organization didn't realize that many of these people aren't even showing up to court or engaging in the process at all.

Ms. Zahradnikova also raised a concern about her clients who may enter into contracts under duress or otherwise do not have capacity to enter into them.

Next steps:

The Self-Help Center and Education subcommittees were assigned to work on the suggestions dealing with legal centric issues such as forms, rules, etc.

The Rural Services and Outreach subcommittees were assigned to work on the suggestions for community outreach.

At the March 30 meeting, the committee will prioritize a plan of action. Judge Lawrence said he will talk to Judge Thomas about chairing the Rural Services subcommittee.

Judge Lawrence suggested starting any meetings with a discussion of the efforts the group is aware of that are going on. Judge Lawrence said he would be attending the first meeting of the Access to Justice Bar Committee.

Ms. Kelly (MLK Commission) suggested outreaching to the Utah Non-Profits Association.

(3) Adjournment

The committee adjourned at 2:00 p.m.

The next meeting is scheduled for March 30, 2018 at 12 p.m. in the Education Room of the Matheson Courthouse.

Tab 2

The Problem of Default

The Problem

In the modern United States, too many lawsuits are decided by default. This is especially true in debt collection cases, where reported default rates frequently range from 60% to 95%. Default is certainly bad for defendants, but perhaps more importantly, default engenders a system in which the state publicly declares a winner to a dispute without any opportunity to assess relevant facts and apply the law. For this reason, default threatens to undermine faith in the judicial system.

Thus our study seeks to answer the question: what steps can legal services providers take to facilitate defendant attendance in court?

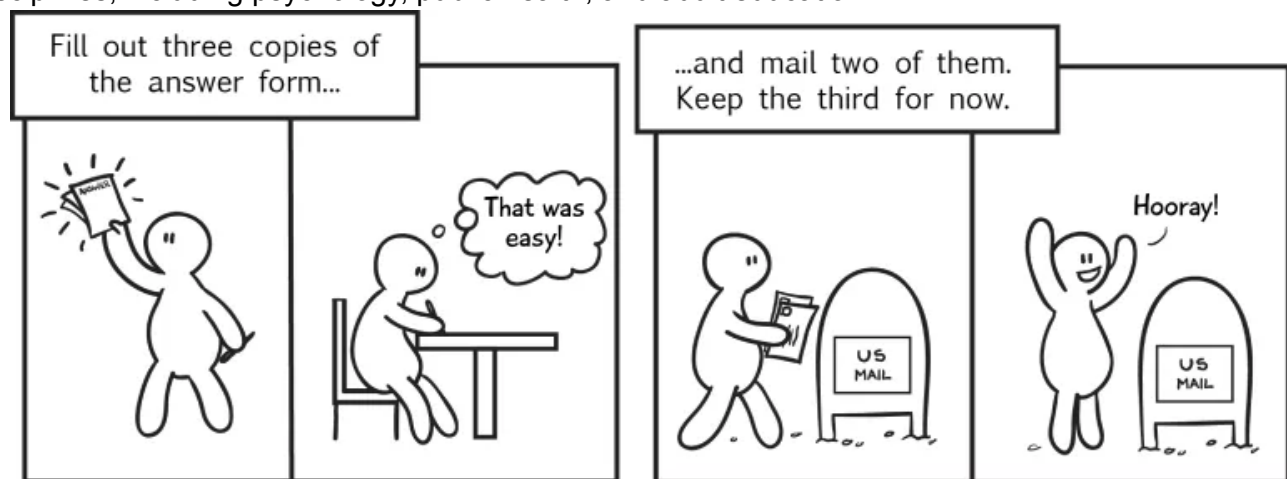
The Study: Part I

The Debt Collection Default Study measures what kinds of mailings from legal services providers to defendants are effective in reducing default rates in debt collection cases. To our knowledge, our study is the first of its kind to evaluate an intervention intended to reduce default rates in civil cases using a randomized control trial.

Designing self-help materials

The goal of our self-help materials was to induce debt collection defendants to (1) open, (2) read, and (3) act upon them. In terms of what action needed to be taken, our materials needed to induce a litigant to fill out three copies of an Answer form (which we would provide), mail two of those copies, receive a notice from the BMC of a scheduled court date, and appear in court on that scheduled date.

We designed interventions consisting of two forms of mailings based on research from other disciplines, including psychology, public health, and adult education.



Field operation

The Research Team received debt collection case information on a weekly basis from court staff at the Boston Municipal Court. After identifying potentially study-eligible cases, we compared the defendant's address in the court file with that in an online address-checking system, and excluded those with inconsistent addresses.

The Research Team randomized whether each defendant receives a mailing, and if so, what kind. Using different formats and messages, the mailings urge defendants to contest their cases (by filing any necessary paperwork and showing up to court) and provide information/materials useful for such a defense (such as an Answer form).

Treatment group A, the Limited treatment:

- letter from the legal services provider
- three copies of a check-box style Answer form
- business envelopes pre-addressed to the court and the plaintiff's attorney
- map to the courthouse
- and a post-it note appropriate for a wall calendar saying "Go To Court Today!"

Treatment group B, the Maximal treatment:

- First, a postcard with the signature Blob cartoon, stating: "Dear [Recipient Name], Help is on the way. Look for me!" Next to "me" was a hand-drawn arrow pointing to an image of Blob.
- The next day, we mailed the defendant the same manila envelope (with corresponding contents) that those in the "Limited" group received, except that the two business envelopes to the Court and to the Plaintiff's attorney had stamps.

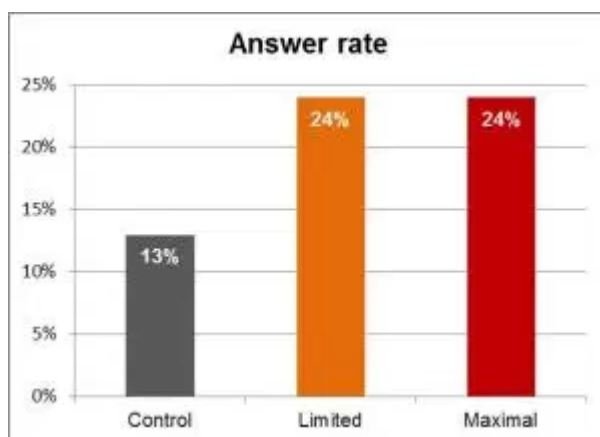
Control group: no mailing

Results

We tracked two outcomes:

- Whether the defendant filed an answer, and
- Whether the defendant attended the first court hearing.

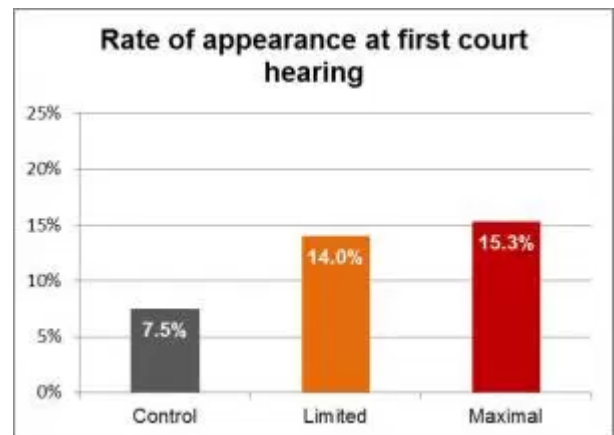
We find no difference in effectiveness as between our two mailings, but that both roughly double the rate at which defendants participate in their lawsuits. Specifically:



As compared to a randomly selected Control group with a 13% answer rate (corresponding to an 87% default rate), our "Limited" intervention group saw a 24% answer rate, and our "Maximal" intervention group saw a 24% answer rate.

The corresponding rates for whether the defendant appeared at the first scheduled court hearing were 7.5% for the Control group, 14% for the Limited group, and 15.3% for the Maximal group.

Differences between the Control versus the Limited and Maximal groups were statistically significant. Differences between the Limited and Maximal groups were not.



What this means

The results of this study shed some light on a few different areas of debate in the legal arena:

- why people obey the law and engage in official proceedings (and why they don't)
- the role of civil legal services providers and the types of services they provide
- how courts present themselves to and interact with people without lawyers

The Study: Part II

Field operation

This study builds on the smaller pilot study in Boston, and will include multiple legal service providers and multiple court locations.

By randomly varying the format and content of the package, the Research Team will learn what is necessary and cost effective to reduce default rates. Potential areas of exploration include the appearance of the external envelope; the text of the letter; whether the letter includes cartoons and/or other illustrations; the contents of the package (e.g., whether Answer forms, return envelopes, maps to courthouses, and reminder post-it notes are included); and whether the materials are translated, and if so, into what languages.

More information about Part II, including historical data, is available online.

The Research Team

Jim Greiner, Faculty Director, The Access to Justice Lab; Professor of Law, Harvard Law School

Dalié Jiménez, Associate Professor of Law, University of Connecticut School of Law

Andrea Matthews, Bureau of Consumer Protection

More Information

⊕ **About this study and previous research**

⊕ About debt collection and default rates

a2jlab@law.harvard.edu

617.496.7415

Harvard Law School
Austin Hall 009
1515 Massachusetts Avenue
Cambridge, MA 02138



Tab 3

Subcommittee	Assigned Projects	Members
Education	Legal-centric issues such as forms, rules, etc. regarding debt collection	Vacant (chair), Kim Free (ex officio), Jessica Van Buren, Nathanael Player, Lisa Collins, Nancy Sylvester, Monica Fjeldsted, Kara Mann (ex officio), Judge Brook Sessions.
Outreach	Suggestions for community outreach regarding debt collection resources	Judge Barry Lawrence (chair), Judge Doug Thomas, Judge Elizabeth Knight, Judge Catherine Roberts, Shaunda McNeill, Jaclyn Howell-Powers, Sue Crismon, and Professor Carl Hernandez.
Rural Services	Suggestions for community outreach regarding debt collection resources	Vacant (chair), Susan Griffith, Carol Frank, Judge Doug Thomas, Kristin Godwin (Johnson), Jessica Van Buren, Jacob Kent, and Leti Bentley (ex officio).
Self-Help Center/Non-lawyer Assistance/Court Updates	Legal-centric issues such as forms, rules, etc. regarding debt collection	Nathanael Player (chair), Jessica Van Buren, Nancy Sylvester, Chris Martinez, Kristin Godwin (Johnson), Leslie Francis, and Virginia Sudbury.



Utah State Courts' Self-Help Center

P.O. Box 140220
Salt Lake City, UT 84114-0220

Nathanael Player, Director

801-238-7921

MEMORANDUM

To: Committee on Resources for Self-Represented Parties
From: Nathanael Player, Director, Self-Help Center
Date: March 2, 2018
Re: Self-Help Center comments and observations on debt collection cases

In an effort to contextualize some of the issues in debt collection cases, I worked with my staff to articulate what our office typically sees when assisting self-represented parties on debt collection cases. This memorandum contains the following: a brief overview of the self-help center, data on court filings in debt collection cases, comments from the Self-Help Center on debt collection cases, and a comment on fairness and the public's faith in the judicial system.

ABOUT THE SELF-HELP CENTER

The Self-Help Center of the Utah State Courts is charged, under Utah Code §9-7-313, with helping self-represented parties achieve fair and efficient resolution of their cases. We provide assistance from our virtual center via phone, text and email, answering questions about the law, court process and options available to self-represented parties. Each month our staff attorneys respond to approximately 1,500 inquiries in English and Spanish, and through the court's interpreting services, in other languages. We do not have a physical location open to the public, and though we are all attorneys, we do not give legal advice.

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

Self-Help Center: 888-683-0009 | selfhelp@utcourts.gov
P.O. Box 140220 | Salt Lake City, UT 84114-0220

DATA ON COURT FILINGS IN DEBT COLLECTION CASES

Court data shows that:

- There were 57,898 filings for debt collection cases in fiscal year 2017, by far most voluminous category.¹
- Plaintiffs in debt collection cases were represented by an attorney 98% of the time while 98% of defendants were self-represented. There were 56,713 debt collection cases in which defendants did not have counsel.
- The default rate for debt collection cases in Utah for fiscal year 2017 was 66.75% (representing 39,714 cases).² This is consistent with national trends – most debt collection cases in the U.S. are disposed of through default judgment.³

These numbers do not capture debt collection cases filed in small claims. The court does not have a way to distinguish debt collection cases in small claims from other types of small claims cases. There were a total of 21,148 small claims filings in fiscal year 2017, with most defendants representing themselves. One justice court judge estimates that 80% of his small claims caseload is comprised of debt collection cases.

COMMENTS ON DEBT COLLECTION CASES WITH EXAMPLES BASED ON CASES FOR WHICH THE SELF-HELP CENTER HAS BEEN CONTACTED

1. The debt collection cases we see involving defaults are generally very simple.

In the cases involving our callers, pleadings involved often are no more complex than the pleadings pro se litigants are required to file in small claims cases,⁴ for example:

a. Debt collection complaints: These tend to be boilerplate typically consisting of 1.5 to 2.5 pages.

b. Military service pleadings: The military service affidavit requires EITHER the date of birth OR the social security number of the debtor. See attached. Entering both takes us no more than 30 seconds. (Pro se litigants—even those with limited computer skills and language abilities—routinely complete these papers with very little or no help from us when seeking defaults in small claims cases, divorces, etc.⁵)

¹ The category with the second highest volume was divorce/annulment with 13,212 case filings.

² Research suggests that defendants in debt collection cases suffer from feelings of shame and impotence, which leads to a failure to respond. See *The Importance of Doing Nothing: Everyday Problems and Responses of Inaction*, Transforming Lives: Law and Social Process, Pascoe Pleasence, Alexy Buck, Nigel Balmer, eds., 2007, 112-132.

³ Fed. Trade Comm'n, Repairing a Broken System: Protecting Consumers In Debt Collection Litigation and Arbitration, 7 (2010). See also Young Walgenkim, *Killing "Zombie Debt" through Clarity and Consistency in the Fair Debt Collection Practices Act*, 24 Loy. Consumer L. Rev. 65, 68 (2011) (discussing how debt collectors make a profit with high volume caseloads).

⁴ See https://www.utcourts.gov/howto/smallclaims/docs/01_Affidavit_and_Summons.pdf for a court approved small claims affidavit and summons.

⁵ Forms are available on the court's website on Default Judgments at https://www.utcourts.gov/howto/filing/default_judgment/#forms.

c. Rule 55(b)(1)(D) Affidavit. This is basic information that collection attorneys should have in their possession prior to filing a case against an alleged debtor. Most are 1-2 pages long. We see pleadings that are unusual or incomplete:

Example 1: Contract is one page of a multiple page contract with no names or parties or signatures.

Example 2: Alleged contract includes sheet of paper reading “please insert DAT file.”

Example 3: The contract attached does not include the 40% collection fee alleged in the complaint.

Example 4: Plaintiff sues both wife and her ex-husband for post-marital debt of wife. Husband’s name is nowhere on contract documents.

Example 5: The only proof of debt is a typewritten medical center admission document with the patient’s name handwritten, and just the initials of the other party (the medical center representative?). There is no explanation of what medical services were provided or the cost.

d. Default equivalents. Often, when the debtor files an answer, they do not include a denial of debt, just a plea for compassion and a payment plan based on their sickness or loss of a job. These are usually disposed of by a motion for judgment on the pleadings. Some debtors raise a sufficient denial to avoid a judgment on the pleadings, but then the creditor typically serves requests for admissions, which the debtor often does not answer because they do not know how. Frequently the creditor wins with a motion for summary judgment pursuant to URCP 36(b)(1). Debtors often do not oppose such motions. Unlike a summons, a motion does not include guidance on how the debtor can respond. Most debtors do not know that they need to file an opposition if they do not agree.

2. The debtors we speak with want to be responsible and pay their bills, even when they may not legally be responsible for the debt.

Example 1: An adult daughter in Provo was led to believe by collection calls that she was responsible for paying the debt of her elderly mother, who had borrowed money to start a business and failed. Her elderly mother was partially disabled and worked part time at McDonalds.

Example 2: Parents believe they are responsible for the debts of their adult children, though they did not co-sign contracts.

3. Medical debt, loss of jobs, and divorce are the overwhelming reason debt collection defendants give for not paying their debts.⁶

Example: We often receive calls in which defendants explain this to us. Many believe the judge has the power to cancel the debt for hardship or order a payment plan.

⁶ This is consistent with studies that show, nationally, that most people default on debt due to unemployment, illness, divorce or other unanticipated hardships. S. REP. 95-382, 3, 1977 U.S.C.C.A.N. 1695, 1697. See also Warren & Tyagi, *The Two-Income Trap: Why Middle-Class Parents are Going Broke* (2004); Sullivan, Warren, & Westbrook, *As We Forgive Our Debtors* (1989); David Caplovitz, *Consumers in Trouble* (1974).

4. Many times the pro se defendant was unaware of the service of the summons and complaint.⁷

Example 1: Complaint and summons are served upon tenants of defendant at a home he used to live in but is now a rental.

Example 2: Complaint and summons are served upon ex-spouse at a residence where defendant no longer lives.

Example 3: Complaint and summons are served upon teens in the house and debtors say they never received them.

Example 4: Defendant is served by a postcard or email that requests them to access a website that appears to be a court website, which prompts them to input codes from the card/email and the summons and complaint are “served” upon them via language in which they (unknowingly) accept service. The creditor’s attorney’s Return of Service is filed stating they signed the Acceptance of Service electronically. (In a similar case, defendant’s mother was served the postcard or letter in Utah. Defendant lives out of state.)

5. Defendants are confused when they receive a 10-day summons and learn there is no case on file with the court.

Example 1: Debtor believes the papers are fraudulent. (Many people have received papers that look like court papers but are not and have received scam collection letters or phone calls.)⁸

Example 2: Since there is no case on file, the debtor believes the debt is a matter between himself and the creditor (who he believes is the original creditor or has their files).⁹ We frequently learn of defaults entering when pro se defendants send letters/emails explaining their position to the collection attorney only or to the original creditor, not realizing they need to file an answer with the court.¹⁰ When there is no case on file, there is nowhere for a defendant to file their answer.¹¹

⁷ The Federal Trade Commission held a series of roundtables on debt collection issues throughout the country and heard conflicting accounts about service problems. The FTC recommended that state jurisdictions conduct audits to determine the nature and extent of service problems. Fed. Trade Comm’n, *Repairing a Broken System: Protecting Consumers In Debt Collection Litigation and Arbitration*, 8-10 (2010).

⁸ This skepticism by consumers is documented nationally as well. See Young Walgenkim, *Killing “Zombie Debt” through Clarity and Consistency in the Fair Debt Collection Practices Act*, 24 Loy. Consumer L. Rev. 65, 81 (2011). In our age of consistent data breaches, this wariness is understandable - the Utah Attorney General’s office issued a statement advising “consumers to be vigilant for incidents of fraud....” Utah Attorney General, *Utah Attorney General’s Office Urges Consumers to be Cautious Following the Equifax Data Breach*, <https://attorneygeneral.utah.gov/featured-content/utah-attorney-generals-office-urges-consumers-to-be-cautious-following-the-equifax-data-breach> (last visited Jan. 10, 2018).

⁹ Typically, past due debt is sold on the secondary market and the plaintiff in a debt collection case has limited information about the circumstances surrounding the debt at issue. For a concise and thorough primer on the secondary debt market see Judith Fox, *Do We Have a Debt Collection Crisis? Some Cautionary Tales of Debt Collection in Indiana* (2012). Scholarly Works, 357-364.

¹⁰ However, one scrupulous collection attorney recently filed the debtor’s emailed denial of the debt with the court on the debtor’s behalf as an answer.

¹¹ This unusual situation – where a Defendant has been served a summons and complaint but a case has not been filed – is made possible under URCP 3(a)(2).

6. Defendants report having difficulty communicating with the creditor's attorney.

Example 1: A debtor who had just received a summons reported that when she called the collection attorney's office and asked to speak to the attorney, she was laughed at.

Example 2: Debtor reached an agreement with the attorney to pay off a judgment via a payment plan. Debtor paid for two years, then, in October 2017, the online payment system stopped working. He called the plaintiff's attorney to notify them and seek an alternative way to pay, but the attorney did not accept phone calls from the debtor and proceeded to garnish his wages.

Example 3: The day after being served a 10-day summons on August 14, 2017, Defendant left a voicemail for plaintiff's attorney saying she was willing to pay the full amount alleged in the complaint, about \$800. Her call was not returned. She called another day and one of the attorney's staff said that the case would not be pursued. The attorney filed the case August 24th and default paperwork on October 19th. On October 25, a judgment of \$866 was entered. In early December, defendant was told a constable was trying to serve her. She called the plaintiff's attorney's office to find out what was being served. The attorney's office would not tell her. A week later she was served papers for a supplemental hearing four days hence.

7. Defendants report never receiving a bill from the creditor (doctor's office, etc.) prior to being served a collection complaint and summons.¹²

The original creditor no longer has information or is out of business. The debtor has therefore missed the opportunity to pay only the principal and now potentially faces late fees, interest charges, collection fees of up to 40%,¹³ and attorneys' fees.

Example 1: Original principal was \$812.10, but with costs, collection fees, etc. it totaled \$2,074.79.

Example 2: Original judgment was \$2,840.32 and judgment was renewed for \$6,358.82 after interest and attorney's fees were added.

Example 3: In one case, a caller visited her doctor. She never received a bill from the doctor's office. Many months later, she was served court papers. The bill, which had been for \$100 or so, had been sent to a patient with the same name. The caller was so concerned about having a case against her, that she paid the amount demanded, which, with added fees, was around \$300 "to clear her name."

8. Most pro se defendants who admit they owe the debt cannot afford to pay it (often it is much more than the principal) and seek a payment plan.

As mentioned, most think the judge can cancel the debt for hardship or order the creditor to accept a payment plan.¹⁴

¹² This is the second most common complaint nationwide according to the Consumer Financial Protection Bureau. *Fair Debt Collection Practices Act: CFPB Annual Report 2017* (2017) available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201703_cfpb_Fair-Debt-Collection-Practices-Act-Annual-Report.pdf.

¹³ Pursuant to Utah Code §12-1-11.

9. Defendants report Illegal debt practices, including in service of papers.

Example 1: A defendant had a defense but was served by a constable who said if he did not pay the constable cash on the spot he would go to jail. The defendant was fearful (in other countries you can go to jail for not paying debts) so he paid.

Example 2: A defendant reported a debt collector threatened that her pet would be killed if she did not pay.

FAIRNESS AND EFFECT OF DEBT COLLECTION CASES ON THE PUBLIC'S FAITH IN THE SYSTEM

At the Self-Help Center, we are neutral. We assist pro se landlords and tenants, plaintiffs and defendants in small claims cases, and everyone else who contacts us to the extent that we have resources to assist them. Through the court's self-help webpage on Collecting a Judgment,¹⁵ we assist many landlords, small claims plaintiffs, and parties in domestic cases in collecting their judgments.

However most debt collection cases we assist with involve assigned claims and defendants who live in precarious financial situations due to age, losing jobs, divorce, health issues, and business failures. For them, a 25% garnishment in wages can lead to a downward spiral of auto repossession, job loss, eviction and possible homelessness. One debtor carefully made sure a check cleared his bank before paying his rent, only to find out from his bank (after he thought it had cleared) that the check was bad. The bank debited his account and charged him fees, which likely caused checks he had written (once he learned the check had "cleared") to bounce.

We have seen cases in which the amount being collected from the debtor is dramatically out of proportion to the original debt. One egregious case involved a blind woman who took out a loan for \$2,000 at a high interest rate. She paid \$8,000 and had still not paid back the principal, interest and collection fees. Describing her situation in a Request for Hearing, she got a hearing on the *pro se* Debt Collection calendar (where she would have been represented by a volunteer attorney). The attorney for the creditor did not show up. Cases like this can foster the belief, which seems increasingly prevalent, that "the system" is biased against debtors who have no chance of getting justice within it.

THANK YOU

Thank you for allowing my office to share our experiences to the Committee. If you have questions about our experiences in assisting *pro se* defendants you are welcome to contact me directly at nathanaelp@utcourts.gov or at 801-238-7921.

¹⁴ The alternative would typically be a judgment and a garnishment. Under Utah Rule of Civil Procedure 64D(a)(1) a debt collector can garnish up to 25% of a debtor's disposable earnings – a significant amount for someone in dire financial straits.

¹⁵ Available at: <https://www.utcourts.gov/howto/judgment/>.

Tab 4

Legal Information vs. Legal Advice

**Guidelines and Instructions for Court Staff
Who Work With Self-Represented Litigants
in Utah's State Courts**

**Prepared by the
Utah Judicial Council Standing Committee
on Resources for Self-Represented Parties
February 2018**

Contents

Introduction	2
Roles and Responsibilities of Court Staff	3
Why Court Staff May Not Give Legal Advice, But Should Provide Legal Information	4
What Is Legal Advice?	5
What is Legal Information?	5
What is Ex Parte Communication?.....	7
Quality Customer Service: Strategies for Answering Difficult Questions.....	8
Procedural Explanations vs. Procedural Recommendations	9
General Information About Court Operations vs. Confidential or Restricted Information About Court Operations	10
Explaining Legal Terms vs. Providing Legal Interpretations	11
Providing Forms and Approved Instructions vs. Filling out Forms	12
Public Case Information vs. Confidential Case Information	13
Options vs. Opinions	15
Citing Court Rules and Statutes vs. Researching Court Rules and Statutes.....	16
General Referrals vs. Subjective or Biased Referrals	17
Permissible vs. Impermissible Forms of Ex Parte Communication	18
Resources for Self-Represented Parties	19

Introduction

Each year thousands of people represent themselves in Utah's courts. It is crucial that you understand how to help them without giving legal advice. This manual will help you understand where the line between legal information and legal advice is.

You are the face of justice in Utah. How you respond to questions affects how people feel about justice, as well as their access to justice. If someone does not understand how to use the court system, and you do not provide available and needed information, that person is denied access to the courts and justice.

This manual can't anticipate all the possible questions that self-represented parties might ask. If you are unsure whether responding to a question would be giving legal advice, refer to this manual and check with your supervisor.

The law is complicated and confusing. Encourage people to talk to a lawyer about their situation. The Resources for Self-Represented Parties section of this manual describes a variety of ways people can get the help of an attorney.

The subcommittee thanks the Arizona Supreme Court Task Force on Legal Advice - Legal Information Guidelines for its permission to use material from its guide.

Roles and Responsibilities of Court Staff

Provide Access to the Courts

- If court customers do not know how to use the system, and court staff do not provide information, access to justice is effectively denied.
- The court has an obligation to explain court processes and procedures to provide quality customer service and to provide accurate information to all court customers.
- Your training on what information you can provide to the public will significantly affect access to the courts and the administration of justice.
- One of the basic principles of the American justice system is that the doors of our courthouses are open to everyone.
- Most members of the public, however, are not familiar with courts and court procedures and require some level of assistance.

Provide Customer Service with Accurate Information

- You are responsible for giving court customers the help they need and deserve by providing accurate information in a competent, cooperative and timely manner.
- You are often the first and only contact the public has with the judicial system, and your responses have an impact on how court customers view their court experience.
- The court should treat all court customers equally: attorneys, plaintiffs, defendants, self-represented litigants and others.
- Learn the rules about ex parte (one-sided) communication with the judge, and do not let court customers use you or other staff to circumvent that principle.
- By providing effective customer service, you may reduce the number of times court customers must come to court, and thus reduce stress on the court system.
- Accessibility to the judicial system is affected by the accuracy of information that the court provides to court customers, along with the manner in which it is presented.
- You must provide accurate information because even seemingly small mistakes can affect people's lives or the outcome of court cases. It is better to be honest and say "I don't know" than to give incorrect information.

Remember

It is not up to you to determine who needs information.
It is your responsibility to provide information to anyone who asks for it.

Why Court Staff May Not Give Legal Advice, But Should Provide Legal Information

Remain Neutral

- You must remain neutral and cannot promote or recommend a particular course of action to court customers.
- You may have processed many similar types of cases, but you do not know what is in a court customer's best interest. Only the court customers or their attorneys can make that determination.

Be Impartial

- Impartiality is similar to neutrality, but focuses on equal treatment of court customers.
- You often have considerable knowledge about the way the court functions and so must never give advice or information favoring one court customer over another.
- Court knowledge must be shared fairly.
- You must not disclose confidential information or become involved in or facilitate an ex parte communication.

Don't Engage in the Unauthorized Practice of Law

- You must not engage in the unauthorized practice of law by providing legal advice.
- Only licensed attorneys can give legal advice.
- Even court staff who are attorneys may not give legal advice to court customers because it violates the principles of neutrality and impartiality.

What Is Legal Advice?

Court customers are asking for legal advice when they ask whether they should or shouldn't do something. Telling a court customer **what** to do rather than **how** to do it may constitute giving legal advice.

Legal advice is a written or oral statement that:

- Interprets some aspect of the law, court rules, or court procedures, or recommends a specific course of conduct a person should take in an actual or potential legal proceeding,
- Applies the law to the individual person's specific factual circumstances, or
- Requires the person giving advice to have knowledge of the law and legal principles beyond familiarity with court requirements and procedures.

What is Legal Information?

Court staff may:

- Provide public information contained in dockets, calendars, case files, indexes, and other reports.
- Recite common, routinely employed court rules, court procedures, administrative practices, and local rules, and explain generally how the court and judges function.
- Refer self-represented litigants to a law library or the court's website for statutes and court rules.
- Explain the meaning of terms and documents used in the court process.
- Answer questions concerning deadlines or due dates (without calculating due dates).
- Identify and refer self-represented litigants to court forms on the court's website.

Rule 14-802 (c)(3) of the Supreme Court Rules of Professional Practice allows court staff and others to provide clerical assistance to fill out court forms.

Rule 14-802. Authorization to practice law.

(b)(1) The "practice of law" is the representation of the interests of another person by informing, counseling, advising, assisting, advocating for or drafting documents for that person through application of the law and associated legal principles to that person's facts and circumstances.

...

(c) Whether or not it constitutes the practice of law, the following activity by a non-lawyer, who is not otherwise claiming to be a lawyer or to be able to practice law, is permitted

...

(c) (3) Providing clerical assistance to another to complete a form provided by a municipal, state, or federal court located in the State of Utah when no fee is charged to do so.

Court staff may not:

- Recommend whether to file a certain pleading.
- Recommend wording or content for a pleading.
- Recommend specific people against whom to file pleadings.
- Recommend specific claims or arguments to assert at trial.
- Recommend what type of damages to seek or from whom to seek them.
- Recommend techniques for presenting evidence in pleadings or at trial.
- Recommend which objections to raise or which motions to file.
- Recommend whether a party should ask for a continuance.
- Recommend whether or not parties should try to settle their dispute prior to trial.
- Interpret applications of statutes.
- Perform legal research for a party.
- Predict the outcome of a case.

Remember

If you are unsure about the answer to a question, direct the customer to the appropriate court staff or other publicly available source of information.

What is Ex Parte Communication?

Black's Law Dictionary defines *ex parte* as “on one side only; by or for one party; done for one party only.” *Ex parte* refers to situations in which only one party appears before a judge or communicates with a judge. These kinds of communications are forbidden unless they are expressly authorized.

With few exceptions, the court rules require that all documents filed with the court be given to all other parties in the case so that the other parties have an opportunity to respond. It is improper for you to give information to the judge unless that information has been provided to the other parties in the case.

If a party submits a written *ex parte* communication for a judge, you should ask the judge what the judge would like to do with the communication. The judge may tell you to send a copy to all the parties before the judge reviews it, or to send it back to the person who submitted the document, or may decide on some other action. Check with your supervisor for any other local policies on this issue.

If a party asks to talk to a judge, suggest that they write down what they want to say and file it with the court. This written communication should:

- Include a proper caption, including the case number, following court rules
- Be dated and signed, following court rules
- Be served the opposing party (or their attorney, if they have one) following court rules

The original should be submitted to the clerk and the party should keep a copy for their records

If the party has an emergency situation and there isn't time to submit a written request, you may communicate with the judge by following local rules. The party should be warned that the request may not be granted.

Quality Customer Service: Strategies for Answering Difficult Questions

It is not always clear whether you can answer a question. However, there are several things that staff can do to help court customers and make it easier to identify whether the question is asking for legal information or legal advice.

Listen Closely and Ask Questions

- Let court customers ask their questions and listen carefully to what they are asking.
- Be an active listener and respond reflectively. If necessary, repeat or rephrase the question to state what you think they are asking.
- Take the time to clarify what the person needs. Ask follow-up questions to clarify what they mean.
- Ask court customers if they have completely read any paperwork they may have.

Explain Your Answers and Reasons and Be Patient

- Coming to court can be stressful, confusing and intimidating, so take the time to welcome and greet court customers.
- Put yourself in the customer's position and think of how much you would appreciate it if someone took the time to answer your questions and explain an unfamiliar process.
- You may have been asked for the same information many times before, but remember that this is the first time for this particular court customer.
- Remain calm even when the court customer is not. Your attitude is key. Some customers may just need to vent. Take it professionally, not personally. **Keep smiling!**
- Providing the reasons why you cannot give certain information helps minimize customers' frustration and increases their understanding of the court system. If you cannot answer a question or provide assistance, explain why by telling the court customer how important it is that you **remain neutral and impartial**. Always be clear and concise when providing information. Ask how they would feel if the clerk gave legal advice to the other side?
- Never say "I can't give legal advice" as an excuse not to provide service. Politely state that you cannot explain or interpret the law or say how it would apply to their case because that constitutes giving legal advice. Also, explain that clerks are not legally trained and if the clerk tries to give information about which they are not completely informed, it might jeopardize the outcome of the case for the party.
- If you cannot answer a question, try to give a good referral such as to a legal clinic, the court's website, or the Utah State Bar. Remember: you **may not recommend attorneys** because you must remain neutral and impartial at all times.

Procedural Explanations vs. Procedural Recommendations

You *should* provide procedural information and explanations on how to accomplish various actions within the court system. Explaining procedures increases the public's understanding of the court system and provides customers with greater access to the courts.

You *should not* make any recommendation to the customer that would indicate a direct advantage or disadvantage of a particular procedure. It is not appropriate for staff to tell court customers what is the best course of action for them to take, nor is it appropriate to give opinions about the probable outcome of a case.

CAN PROVIDE Procedural Explanation	CANNOT PROVIDE Procedural Recommendation
<p>Question: How do I start a small claims case?</p> <p>Response: You can find information about the small claims process and forms on the court's website, www.utcourts.gov. Fill out the forms and take them to the justice court to get the case started. There is a filing fee to start a case. If you would like to ask the judge to waive that fee, you'll need to fill out additional forms and file them at the same time you file other documents. You can find the fee waiver forms on the court's website. You will need to have a copy of the affidavit and summons served on the defendant. You can find information about service on the court's website.</p>	<p>Question: Is it better for me to file a small claims case, or to file a civil case in district court?</p> <p>Response: That's a great question for an attorney. You can find information about the free and low cost ways you can get the help of an attorney by visiting the Finding Legal Help page on the court's website.</p>

Tip

The court's website has information and forms for a variety of processes.

The court's Finding Legal Help web page provides information about free and low cost ways a person can get the help of an attorney, including links to legal clinics.

The court's Self-Help Center provides procedural information by phone, email and text.

General Information About Court Operations vs. Confidential or Restricted Information About Court Operations

Generally, you can answer questions about court policies and procedures. However, there is some information that could be inappropriately used to affect the status or outcome of a case, such as case assignment procedures, adjournment policies and scheduling practices. It is important for us not to disclose information that would allow one party or another to have an unfair advantage.

As a general rule, it is appropriate for us to provide information on how to do something, but it is not appropriate to answer the “how” question when it involves the disclosure of **confidential** or **restricted** information.

CAN PROVIDE General Information About Court Operations	CANNOT PROVIDE Confidential or Restricted Information About Court Operations
<p><i>Question:</i> When will my case go to trial?</p> <p><i>Response:</i> There is no way to predict how long it will take a case to go to trial, if it goes to trial at all. You can find an outline of general civil procedures on the website, which describes the typical steps in a civil case. That might help you get an idea of the things that have to happen before a case is ready for trial.</p>	<p><i>Question:</i> I don't want Judge Doe assigned to my case. Can you tell me when he will be on vacation so that he doesn't get assigned to it?</p> <p><i>Response:</i> The judge's schedule doesn't affect the case assignment. This is done randomly by the court's computer.</p>

Tip

You should be familiar with the court rules governing your specific area of the court.
You are not responsible for reciting, researching or interpreting the rules for the customer.

Explaining Legal Terms vs. Providing Legal Interpretations

You should help customers understand legal terms to provide access to the court and to help them understand the court system. While it is appropriate to explain legal terms, it is not appropriate to provide legal interpretations.

CAN PROVIDE Legal Definition	CANNOT PROVIDE Legal Interpretation
<p>Question: What does “proof of service” mean?</p> <p>Response: Court rules require parties to have parties in the case served with copies of any document filed with the court. The proof of service document is used to tell the court how the other parties were served, and to provide proof of that service. You can find information about serving papers on the court's website.</p>	<p>Question: My neighbors leave their kids at home all day without supervision. Isn't that child neglect?</p> <p>Response: I don't know. If you think the children are in danger, you can contact law enforcement, or DCFS – the Division of Child and Family Services. DCFS is the agency responsible for investigating possible child abuse and neglect.</p>

Tip

The court's website provides information about a wide range of legal processes:
www.utcourts.gov

Providing Forms and Approved Instructions vs. Filling out Forms

Another important way to facilitate access to the court is by providing forms and assistance where resources allow. Often court customers don't know what forms they need to bring their matters before the court. Staff should direct customers to available resources for forms such as the court's website, law libraries, and legal clinics.

You can answer procedural questions about how to complete court papers and forms. For example, staff can tell a customer whether a form needs to be notarized, or what factual information the form is asking for. Staff cannot, however, tell a court customer what words to use. If someone asks what to say in a form, staff should tell the person to use their own words.

The Americans with Disabilities Act (ADA) requires court staff to provide reasonable accommodation to people with disabilities, which could include helping them fill out forms.

When helping a court customer fill out forms, write down exactly what the person dictates, word for word. Do not correct the person's grammar, and do not paraphrase or edit what the person says. This can be considered giving legal advice, and threatens the court's impartiality. Once you've filled out the form, read it back to the party to confirm that what you have written is correct. Write or stamp "dictated by court customer, written verbatim by court staff," and your name or initials in the margin, and why the assistance was necessary.

CAN PROVIDE Forms and Approved Instructions	CANNOT PROVIDE Advice on What to Say in a Form
<p>Question: I need to file for divorce and I have no idea where to begin. Is there some place I can go to find out how to get started?</p> <p>Response: You can use a program on the court's website called OCAP to put together the documents you need for a divorce case. It's a like an interview. It will ask you a lot of questions and you will type in your information. Once you get to the end of the interview, it will compile your answers into custom forms that you print and bring to the court to start the case.</p>	<p>Question: What should I say in this section of the form?</p> <p>Response: That's a great question for an attorney. You can find information about the free and low cost ways you can get the help of an attorney by visiting the Finding Legal Help page on the court's website.</p>

Public Case Information vs. Confidential Case Information

Some documents or entire cases are confidential and you cannot disclose the information. Be sure to ask your supervisor if you do not know what records or cases are public and what are not.

Access to internal memoranda, legal notes or preliminary drafts prepared by or under the direction of any judicial officer that relate to the adjudication, resolution or disposition of any past, present or future case, controversy or legal issue is limited to court staff for case processing purposes only.

You must not disclose the outcome of a matter submitted to a judge for decision until the outcome is part of the public record or the judge directs disclosure of the matter.

You must not speculate on the possible outcome of a matter submitted to a judge or a jury until the outcome is part of the public record. This also applies in cases when a matter has not yet been submitted to the court.

Generally, there are three categories of records designated confidential by statute, court rule or court order. These records are designated as **private, protected, or sealed.**

Private/Protected Records

Unless otherwise ordered by the court, only the following people may be given access to confidential records (for example: un-finalized adoptions, custody evaluations, home studies)

- Parties to the action
- Counsel of record
- Individuals with a written order from the court authorizing access
- Court staff - for case processing purposes only. There are also some additional exceptions (see UCJA 4-202.03 or talk to your supervisor).

You should not read private or protected records unless necessary to do your job. Private or protected records contain highly personal information about parties, and it is inappropriate for you to read these records unless required for your work.

Sealed Records

Access to these records is restricted to the judge. After a record is sealed, not even court staff may open the record without permission from the court. Clerks may acknowledge existence of the case and a case number but nothing more (for example: finalized adoptions and wills).

Attorneys will often ask that a case or a pleading be “sealed.” In most situations they are really asking that the file or document be made “private.”

CAN PROVIDE Public Case Information	CANNOT PROVIDE Confidential Case Information
<p><i>Question:</i> My mother died four months ago and I lost my paperwork regarding her probate case. Can you give me the case number, and can I get copies of the pertinent documents?</p> <p><i>Response:</i> Yes. I need to know her first and last name to search our records for the case number. Copies are 25¢ per page if you come to the courthouse. If you want the documents emailed, it's \$5.00 to send up to 10 pages, and 50¢ for each additional page.</p>	<p><i>Question:</i> I think there is a mental health case for my uncle in your court. His name is John Smith. Can you tell me anything about his case?</p> <p><i>Response:</i> Mental health cases are private. Only the people named in the case and their attorneys have access to records in those kind of cases. I wouldn't be able provide you with any information about whether there is a case or not, let alone any records from that kind of case.</p>

Options vs. Opinions

You can provide information about procedural options and what the differences are between the options. It is important for staff to explain options because the customer is often not aware of those options. By explaining options, you provide customers with better access to the courts. It is also important that staff advise customers of all appropriate options. Providing only some of the options may indirectly influence a decision by limiting the customer's choices.

You cannot give an opinion about what specific remedies to seek or which option the customer should use, or otherwise advise someone on whether to bring the problem before the court. Staff must remain neutral and cannot take a position that will encourage or discourage a particular course of action.

CAN PROVIDE Options	CANNOT PROVIDE Opinions
<p>Question: What can I do if I cannot afford to pay the filing fee?</p> <p>Response: You can fill out and file the forms to ask the court to waive fees. That allows you to start the case without paying the filing fee. The judge will review the paperwork and will decide one of three things: to waive all of the fees, to waive none of the fees, or to waive some of the fees. If the judge decides you have to pay some or all of the fees, you'll need to do that within 30 days or the case can be dismissed. The forms are available on the court's website.</p>	<p>Question: My ex-husband hasn't paid the debts that he agreed to pay in our divorce settlement. Now he's filed for bankruptcy. The creditors are coming after me. This is ruining my credit. I don't live in Utah anymore. What can I do? He had an agreement and he's not following it. Can I be made responsible for this debt?</p> <p>Response: That's a great question for an attorney. You can find information about the free and low cost ways you can get the help of an attorney by visiting the Finding Legal Help page on the court's website.</p>

Tip

Always make it clear to court customers that they may have other options available to them that you are not aware of.

Citing Court Rules and Statutes vs. Researching Court Rules and Statutes

You will often know court rule or statutory citations, especially as they apply to procedures. It is appropriate to share this information. However, it is not appropriate to conduct legal research. There are two factors that help distinguish between the two:

- If the information is something staff should know as a part of their job, then it is not considered legal research, even if staff has to look it up in the Utah Court Rules or Utah Code.
- If the information is readily available and does not have to be compiled, then it probably would not be considered legal research. If the information has to be compiled, then it probably is legal research.

CAN PROVIDE Citations to Court Rules and Statutes	CANNOT PROVIDE Research of Court Rules and Statutes
<p>Question: What court rule talks about serving papers to start a case?</p> <p>Response: Utah Rule of Civil Procedure 4 talks about the requirements for serving papers to start a case. You can find that rule on the court's website: www.utcourts.gov/resources/rules. You can also read more about serving papers on the court's website.</p>	<p>Question: Can you tell me what law governs the statute of limitations in a tort case?</p> <p>Response: I don't know. You can find the Utah Code on the legislature's website (le.utah.gov), or you can visit a law library and use the print code. You can find contact information for the State Law Library on the court's website: www.utcourts.gov.</p>

General Referrals vs. Subjective or Biased Referrals

Because the court and court staff must remain impartial in all matters, you cannot make referrals to a specific lawyer, law firm or paralegal service. You can refer customers to the Utah State Bar's website to search for attorneys by practice area.

It is also helpful to keep lists of contact information for local government agencies and departments where you frequently refer customers, so you can point people in the right direction. Sometimes it is appropriate to make a call to the referred agency or department (if time permits) to make sure it can accommodate the person before sending them there.

CAN PROVIDE General Referral	CANNOT PROVIDE Subjective or Biased Referral
<p>Question: How do I find attorneys who do divorce cases?</p> <p>Response: The Utah State Bar's website lets you search for attorneys. Divorces are family law, so you can search for attorneys who focus on family law. That website is licensedlawyer.org.</p>	<p>Question: Can you give me the name of a good divorce lawyer?</p> <p>Response: I can't recommend specific attorneys, but I can tell you that The Utah State Bar's website lets you search for attorneys. Divorces are family law, so you can search for attorneys who do family law. You can also ask friends or family members if they can recommend specific attorneys. That website is licensedlawyer.org.</p>

Tip

The Bar's website lets a person search for attorneys by area of practice.

Permissible vs. Impermissible Forms of Ex Parte Communication

As discussed earlier, you may not give information to a judge unless that information has been provided to the other parties in the case. Follow these guidelines:

- Do not communicate to the judge case information that you know through personal knowledge, that you have read in the newspaper or heard on the radio, or that someone told you.
- Do not transmit verbal information to a judge on behalf of a party or attorney concerning a case unless it involves scheduling or other administrative matters.
- Screen the judge's calls. Do not transfer phone calls to a judge from parties or attorneys without learning what the caller wants to talk to the judge about and whether it is associated with a case before the judge, and then ask the judge if they want to take the call.
- Communications about scheduling or other administrative matters are permitted because they do not deal with the litigation's substance or merits, and no party gains an advantage as a result of the ex parte contact.

CAN PROVIDE Permissible Forms of <i>Ex Parte</i> Communication	CANNOT PROVIDE Impermissible Forms of <i>Ex Parte</i> Communication
<p>Question: Has the judge ruled on the motion to dismiss yet?</p> <p>Response: No, the judge has not ruled on the motion yet. It is still under advisement. You might want to check back in a few days.</p>	<p>Question: I want to give the judge this letter, but I don't want anyone else to read it. It's just for her to read.</p> <p>Response: Anything you file with the court has to be served on the other party. If you don't provide a copy to the other party, the judge will not look at the letter.</p>

Tip

Remember that *Black's Law Dictionary* defines *ex parte* as "one side only; by or for one party; done for one party only."

Resources for Self-Represented Parties

Utah State Courts' Self Help Web Page

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

The Utah State Courts' Self Help web page has resources for people trying to do their own legal work, and makes it easier for staff to direct them to that information. Topics offered on the Self Help page include:

- Appeals
- Civil Cases
- Criminal Cases
- Estate Planning & Probate
- Families & Children
- Juvenile Cases
- Landlord-Tenant
- Mediation
- Protection from Abuse
- Seniors
- Spanish Resources
- Traffic Matters

Finding Legal Help Web Page

<https://www.utcourts.gov/howto/legalassist/>

Self-Help Center

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

Legal Clinics

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

Legal clinics give general legal information and brief legal advice. Clinics also provide help with forms, and give people a chance to ask questions about the law. Most legal clinics handle civil law matters only. Talking to someone at a legal clinic is not the same as hiring an attorney, because the attorneys there may not take cases or represent people in court. Going to a legal clinic can help someone decide if they can handle the matter on their own, or if they should hire an attorney. A list of legal clinics statewide is available on the court's website.

Utah's Law Libraries

Law libraries have print and online resources including statutes, regulations, court rules, and court decisions, as well as legal encyclopedias, form books, and books about specific areas of law. Most law books are written for legal professionals, but some books are

written for non-lawyers. Law library staff can't give you legal advice, but they can show you how to use their resources.

- [Utah State Law Library](#): Matheson Courthouse, 450 South State Street, Salt Lake City. 801-238-7990.
- [James E. Faust Law Library](#): 383 South University Street, University of Utah, Salt Lake City. 801-581-6184.
- [Howard W. Hunter Law Library](#): Brigham Young University, J. Reuben Clark Law School, Provo. 801-422-3593.

**We will be happy to help you if we can.
However, we are allowed to help you only in certain ways,
since we want to be fair to everyone.**

This is a list of some things court staff can and cannot do for you.

We can	We cannot
<ul style="list-style-type: none">• Provide you with a list of local lawyers or the telephone number of the Utah State Bar lawyer referral service.• Explain and answer questions about how the court works.• Give you general information about court rules, procedures and practices• Provide court schedules and information on how to get a case scheduled• Give you information from your case file.• Give you samples of court forms that are available• Usually answer questions about court deadlines and how to compute them.	<ul style="list-style-type: none">• Tell you whether or not you should bring your case to court.• Tell you what words to use in your court papers. However, we will check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number and presence of attachments.• Tell you what to say in court.• Give you an opinion about what will happen if you bring your case to court.• Talk to the judge for you.• Let you talk to the judge outside of court.• Change an order signed by a judge.

Utah Courts Mission Statement

The mission of the Utah Courts is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.