Agenda

Utah Judicial Council's Standing Committee on Resources for Self-represented Parties

February 28, 2019
12:30 to 2:00 p.m.

Third District Court
Scott M. Matheson Courthouse
450 South State Street
Courtroom W37 (3rd Floor, West Hallway)

Welcome and approval of minutes	Tab 1	Judge Barry Lawrence, Chair
Introduction of new member (rural clerk of court)		Judge Barry Lawrence
Update from the Utah State Bar's Access to Justice Commission		Amy Sorenson, Nicholas Stiles
Exploring the possibility of a remote access pilot program (3rd District attorneys assisting litigants at a rural courthouse)		Judge Barry Lawrence, Heidi Anderson
Discussion on self-represented litigant issues and upcoming judicial education conferences (dressing for court, childcare, and cell phone use)	Tab 2	Judge Barry Lawrence, Judge Brook Sessions
Subcommittee updates • Education • Outreach • Rural Services • Self-Help Center/Non-lawyer Assistance/Court Updates Subcommittee	Tab 3	• Judge Lawrence to update on legal outreach • Sue Crismon to update on community outreach efforts • Susan Griffith to update on local/virtual clinics • Nathanael Player, Jessica Van Buren, and Nancy Sylvester to update on court initiatives and rules
New projects from the Supreme Court: FAQ videos; committee name change		Nancy Sylvester
Other potential projects: articles on access to justice issues and the ways they are being addressed across the U.S.	Tab 4	Nancy Sylvester
Other Business: discussion on vice chair		All

2019 Meeting Schedule: Matheson Courthouse, 12:00 to 2:00 p.m. unless otherwise stated: May 3 (Bar), June 28, September 6, November 1, January 3, 2020

Tab 1

Utah Judicial Council's Standing Committee on

Resources for Self-Represented Parties Meeting Minutes

Matheson Courthouse
Executive Dining Room
January 9, 2019
12 PM – 2 PM

Members	In attendance	Excused	Via phone conference
Judge Suchada Bazzelle		X	
Lisa Collins			
Sue Crismon		X	
Jacob Kent		X	
Monica Fjeldsted			X
Leslie Francis	X		
Carol Frank			
Susan Griffith	X		
Carl Hernandez		X	
Judge Catherine Hoskins		X	
Judge Barry Lawrence - Chair	X		
Kara Mann (ex officio)	X		
Christopher Martinez			
Shawn Newell	X		
Nathanael Player	X		
Judge Brook Sessions	X		
Charles Stormont	x		
Virginia Sudbury	X		
Judge Doug Thomas		X	
Jessica Van Buren	X		
Guests	In attendance	Excused	Via phone conference
Amy Sorenson			X
Nick Stiles	X		
Amy Hernandez	X		
Judge Lawrence Winthrop			X
Theresa Barrett			X
Landon (Hinckley Intern)	X		
Staff	In attendance	Excused	Via phone conference
Nancy Sylvester		X	

1. **Welcome and approval of minutes.**

Judge Lawrence welcomed the committee and guests and requested a motion on the minutes. The minutes were approved.

2. **Introduction of new members; farewell to departing members**

Judge Lawrence noted that Nicole Gray has replaced Lisa Collins in the appellate clerk of court position. He also noted that Carol Frank's term had expired. She occupied the rural clerk of court position. That position will be filled by the next meeting.

3. **Discussion with the Arizona Judicial Branch on its access to justice initiatives**

Judge Lawrence welcomed Judge Winthrop from Arizona. Judge Winthrop was joined on the phone by Theresa Barrett and several other staff from her office. Judge Winthrop and Ms. Barrett discussed several initiatives the Arizona judicial branch has undertaken:

- Court navigator/Americorps program, which has helped thousands of patrons;
- Training librarians on pro se resources;
- Video webinars;
- Live chat feature on the court's website;
- Podcasts from Supreme Court justices;
- Online dispute resolution, which is based on Michigan's model (Michigan saw a ramp up of participation and collection of fees and fines after implementing ODR); and
- Domestic violence: support existing lay legal advocates and providing remote court access.

Ms. Barrett discussed their commission structure. The Arizona Access to Justice Commission is a standing committee of the Arizona Supreme Court that has partnerships with that State Bar. The commission is staffed by Supreme Court staff, who are also staff to other committees

Regarding the Americorps funding, Ms. Barrett said the governor's office has a significant role in directing where the grant funding is going to go. Judge Lawrence wondered if the same was true here in Utah. Americorps requires that the grantee have some skin in the game. Maricopa County was able to meet that requirement by putting in full-time equivalent employees. Could another university take this on? Americorps provides the students with a stipend. It's open to university and community college students. New York City has a very extensive navigator program but money comes from the city itself.

The Arizona Court's self-help website is found on AZCourtHelp.org and has a variety of interesting resources, including cartoons to help people navigate the system.

4. **Subcommittee Updates – Committee Members**
    a. Education (outreach to law schools)

Judge Lawrence provided an update from the Education Subcommittee. The group is still looking at the ten days summons rule and how to improve notice to defendants of the self-help resources available. Nathanael Player is working on redrafting the summons. Judge Lawrence is also interested in exploring the Americorps/Court Navigator program when the new Access to Justice Director comes on at the U.

    b. Outreach (community)

The Community Outreach Subcommittee reported on the brochure the subcommittee is preparing to distribute widely and Shawn Newell's efforts to reach a wider audience by speaking on radio shows, podcasts, and the news.

    c. Rural Services (local/virtual clinics)

The Rural Services Subcommittee reported on the grant awarded to Timpanogos Legal Clinic to develop clinics in rural communities.

    d. Self-Help Center / Non-lawyer Assistance / Court Updates /Subcommittee (SHC funding, etc.)

Nathanael Player reported on Harvard's Access to Justice Lab, which will be studying attendance at the debt collection calendar and whether different notice variables affect that. He also reported on forms that had been recently approved.

5. **Discussion on self-represented litigants and dressing for court, childcare, and cell phone use**

The Committee had a lively discussion with Amy Hernandez, Domestic Violence Program Coordinator for the Administrative Office of the Courts, about access to justice issues that have been reported anecdotally. Those issues included patrons being turned away at the door for not dressing appropriately, bringing children to court because they do not have childcare, and being told to leave cell phones in the car or at home, even when those devices contain their court documents. The committee concluded that Judge Lawrence and Judge Sessions should present on these topics at the spring District and Justice Court Conferences, respectively.

6. **Other Business**
    The next committee meeting is scheduled for February 28.

    There being no further business, the meeting adjourned.

Tab 2

Utah State Courts

Nancy Sylvester <nancyjs@utcourts.gov>

Question about Dress Code for Court Patrons

Brent Johnson <brentj@utcourts.gov> Mon, Jan 14, 2019 at 3:52 PM
To: Amy Hernandez <amymh@utcourts.gov>
Cc: Nancy Sylvester <nancyjs@utcourts.gov>

It's been awhile since I researched this issue but here is what I recall:

There are two reasons that judges can establish dress standards for courtroom proceedings. The first is that dress is considered conduct and not speech. Conduct can be regulated a lot more than speech can. The way someone is attired for the most part does not fall within First Amendment protections. To the extent that someone is making a statement through their apparel choices, the courts have recognized that judges can impose limits on the time, place, and manner of speech. In other words, courtrooms are not public forums where anything goes. In the court rotunda I can probably shout "f*** you" to everyone within earshot, or wear a t-shirt with those words proudly displayed. But I definitely cannot do the same within the courtroom. A judge can issue orders and set standards to promote the decorum of court proceedings. There is well established caselaw that the government can set regulations for the time, place, and manner of speech as long as content is not restricted.

In short, attire is generally conduct and not speech and therefore can be regulated, and a person has the right to wear a shirt that says "f*** you" in a courthouse but the person doesn't have the right to wear it wherever the person chooses.

On Wed, Jan 9, 2019 at 4:57 PM Amy Hernandez <amymh@utcourts.gov> wrote:

> Brent,
>
> I presented to the Self-Representation Committee about dress code for court patrons and how it can be a barrier to justice for some court patrons (particularly domestic violence victims and low income populations). Those individuals who do not come appropriately attired have been asked to leave and reschedule. Sometimes they have to pay a rescheduling fee. The committee wanted to know if enforcing a dress code on court patrons could be considered a constitutional violation since it is barring their access to justice. What are your thoughts? Please let me know; thank you.
>
> --
> Amy Hernandez
> Domestic Violence Program Coordinator
> Justice Court Program Coordinator
> Administrative Office of the Courts
> 450 S State Street
> PO Box 140241
> Salt Lake City, UT 84114-0241
> E-mail: amymh@utcourts.gov
> Phone: 801-578-3809

Tab 3

Name

Address

City, State, Zip

Phone

Email

I am [ ] Plaintiff/Petitioner [ ] Defendant/Respondent
[ ] Plaintiff/Petitioner's Attorney [ ] Defendant/Respondent's Attorney (Utah Bar #:_____)
[ ] Plaintiff/Petition Licensed Paralegal Practitioner (Utah Bar #:_____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

_____ Plaintiff/Petitioner v. _____ Defendant/Respondent	**Ten Day Summons** (Utah Rule of Civil Procedure 3 and 4) _____ Case Number _____ Judge _____ Commissioner (domestic cases)

The State of Utah to

_____ (party's name):

A lawsuit has been started against you. You must respond in writing by the deadline for the court to consider your side. The written response is called an Answer.	En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición.

Call the court to see if a Complaint has been filed

The plaintiff must file the Complaint with the court within 10 days after service of this Summons on you.

If the complaint is not filed within that time, the case is considered to be dismissed and you do not need to file an answer.

Call the court at _____ (phone number) at least 14 days after service of this Summons to ask if the Complaint has been filed. This is an action to:

_____
(describe nature of action).

Si a la persona

En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición.

Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición.

Call the court at _____ (phone number) at least 14 days after service of this Summons to ask if the Complaint has been filed. This is an action to:

_____
(describe nature of action).

Deadline!

Your Answer must be filed with the court and served on the other party **within 21 days** (30 days if you are outside of Utah) of the date you were served with this Summons.

If you do not file and serve your Answer by the deadline, the other party can ask the court for a default judgment. A default judgment means the other party can get what they asked for, and you do not get the chance to tell your side of the story.

Heading!

En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición.

En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición.

Read the Complaint

The Complaint explains what the other party is asking for in their lawsuit. Read it carefully.

Si a la persona

En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. Si a la persona se le

	hace la entrega formal fuera de Utah, tendrá 30 días para responder.
Answer the Complaint You must file an Answer in writing with the court **within 21 days** (or 30 days, if you are outside of Utah) of the date you were served with this Summons. You can find an Answer – Debt Collection form (or Answer, if this is not a debt collection case) on the court's website: www.utcourts.gov/howto/answer/.	**Casos de Desalojo** En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. El periodo de tiempo de 21/30 días no es aplicable para todos los casos. Casos de Desalojo y reclamos menores, por ejemplo, tienen período de tiempo distinto.
Serve the Answer on the other party You must mail or hand deliver a copy of your Answer to the other party (or their attorney or licensed paralegal practitioner, if they have one) at the address shown at the top left corner of the first page of this Summons.	**El periodo de tiempo** En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. El periodo de tiempo de 21/30 días no es aplicable para todos los casos. Casos de Desalojo y reclamos menores, por ejemplo, tienen período de tiempo distinto.
Keep records Keep a copy of this Summons, a record of your efforts to contact the court, and of your Answer.	**El periodo de tiempo** En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder.
Finding help The court's Finding Legal Help web page (**www.utcourts.gov/howto/legalassist/**) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.	**Reclamos menores** En la mayor parte de las demandas civiles, la persona tiene 21 días para responder a la demanda o petición. Si a la persona se le hace la entrega formal fuera de Utah, tendrá 30 días para responder. El periodo de tiempo de 21/30 días no es aplicable para todos los casos. Casos de Desalojo y reclamos menores, por ejemplo, tienen período de tiempo distinto.

This notice:

A <language> version of this document is available on the court's website:
www.utcourts.gov

Would be provided on the form in these languages:

- Arabic
- Mandarin
- Persian
- Portuguese
- Vietnamese

Date _____ Signature ► _____

Printed Name _____

JUDICIAL GUIDELINES FOR CIVIL HEARINGS INVOLVING SELF-REPRESENTED LITIGANTS, WITH COMMENTARY[1]

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Introduction

The Board of District Court Judges established a committee to draft guidelines for judges who preside over civil cases involving self-represented litigants.[2] These Judicial Guidelines for Civil Hearings Involving Self-Represented Litigants are patterned after guidelines adopted in Massachusetts.[3] The committee expresses its gratitude for permission to use the Massachusetts guidelines.

1. General Practices

1.1 Plain English. Judges should[4] use plain English and minimize the use of complex legal terms when conducting court proceedings involving self-represented litigants.

Commentary

Self-represented litigants often are unfamiliar with complicated legal terms. Using such terms can delay proceedings and necessitate lengthy explanations of concepts more readily understood if stated in plain English.

1.2 Language barriers. Judges should be attentive to language barriers experienced by self-represented litigants and take necessary steps to provide qualified interpreters to litigants who are unable to understand or communicate adequately in the English language, or who are hearing impaired.

Commentary

Judges should not require any litigant who is unable to understand or communicate adequately in the English language, or any hearing-impaired litigant, to go forward at trial or any other significant court event without a qualified interpreter. *See* R. Jud. Admin. R. 3-306 (providing for interpretation for non-English speaking people); Utah Code Ann. § 78B-1-201, *et seq.* (providing for interpretation for hearing impaired litigants and witnesses). When a

judge becomes aware of the need for an interpreter, he or she should grant a continuance and order one for the next scheduled date.

1.3 Legal representation. Judges should inform litigants that they have the right to retain counsel and the right to be represented by counsel throughout the course of the proceedings. Judges should also acknowledge that parties have a right to represent themselves. Judges should confirm that the self-represented litigant is not an attorney, understands the right to retain counsel, and will proceed without an attorney.

Commentary

Judges should make self-represented litigants aware of the consequences of proceeding without an attorney. Judges should explain that self-represented litigants have no right to a relaxation of the standards that apply to litigants who are represented by counsel. *See In re Cannatella*, 2006 UT App 89, ¶ 5, 132 P.3d 684 (a party who represents himself will be held to same standard of knowledge and practice as any qualified member of the bar); *State v. Pedockie*, 2006 UT 28, ¶ 38, 137 P.3d 716 (the choice to provide self-representation is not *carte blanche* authority to disregard rules governing court procedure). Judges may point out the complexities of the case and the advisability of obtaining or at least consulting with counsel.

Judges should explain that counsel for the opposing party does not represent the self-represented litigant, and opposing counsel may not advise the self-represented litigant, other than to suggest that the self-represented litigant secure independent counsel. *See* Utah Rules of Prof'l Conduct R. 4.3(a).

Judges should encourage litigants who proceed without counsel to consult resources developed specifically for self-represented litigants and inform self-
represented litigants that they have the responsibility to become familiar with, and to comply with, the rules of procedure. *See State v. Pedockie*, 2006 UT 28, ¶ 38, 137 P.3d 716 (pro se litigants are expected to comply with technical rules); Utah R. Civ. P. 1 (the rules "govern the procedure in the courts of the state of Utah in all actions, suits, and proceedings of a civil nature"). Litigants also should be made aware that lawyer referral, pro bono, and discounted services, as well as alternative forms of dispute resolution, are available

1.4 Application of the law. Judges shall apply the law without regard to the litigant's status as a self-represented party and shall neither favor nor penalize a litigant because that litigant is self-represented.

Commentary

Although self-represented litigants may not be treated more severely than other litigants, neither are they entitled, because of their status, to be excused from relevant rules of procedural and substantive law.

1.5 Materials and services for self-represented litigants. Judges should encourage the provision of information and services to better enable self-
represented litigants to use the courts, and should encourage self-represented litigants to use these resources.

Commentary

The court provides explanatory materials, forms, and self-help services for self-represented litigants, and judges should support this effort and encourage their use.

2. Guidelines for Pre-Hearing Interaction

2.1 Trial process. Judges should make a reasonable effort to ensure that self-represented litigants understand the trial process. Judges should inform litigants that the trial will be conducted in accordance with applicable evidentiary and court rules.

Commentary

When explaining the trial process, it is proper to do so in the same manner a judge would explain it to a jury. Although judges may explain rulings, court policies, and procedures, judges may not tell litigants what legal action to take. The following are examples of specific explanations judges may wish to give:

Burden of production and proof

- Parties bringing the action are responsible for presenting evidence to support their claims. A self-represented litigant must adhere to the essential requirements of presenting a case; a judge will not assume anything in support of the case if it has not been properly presented.
- The parties, not the court, are responsible for subpoenaing witnesses and records.
- There are limits on the kinds of evidence that may be admitted.
- The evidence admitted by the court must prove the elements of the plaintiff's claim according to the required standard.
- In the judge's discretion, the elements of claims and defenses, as well as the burden of proof may be explained in the same manner that they would be explained to a jury. *See e.g.,* Model Utah Civil Jury Instructions, 2nd ed. ("MUJI 2nd") CV2102 (elements of a breach of contract claim); MUJI 2nd CV117 (preponderance of the evidence standard).

Ex parte communication

- The parties may not communicate about the case with the judge outside from court proceedings.
- The judge, as a general rule, is prohibited from communicating with a party unless all parties are aware of the communication and have an opportunity to respond or be present.
- The parties must file all communications with the judge (complaints, motions, affidavits, exhibits) with the clerk's office along with a statement that copies of those materials also have been given to the opposing party.

Judge as fact finder

• In some proceedings the case will be heard without a jury; in such proceedings, the judge is the fact finder and the facts are determined by the judge from the evidence presented. For example, if A presents a witness who testifies the light is red and B presents a witness who testifies the light is green, it is the judge's responsibility to determine the color of the light and that determination becomes a fact of the case.

Courtroom conduct

• Except when examining witnesses, litigants should address their remarks and questions to the judge. They should not direct comments to the opposing party or counsel for the opposing party.

2.2 Settlement. In cases in which settlement may be appropriate, judges may discuss the possibility of settlement. This may occur at any stage in the litigation, but particularly at a case management, pretrial, or status conference.

Commentary

Many cases can be settled equitably with the involvement of the judge; but to avoid later misunderstandings, judges are strongly urged to record all settlement conferences. Because of concerns that the judge might obtain information that could challenge her ability to remain impartial, in cases where the judge is the trier of fact, the judge may want to have another judge conduct any mediation or settlement conference.

It may be particularly helpful for the judge to provide the opportunity for the parties to discuss settlement in the presence of the judge, or an independent colleague. A self-represented litigant may be afraid to deal with the attorney for the opposing party outside of court, and the attorney for the opposing party may be reluctant to negotiate with the self-represented litigant for fear of being accused of overreaching or misleading the self-represented litigant.

Judges must keep in mind that in certain types of proceedings, such as domestic relations cases where a protective order is sought, attempts to get the parties to mediate are not appropriate. Utah Code Ann. § 78B-7-111 ("[T]he court may not order the parties into mediation for resolution of the issues in a petition for an order for protection"); *see also* Rules of Judicial Admin. R. 4-510.06 (identifying cases exempt from ADR rules).

At settlement conferences, judges should explain that the conference is an opportunity for the parties to resolve the issues themselves without the formality and expense of a trial; that they have the ability to reach their own resolution of the issues and to write the judgment through an agreement that is tailored to their needs. In addition to explaining that the judge is there to listen to both parties and ensure the proceedings are conducted fairly, judges also should tell the parties that, if they are unable to settle, they have a right to a trial at which a judge or jury will make the decision based on the evidence admitted and the applicable law, and this result may differ

from what each of the parties is seeking. Judges may point out the complexities of the case and the advisability of obtaining or at least consulting with counsel.

In cases involving self-represented litigants, just as in cases where all parties are represented, judges may encourage settlement, but they may not require parties to reach a settlement. Where the judge is the trier of fact, she must be most scrupulous both to avoid losing her impartiality and to maintain her unfamiliarity with disputed matters which may come before her, and with extraneous matters which should not be known by her. If the parties do not settle, a judge's participation in settlement discussions may disqualify the judge from sitting as fact finder in the trial of that matter. Whether the judge's participation in settlement discussions requires the judge's disqualification depends on the circumstances of the case. Utah Code of Judicial Conduct R. 2.11(A)(1) ("A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned [such as when] the judge has personal knowledge of facts that are in dispute in the proceeding").

2.3 Alternative dispute resolution (ADR). When a case is appropriate for ADR, judges should discuss the availability and benefits of such services. This may occur at any stage of the litigation, but particularly at a case management, pretrial, or status conference.

Commentary

In cases involving self-represented litigants, just as in cases where all parties are represented, the parties may be able to settle their disputes early and effectively using mediation, case evaluation, arbitration, or another form of alternative dispute resolution. ADR often helps parties maintain their ongoing family or business relationships after the stress of litigation, and can be an effective case management tool, eliminating many months of litigation.

It is important to note that judges should not order ADR in abuse prevention proceedings. Utah Code Ann. § 78B-7-111 ("[T]he court may not order the parties into mediation for resolution of the issues in a petition for an order for protection"). Judges should not order ADR in cases in which there are issues of domestic violence.

Judges should inform the parties that: (1) the decision to participate in a dispute resolution process is voluntary; (2) they are not required to make offers and concessions or to settle; (3) if the parties do not settle the matter through ADR, they still may have the matter tried in court; (4) courts cannot impose sanctions if the parties do not settle, but courts may impose sanctions for failure, without good cause, to attend a scheduled dispute resolution session; (5) the court will give the particular attention to the issues presented by unrepresented parties, such as the need for the neutral mediator to memorialize the agreement and the danger of coerced settlement in cases involving an imbalance of power between the parties; (6) in cases in which one or more of the parties is not represented by counsel, a neutral mediator has the responsibility, while maintaining impartiality to ask the parties to consider whether they have the information needed to reach a fair

and fully informed settlement of the case; (7) the court may establish a deadline for the completion of the court-connected dispute resolution process, which may be extended by the court upon a showing that continuation is likely to assist in reaching resolution; (8) communication with the court during the dispute resolution process is conducted only by the parties or with their consent; and (9) unless the parties agree otherwise, the ADR program or neutral will provide the court only with: a request by the parties for additional time to complete dispute resolution, the neutral's assessment that the case is inappropriate for dispute resolution, or the fact that the dispute resolution process has concluded without parties having reached agreement. Utah Uniform Mediation Act, Utah Code Ann. § 78B-10; Utah Code Ann. § 78B-10a (Tort Arbitration); Utah Uniform Arbitration Act, Utah Code Ann. § 78B-11.

3. Guidelines for Conducting Hearings

3.1 Courtroom decorum. Judges should maintain courtroom decorum, cognizant of the effect it will have on everyone in the courtroom, including self-represented litigants. Judges should ensure that proceedings are conducted in a manner that is respectful to all participants, including self-represented litigants.

Commentary

As role models in the courtroom, Judges should provide a positive environment for those who represent themselves. A positive environment may be achieved, in part, by providing self-represented litigants with an explanation of relevant procedures. In *State v. Winfield*, 2006 UT 4 ¶ 19, 128 P.3d 1171, 1176-77 (Utah 2006), the Court stated that "Our approach to pro se litigants seeks to balance the procedural demands of litigation and the rights of unrepresented parties. '[A]s a general rule, a party who represents himself will be held to the same standard of knowledge and practice as any qualified member of the bar." *Lundahl v. Quinn*, 2003 UT 11, ¶ 3, 67 P.3d 1000 (quoting *Nelson v. Jacobsen,* 669 P.2d 1207, 1213 (Utah 1983)). Nevertheless, "'because of his lack of technical knowledge of law and procedure [a layman acting as his own attorney] should be accorded every consideration that may reasonably be indulged.'" *Id*. (quoting *Nelson*, 669 P.2d at 1213). [second alteration in original]. In both the *Lundahl* and *Winfield* opinions, the Supreme Court noted, however, that this concept of special consideration is not always appropriate when the pro se litigant is a frequent participant in court proceedings (see *Lundahl*, 67 P.3d at 1002) or otherwise demonstrates a "reasonable knowledge of his rights and court procedure" (*see Winfield*, 128 P.3d at 1177).

3.2 Evidence. Judges shall adhere to the applicable rules of evidence, but may use their discretion, when permissible, to provide self-represented litigants the opportunity to meaningfully present their cases. Judges may ask questions to elicit general information and to obtain clarification. Judges should explain why the questions are being asked and that they should not be taken as any indication of the judge's opinion of the case.

Commentary

A self-represented litigant may require guidance when language is used which judges and attorneys routinely understand, but which may confuse an inexperienced party. In *Nelson v. Jacobsen*, the self-represented litigant could have reasonably misunderstood that evidence would be presented and considered at trial, when the trial was referred to as a "hearing," and the party had previously attended a "hearing" at which evidence was not considered. *Nelson v. Jacobsen*, 669 P.2d 1207, 1213 (Utah 1983).

This does not mean a judge should become a lawyer for a self-represented litigant. For example, the Utah Supreme Court chose to not address a self-represented litigant's argument when it was unsupported by legal analysis or authority. "Although this Court has generally been more lenient with pro se litigants and applied established fundamental rules of law in favor of a litigant who has not presented them with the precision of an attorney, it would nevertheless be beyond our role as judges to become advocates for a pro se party." *Winter v. Northwest Pipeline Corp.*, 820 P.2d 916, 918-19 (Utah 1991).

In dealing with self-represented litigants, a judge may need to take a more active role in evidentiary matters. For example, in *State v. Bakalov*, 1999 UT 45, ¶ 71, 979 P.2d 799, the Court upheld a trial court's invocation of Rule 611 of the Utah Rules of Evidence to control the otherwise rambling nature of a self-represented litigant's examination of witnesses ("We uphold the court's use of its prerogative to control the courtroom in curtailing defendant's irrelevant and self-prejudicial questioning of [a particular witness].... While a pro se defendant should be given reasonable leeway, the defendant's examination of a witness must nonetheless be relevant and material to the issues. When it is not, a trial court has the power to curtail that examination as part of its Rule 611 power to control the courtroom."). *Bakalov,* 979 P.2d at 821.

Judges may require counsel to explain objections in detail, and judges should explain evidentiary rulings. In some proceedings (*e.g.*, small claims), the applicable rules permit even greater informality and participation by judges in eliciting facts. See Utah R. Sm. Claims P. 7(c), (d) (authorizing judge to examine witnesses and relax the rules of evidence).

Judges have more flexibility in proceeding informally when all the parties to a case are self-represented. In such cases, judges may have the parties stipulate that each can tell the relevant facts uninterrupted for a set period of time, and the court will ask questions. Cases which are non-adversarial, such as name changes, also allow for increased flexibility.

Judges have wide discretion to impose time limits on the length of direct and cross-examination of witnesses. Those limits, however, must be reasonable, and they must not prevent a party from presenting the party's entire case to the fact finder. *See* Utah R. Evid. 611.

Judges may properly question witnesses, even where to do so may strengthen one party's case, so long as the examination is not partisan in nature, is unbiased, and does not display a belief in one party's case. To avoid the appearance of partiality, judges should explain that the questions are being asked to clarify testimony and that they should not be taken as any indication of the judge's opinion of the case. This is particularly important in cases involving one self-represented litigant and one represented party. Judges should, of course, use a rule of reason as to the extent of witness questioning, whether or not a self-represented litigant is involved. *See, e.g., State*

v. Gleason, 86 UT 26, 40 P.2d 222 (Utah 1935) ("The conduct of a trial is to a large extent under the control and within the discretion of the trial judge who should preside with dignity and impartiality. He is more than a mere referee or moderator.... He should not express, or otherwise indicate, an opinion as to the credibility of the witness or the guilt of the defendant. Such matters are exclusively for the jury. The practice is well established for the trial judge, within reasonable bounds, to ask questions of any witness who may be on the stand for the purpose of eliciting the truth, or making clear any points that otherwise would remain obscure.... It is generally held that in the exercise of his right to question a witness, the judge should not indulge in extensive examination or usurp the function of counsel. In a criminal case he should not by form of question or manner or extent of examination indicate to the jury his opinion as to the guilt of the defendant or the weight or sufficiency of the evidence." *Id.* at 227 (internal citations omitted) (note that this case did not involve a self-represented litigant, but is nonetheless instructive regarding judicial questioning).

In jury cases, judges should instruct the jury that they are not to consider questions asked by the judge as any indication of the judge's opinion as to how the jury should decide the case and if the jury believes the judge has expressed or hinted at any opinion about the facts of the case, they should disregard it. *See, e.g.*, MUJI 2d, CV 205, Judicial Neutrality.

3.3 Right of self-representation. In jury trials, judges should ask self-represented litigants whether they want a right to self-representation instruction.

Commentary

Although Utah's MUJI 2d has no such instruction at this time, other jurisdictions have standard instructions for the benefit of self-represented litigants. For example, in Massachusetts the following instruction is recommended: "The [plaintiff/defendant] has decided to represent [himself/herself] in this trial, and to not use a lawyer. [He/she] has a perfect right to do that. [His/her] decision has no bearing on the merits of the case, and it should have no effect on your consideration of the case." Massachusetts Superior Court Civil Jury Instructions § 13.12

3.4 Approval of settlement agreements. Judges should review the terms of settlement agreements, even those resulting from ADR, with the parties. Judges should determine whether the agreement was entered into voluntarily. If there are specific provisions through which a self-represented litigant waives substantive rights, judges should determine, to the extent possible, whether the waiver is knowing and voluntary.

Commentary

When assessing whether a waiver of substantive rights is "knowing and voluntary," a judge may consider "knowing and voluntary" as that phrase is used in the context of informed consent, that is, the agreement by a person to a proposed course of conduct after receiving adequate information and explanation about the material risks and reasonably available alternatives to the proposed

course of conduct. *See* ABA Model Rules of Prof'l Conduct 1.0(e) (2003) ("Informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.)

Self-represented parties should be informed that once the agreement is approved it becomes an order of the court; therefore, they should raise any questions that they have about the agreement before it is approved.

4. GUIDELINES FOR POST-HEARING INTERACTION

4.1 Issuing the Decision. Judges should explain to pro se litigants that a judge may issue a decision (1) orally from the bench at the conclusion of the hearing; or (2) in writing after having taken the matter under advisement. Judges should explain that many cases turn on well-established rules of law and do not require a written decision. If possible, judges should give a time frame as to when a case taken under advisement will be decided.

4.2 Questions about Appellate Process. If a pro se litigant asks about the appellate process, the judge should explain that appeals are governed by the Utah Rules of Appellate Procedure. The judge should explain that these rules are available without cost on the Utah State Court website.

[1]The Commentary is intended to supply suggestions and resources for judges who wish to exercise their discretion consistent with the Guidelines. It was written by the Committee and endorsed by the Board of District Court Judges. It has not been reviewed by the Judicial Council or by the Utah Supreme Court.

[2]The members of the committee are Judge Clark McClellan, Judge David Connors, Judge Derek Pullen, and Judge Kate Toomey. Mark Bedel of the Administrative Office of the Courts staffed the committee.

[3]Judicial Guidelines for Civil Hearings Involving Self-Represented Litigants, Massachusetts Court System, 2006.

[4]The term "should" is used in these Guidelines to indicate that the conduct is recommended, but not required.

Tab 4

Tarikul Khan is one of the lawyerless litigants who has received help from the Eastern District of New York's legal assistance clinic with his case. Such programs appear to be growing in popularity among federal courts. (Cara Salvatore | Law360)

Tarikul Khan turned around and whispered, "I'm scared now."

Waiting in a wood-paneled Brooklyn courtroom for the first hearing in his lawsuit, Khan was watching U.S. Magistrate Judge Lois Bloom grill a plaintiff also representing himself, in an unrelated matter, about his failure to hand over evidence.

When he eventually stepped before Judge Bloom, though, the judge's first remark was about how Khan's complaint for disability benefits was unexpectedly shipshape.

Khan, 68, wouldn't have been able to create that document without behind-the-scenes help from a key consultant.

"Ms. Cat made this. She did help, everything," Khan told Law360 in the court cafeteria before the Nov. 8 hearing. "I can't make this thing myself. I finished high school only, no college — a little bit of college. I have nothing like this."

"Ms. Cat" is Cat Itaya, the director of the Eastern District of New York's legal assistance clinic

for "pro se," or self-represented, litigants; it lives inside the courthouse and is run by the City Bar Justice Center. Khan visited Itaya beginning four months before his first hearing, and over six or eight visits — a couple with volunteer lawyers, but most with Itaya — she digested his story and put together a complaint in language the court could parse.

While they remain rare for now, clinics like the one in the Eastern District of New York appear to be catching on in federal court as a way to aid self-represented litigants, for whom putting together a legally coherent complaint can be an insurmountable barrier.

Director Cat Itaya and project coordinator Dylan Lee of the Brooklyn federal courthouse's pro se legal assistance clinic, administered by the City Bar Justice Center.

Programs helping pro se filers have historically been more common in state courts, but there's no shortage of such litigants at the federal level, who often go it alone because they can't afford legal counsel or their cases aren't worth taking on from an economic standpoint. In federal court, pro se cases are about 25,300 of the 210,100 nonprisoner civil cases open nationwide, according to the most recent data from the Administrative Office of the U.S. Courts.

At least eight federal courts offer full-time or nearly full-time clinics to help pro se litigants, mainly starting within the past few years. For example, EDNY's clinic was founded in 2014,

and a similar program run by the New York Legal Assistance Group in the Southern District of New York is about two years old.

"We have assisted any number of litigants who are not particularly good narrators but who do have claims," said Robyn Tarnofsky, who directs the SDNY clinic, "where just helping write down a clear timeline of what happened enabled a complaint to survive a motion to dismiss."

Pro se cases take up "a disproportionate amount of a court's time," Tarnofsky said. The Southern District alone had 1,137 nonprisoner civil pro se cases open as of Sept. 30, 2017, according to court data.

"There are filings that are made incorrectly; there are filings made when filings shouldn't be made," she said.

Those realities mean pro se clinics can be a boon to not only litigants but also judges and court staff, according to advocates like U.S. District Judge Edward Chen in San Francisco.

Judge Chen is a main booster of the Northern District of California's own program, one of the eldest at a ripe 12 years old. The program helps 350 to 400 people each year, according to director Kelly Corcoran, and the Northern District's three clinic locations — one inside each courthouse — cost about $367,000 per year to run combined, according to Judge Chen's staff.

When a court has no pro se clinic, the clerk's office and library office can be "besieged" with self-represented litigants wondering about legal advice, Judge Chen said.

"It helps the court staff all around; it helps the judicial process; and it helps the plaintiffs," Judge Chen said, adding that the clinics also help defendants when they wind up dealing with filings that "speak the language they're used to."

Lost in the Legal Maze

Khan's case against the New York Hotel Trades Council & Hotel Association of New York City Pension Fund illustrates just how difficult speaking that language can be for someone who isn't a lawyer.

Khan spent a total of 13 years performing a range of jobs from housekeeping to janitor work in the hotel industry in New York City, interrupted by a nine-year span in Florida. One day in 2014, working at Trump Plaza on one of the few jobs the union had thrown his way in the years after he returned, he was wrestling what he says was a thousand-pound dumpster with a broken wheel. All of a sudden he felt his back twist unnaturally. He was disabled and could

no longer work; the Social Security Administration agreed.

But the union denied him the disability pension that Khan claims he has earned, based on his time away in Florida and other factors.

"I can't make this thing myself," Khan, outside the downtown Brooklyn federal courthouse in November, said of his complaint for hotel pension-fund benefits, developed through the assistance of that court's pro se clinic. (Cara Salvatore | Law360)

It's a complicated back story, and also involves workers' compensation, a small annuity that comes from the union as opposed to the union pension fund, Social Security disability, and an unsuccessful administrative appeal with a lawyer who charged $1,500. Khan's been climbing this mountain for at least two years. Finally, four months ago, he got the tip about the clinic and started coming in to tell Itaya his story.

"They are so sweet, this lady — such a good person," Khan said while waiting for his Nov. 8 court date with Judge Bloom. He even had hopes, sitting in the cafeteria, that the other side would offer him a settlement that day.

But that was before the hearing.

Judges in New York federal court are bound by legal precedent and court rules to be especially solicitous and bestow ample benefit of the doubt on pro se litigants. It was clear as the minutes ticked by that Judge Bloom took this extremely seriously. And it was equally clear she believed Khan was going to have a heavy lift.

Still, after a healthy round of questions about the whens and wheres, Judge Bloom started saying things you almost never hear in a courtroom full of lawyer-represented parties.

She spied a lawyer in the pews that she knew, and asked him straight out if he could help find a lawyer to help Khan. Khan was handed the man's card and a promise that his story would be sent out to a listserv.

Next, Bloom turned to the union fund's lawyers, Andrew Midgen and Jane Lauer Barker of Pitta LLP, who had been taking notes furiously the whole time. "Will you please look into whether he qualifies for any other pension?" she asked. They agreed. Then Judge Bloom tilted her chin down and looked over her glasses. "Treat him as if he's a close family friend that you're trying to do a favor for, please," Judge Bloom said.

Support from judges like her is one of the big reasons such programs have been able to get off the ground. And enthusiasm for the programs seems to be growing.

"We've had a lot of projects reach out to us over the past handful of years, trying to get advice about what structure we use ... what information we provide, what's the level of service that we have, how many attorneys are working here, and how do we manage it," NDCA clinic Director Kelly Corcoran said.

Proving Their Worth

However, funding can be a difficult hurdle.

The clinics in New York and the Northern District of California run on funds that come from pro hac vice fees paid by out-of-town lawyers to practice in those districts, but Itaya, Tarnofsky and Judge Chen all noted that other courts with fewer visiting attorneys may have a harder time funding assistance programs.

Corcoran, who's been at the helm of the NDCA clinic since early 2015, says she still doesn't take any funding for granted. But she's also confident that the judges who vote to reauthorize it each year see it as a boon.

In part that's because the clinics persuade some litigants not to sue at all. For example, staff at the EDNY clinic will try to dissuade pro se litigants from moving forward with a complaint when such a case would merit sanctions, lack any factual or legal basis, or stretch existing law

beyond recognition, according to Itaya.

"That's a big time saver to the court and a big resource saver to the court," Itaya said. Of 19 pre-complaint clients last quarter whose cases EDNY clinic staff found lacked merit, 18 were convinced not to file, she said.

Clinic directors who spoke with Law360 say they most often help individuals with cases that would fall under the civil-rights banner: race discrimination, constitutional violations, employment discrimination.

But some clinics do more than provide legal assistance. The EDNY program, for example, has an affiliated social worker in a separate office in the court to help folks who need a point in the right direction for job training, housing, food stamps, Safelink phone service, mental health counseling — "nonlitigation solutions" to "problems caused by poverty and by disenfranchisement," Itaya said.

The nods to poverty and disenfranchisement resonate in Khan's case. He can't work; he is an immigrant whose English is not perfect; he gets about $1,000 a month in Social Security disability; and his rent in Queens is $1,900.

In the hall after the hearing, Midgen and Barker declined to comment, but they chatted privately with Khan briefly.

After they left, Khan looked deflated.

"I'm very upset," he said when prodded. "Nothing happened." He noticed a janitor buffing the floor outside the elevators and pointed. "This is my job. Used to be."

But the suit isn't over; Khan will have more chances. The justice system's movement is more like plate tectonics than the Indy 500. In the end, boosters of pro se clinics like the one that helped Khan stress that the important thing for litigants is that justice be available.

Maybe not "outcome justice," as Judge Chen put it, but "procedural justice."

--Editing by Brian Baresch.

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No Country For Old Lawyers: Rural U.S. Faces A Legal Desert

By **Jack Karp** | January 27, 2019, 8:02 PM EST

Attorney Phil Garland, 73, who is one of only five lawyers in Garner, Iowa, worries that in a few years, the town could be down to only one lawyer for its 3,000 residents. (Dean Riggott | For Law360)

When attorney Phil Garland first hung his shingle in Garner, Iowa, there were five lawyers in town. Over 40 years later, that number hasn't changed. What has changed, though, is those lawyers' ages.

"We've got three guys in their 60s," says Garland, who is 73.

Garland is the only one who has hired a younger associate to take over when he retires. That means in a few years, the town and its 3,000 residents could be down to just one attorney to handle everything from real estate transactions and probate work to juvenile issues and criminal cases.

And Garner isn't the only small town facing that problem. Adams County, Iowa, for instance, boasts only one attorney for its 3,686 residents, while Ringgold County, with 5,034 residents, is home to three, according to the Iowa Bar Association.

The problem isn't unique to Iowa either. Although about 20 percent of Americans live in

rural areas, only 2 percent of lawyers practice there, according to research by Lisa Pruitt, the Martin Luther King Jr. Professor of Law at University of California, Davis School of Law.

"Basically, the rural profession is in most places aging really quickly, and young lawyers are, by and large, not interested in going to replace them," Pruitt says.

Faced with that trend, bar associations, law schools and others have begun experimenting with programs aimed at luring young attorneys to the heartland and making it more financially feasible for them, including through loan forgiveness, to set up shop in communities where residents' options for filing a lawsuit or even drawing up a will might otherwise be painfully slim.

If they don't succeed, some anticipate a not-too-distant future in which many people living in rural communities, especially those with limited resources, will have no access to legal help at all.

"Maybe I've just been denied my veterans benefits or some other type of public benefit, or maybe somebody has a child with disabilities, you know, how are they going to get the advocacy they need?" Pruitt asks.

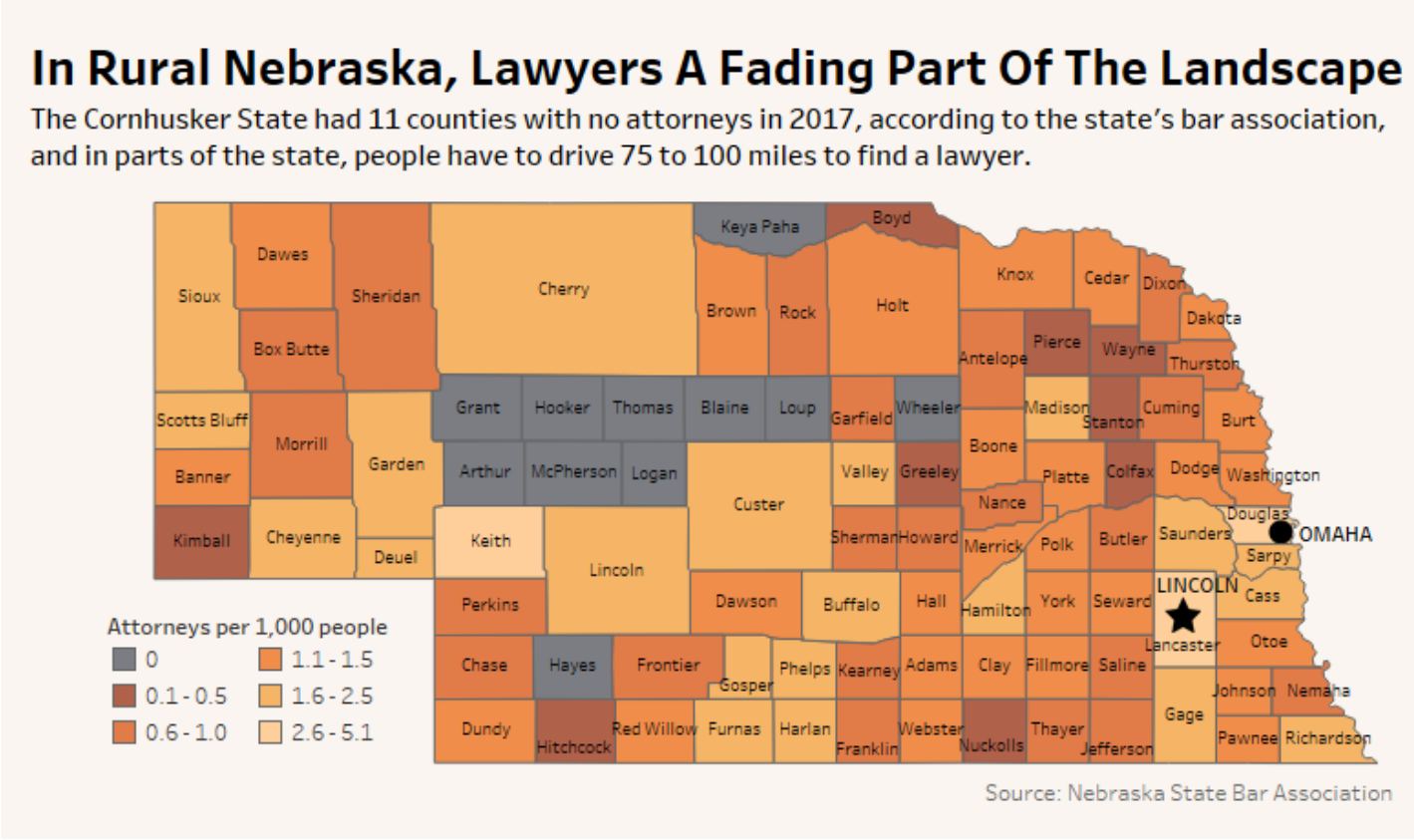
Lack of Attorneys, Lack of Justice

In 2017, low-income, rural residents received inadequate or no professional help for 86 percent of their civil legal problems, according to the Legal Services Corporation's 2017 Access to Justice Report.

Those legal problems can include dealing with landlord-tenant issues, public benefits, independent education plans for children with disabilities and environmental injustices, according to Pruitt.

"It is basically the denial of access to justice," says Lyle Koenig, a self-professed "country" lawyer and co-chair of the Nebraska State Bar Association's Committee on Rural Practice Initiative. "Even if somebody isn't suing you or something like that, if you just need a deed drafted or a will drawn, there's no way to do it unless there's an attorney that's handy in your local community."

More and more often, there isn't. Nebraska, for instance, has 11 counties with no attorneys, according to that state's bar. In parts of the state, people drive 75 to 100 miles one-way to have a deed or will drawn up "simply because there's nobody any closer to do it," Koenig says.



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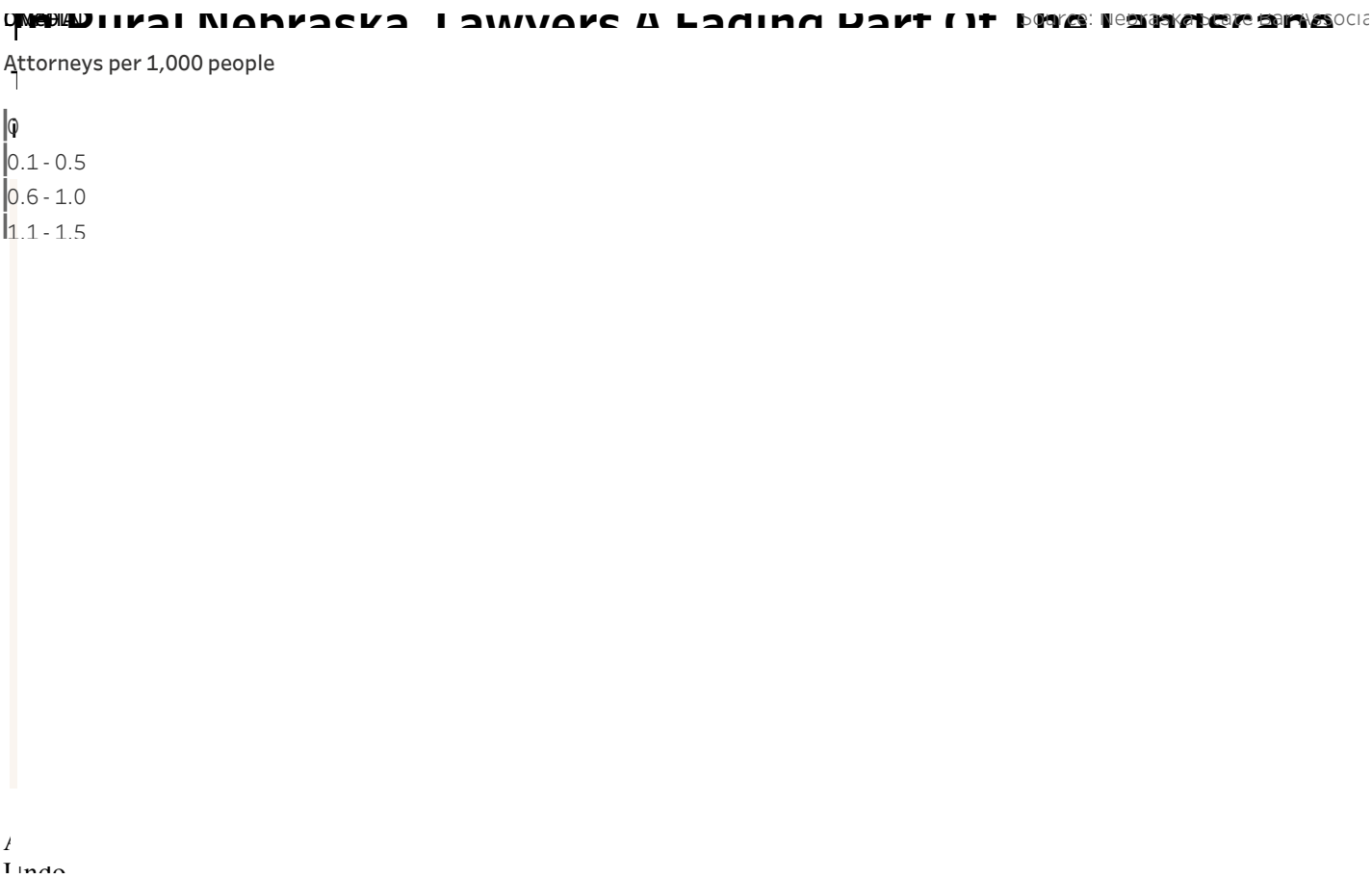

That dearth of legal help is expected to worsen as baby-boomer attorneys who set up shop in

America's small towns 40 or 50 years ago retire and younger attorneys choose to congregate in cities rather than fill the gap.

"It's a hard sell to get my students to want to go to Fresno and practice, but it would be a really hard sell to get my students to go and hang out a shingle in a place like Chowchilla," Pruitt says, referring to a small town 250 miles north of Los Angeles.

That sell might have softened when the recession slashed jobs for new lawyers across the board, with the volume of entry-level associates starting work in 2009 falling by around 40 percent from previous years, according to the National Association for Law Placement. But rural destinations are losing any edge they may have gained over more highly populated and competitive areas as the job market for lawyers bounces back, with NALP finding that the employment rate for the class of 2017 edged up by more than 1 percent over 2016.

"It's likely that the recession did create an incentive for some recent law graduates to try rural practice," Pruitt says, "but my sense now is that the urban and suburban market has loosened up again, so there is probably less pressure for young lawyers to give rural practice a shot."

Garland, who is chairman of the Iowa State Bar Association's rural practice committee, has seen this problem firsthand. He remembers once offering a law student who was working as his clerk a job, but "she fell in love with a microbiologist and we didn't have any openings at Subway or Hardee's for a microbiologist, so she didn't come here."

So Garland helped start the Rural Practice Program, one of several initiatives sprouting up with the aim of introducing new attorneys to the possibility of rural practice. The program organizes meet-and-greets between law students and rural lawyers to set up clerkships for those students in rural areas.

The hope is that some of those older lawyers will hire their clerks as associates after graduation, ensuring that when the older lawyers retire, younger lawyers will be there to pick up the baton.

Garland met and hired his associate, Carrie Rodriguez, through the state bar's Rural Practice Program, which organizes meet-and-greets between law students and rural lawyers. (Dean Riggott | For Law360)

The program is how Garland met his associate, Carrie Rodriguez, who shadowed him in juvenile court. After a day and a half, he offered her a job.

"When I hired my associate, Carrie, I told her the business is yours when I'm done," Garland says, promising her that he wouldn't expect her to "buy out" the practice from him when he retires.

Garland says newly minted attorneys can no longer afford that "buy-out" because of the massive debt they are graduating with. Rodriguez "told me flat out that she's got a lot of student debt … she said if you'd have had a buy-out I'm sure I wouldn't have come," Garland remembers.

"I try to encourage all my contemporaries" to forgo that money, he says. "We had the benefit of a cheap education, these kids today don't have it."

That debt is the biggest barrier to luring lawyers to the heartland, according to Pruitt and Garland, making the prospect of a regular salary from an established city firm far more attractive than the vicissitudes of solo practice or the cost of buying into a small firm in a

town like Garner.

“Law school debt is just the 600-pound gorilla right now and it’s really constraining students’ choices,” says Pruitt.

Tackling Law School Debt

That’s one reason why 65 percent of South Dakota’s attorneys are located in just four cities, and smaller counties and towns in the state are importing attorneys to represent them, according to Suzanne Starr, director of policy and legal services at the South Dakota Rural Attorney Recruitment Program.

“With the mounting student loan debt of students, they are drawn to the larger firms where they can get a steady paycheck,” she says. “The waxing and waning of self-employment is difficult, especially that first year when they are establishing their businesses.”

The state’s Rural Attorney Recruitment Program offers attorneys willing to live and work for a minimum of five years in a county with fewer than 10,000 people more than $12,500 per year to assist with their student debt. The county and the state’s court system share the cost of the program.

Pruitt says despite the cost, the program is a money saver, helping municipalities avoid paying lawyers to travel from other jurisdictions.

“South Dakota is a pretty conservative state, right, so to be perfectly frank a lot of people didn’t seem particularly concerned about access-to-justice issues for modest-means and low-income people,” she says. “But they did have a concern about what the lack of a lawyer meant for the community more broadly in terms of economic fitness and economic development.”

Starr says the program has helped increase the number of attorneys in rural South Dakota, and she is hoping to get the program’s initial 2022 expiration date eliminated.

“A lot of people debate, if you threw money at this problem, could you solve it?” Pruitt says. “And the South Dakota situation suggests that yes.”

Koenig hopes that also holds true in Nebraska, where he helped start the Rural Law Opportunities Program, which grants full scholarships to some undergraduates along with automatic admission to the University of Nebraska College of Law, as long as they achieve a 3.5 GPA and a minimum LSAT score. In exchange, those students are expected to practice in rural areas after graduation, though it’s not a requirement.

Koenig says the program, currently in its second year, deliberately concentrates on students attending what he describes as "country colleges."

"If you want to try to educate people and persuade them to come to the country to practice law, it would make sense to start with people that are raised in the country in the first place," he says.

Rodriguez says her student debt would have made it impossible for her to work with Garland if he had expected her to buy him out of the practice when he retires. (Dean Riggott | For Law360)

Wooing New Lawyers With Bytes and Buses

Meanwhile, Colorado is taking a digital approach to the same problem. The state's Rural/Virtual Practice Program matches new lawyers in Denver with established lawyers in rural parts of the state in mentoring and co-counseling relationships in an effort to head off the "silver tsunami" of retiring lawyers, as J. Ryann Peyton, the program's director, puts it.

"The purpose of the pairings is to introduce the new lawyer to rural/mountain practice, while allowing the new lawyer to maintain the majority of his or her time in the Denver metro area

through the use of virtual practice tools," Peyton says.

Wisconsin is doing something similar, but in a decidedly lower-tech manner.

The Greater Wisconsin Initiative Bus Tour takes urban attorneys and law students on exactly that — a bus tour of the state's rural communities, where 58 percent of attorneys are over 50, according to Lisa Roys, director of advocacy and access to justice at the State Bar of Wisconsin.

The goal of the program is similarly to introduce urban attorneys to judges, lawyers and community leaders in small towns to show them what practicing in those communities would look like.

The program has "had remarkable success," according to Roys, with a third of its participants from each year's tour securing positions in nonurban parts of the state.

Pruitt says most of these programs, and others like them in places like Maine and Texas, are too new to say if they will ease the rural attorney shortage.

Koenig, though, is more upbeat about their prospects.

"I think the quality of life in the country is very, very good, I think it's as good as it can be," he says. "And with a little help from ... programs like the RLOP program, I think we can bring people to the country and they will flourish because they will appreciate the quality of life that's out here, and they'll do well financially, too."

Rodriguez, who says she accepted a job as Garland's associate in Garner because of the opportunities for mentorship, variety and more personal client relationships, has had exactly that experience.

"Getting bored is about the farthest thing I could say happens being a rural practice attorney," she says. "I think it's very challenging and that there's always new areas of the law that you can jump into if you want to. It seems like it's never ending what you can learn being a rural practice attorney.

"If you think you're going to kind of sit out in the middle of nowhere and not do anything," she insists, "you're sorely mistaken."

--Editing by Pamela Wilkinson.

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