

Agenda

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

May 3, 2019
12:00-2:00 p.m.

Large Conference Room A
(inside the Jury Room area)
Scott M. Matheson Courthouse
450 South State Street
Salt Lake City, UT 84111

Welcome and approval of minutes	Tab 1	Judge Barry Lawrence, Chair
Exploring the possibility of a remote access pilot program (3 rd District attorneys assisting litigants at a rural courthouse)		Judge Barry Lawrence, Heidi Anderson
Update from the Utah State Bar's Access to Justice Commission		Amy Sorenson, Nicholas Stiles
Update on Rule 55 form	Tab 2	Judge Lawrence, Nancy Sylvester
Update on FAQ videos, website proposal		Nancy Sylvester, Judge Lawrence, Nathanael Player, Jessica Van Buren
Draft Resolution Regarding Open Access to the Courts	Tab 3	Judge Barry Lawrence
Subcommittee updates <ul style="list-style-type: none">• Education• Outreach• Rural Services• Self-Help Center/Non-lawyer Assistance/Court Updates Subcommittee		<ul style="list-style-type: none">• Judge Lawrence to update on legal outreach• Sue Crismon or designee to update on community outreach efforts• Susan Griffith or designee to update on local/virtual clinics• Nathanael Player, Jessica Van Buren, and Nancy Sylvester to update on court initiatives and rules
Other Business		All

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

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Tab 1

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

Matheson Courthouse
Judge Lawrence Courtroom, W37
February 28, 2019
12:30 PM – 2 PM

Members	In attendance	Excused	Via phone conference
Judge Suchada Bazzelle		X	
Sue Crismon	X		
Jacob Kent			X
Monica Fjeldsted			X
Leslie Francis	X		X
Nicole Gray			X
Susan Griffith		X	
Carl Hernandez		X	
Judge Catherine Hoskins		X	
Judge Barry Lawrence - Chair	X		
Kara Mann	X		
Chris Martinez		X	
Shawn Newell		X	
Nathanael Player	X		
Judge Brook Sessions	X		
Amy Sorenson		x	
Nick Stiles	X		
Charles Stormont	X		
Virginia Sudbury	X		
Judge Doug Thomas		X	
Janet Thorpe			X
Jessica Van Buren	X		
Guests	In attendance	Excused	Via phone conference
Heidi Anderson	X		
Staff	In attendance	Excused	Via phone conference
Minhvan Brimhall	X		
Nancy Sylvester	X		

(1) Welcome and approval of minutes

Judge Lawrence welcomed the committee members and guests to the meeting and asked if there were any concerns with the minutes from the last meeting. Nancy Sylvester noted

that a few people were left off the attendance list and she will make the correction prior to posting the minutes to the web. With no additional concerns, Judge Sessions move to approve the minutes. Nathanael Player seconded the motion. The minutes were unanimously approved.

(2) Introduction of new members

Judge Lawrence welcomed new member Janet Thorpe (Washington County Justice Court Clerk) to the committee.

(3) Update from the Utah State Bar's Access to Justice Commission

Nick Stiles reported that the Access to Justice Commission is coming along. The group is working on getting their footing in the right places. They have received a grant from the Bar Foundation that will assist in being able to move the work forward. They still need additional funding and are waiting to find out if they will be able to hire staff to help with future projects.

(4) Exploring the possibility of a remote access pilot program (3rd District attorneys assisting litigants at a rural courthouse)

Judge Lawrence welcomed Court IT Director, Heidi Anderson, and her team to the meeting. Judge Lawrence reminded the committee of previous discussions surrounding remote access in rural areas. Judge Lawrence envisions a set up where judges and lawyers in the Salt Lake area would be available via video conferencing to those located in rural locations. Clients would be able to speak with a lawyer prior to the hearing. The court would create a calendar accessible to the public indicating hearing date and time and name of judge and lawyer available on that day.

Heidi and her team are aware of the requests and the concerns surrounding the pilot project. The request is not unusual and though it may have some challenges, it is a doable project. Heidi and her team will look at the fundamentals in setting up such a project and will come back at another meeting date to report their findings. There are currently several courtroom and courthouse conference rooms that are being remodeled or upgraded that her team is involved in. They will need to look at the costs of a remote set-up and identify locations willing to participate in the pilot project. Judge Lawrence will speak with Judge Peterson in Vernal to see if he would be willing to participate.

Judge Lawrence invited Heidi and her team to the May 3 meeting to report.

(5) Discussion on self-represented issues and upcoming judicial education conferences (dressing for court, childcare, and cell phone use)

Judge Lawrence said he is hearing that patrons are being turned away from courtrooms based on their appearance. Bailiffs are prohibiting patrons from entering the courtroom if they are deemed to be dressed inappropriately (i.e. in a tank top, shorts, clothing appearing to be unclean). Some are also being turned away for bringing children to court hearings. The committee noted that judges should make the determination whether someone should be allowed to appear in court based on their appearance, not the bailiff. Judge Lawrence has spoken with Amy Hernandez regarding the issue and had asked Ms.

Hernandez to create a proposal to address the concern. Judge Lawrence brought this issue up at the last Board of District Court Judges Conference and has also spoken with Brent Johnson. He has asked Mr. Johnson to look at the current policy and consider rewriting it. Judge Lawrence does not want any patron to feel they are not welcomed in a courtroom based on whether they are properly dressed or not. Judge Lawrence and Judge Sessions will be meeting with district court and justice court judges at the Spring conference about the issues discussed.

Ms. Hernandez is looking at creating an MOU with local charitable organizations such as Deseret Industries or a shelter or the Women's/Junior League to make clothing available to those who are not able to afford clothing appropriate for court appearances.

The committee then briefly discussed the court's navigator program. The program would invite first year law students to the courthouse where they would help educate school age students on being a lawyer or a judge. Having children become familiar with the courts will help them bridge the gap between classroom learning and the courthouse.

(6) Subcommittee updates

a. Education:

Judge Lawrence and Judge Sessions will present to the district and justice courts at their spring conferences on the dress code, cell phones, and childcare issues.

b. Outreach:

The outreach subcommittee is working on getting out a new simplified handout on court resources to places across the state, including barbershops, etc. They are also going to be doing a media tour. They have added Elizabeth Bevington from the Self Help Center to their committee.

c. Rural Services:

A pro se family law calendar is starting up in Logan.

d. Self-Help Center/Non-lawyer Assistance/Court Updates Subcommittee

The courts are waiting to see what's happening with the increased funding request for the Self-Help Center.

Ms. Van Buren reported that the Forms Committee is currently reviewing several forms from the Family Law section. The Committee has primarily been focused on getting LPP forms out as quickly as possible as the first group of LPP's will be sworn in later this year. The family law and debt collection forms are near completion. The group is also working on military family and parenting forms, focusing on when at least one member of the family is out for deployment. They are working on temporary orders due to deployment, parenting forms for military families, and genetic forms.

(7) New projects from the Supreme Court: FAQ videos; committee name change

Mr. Player, Judge Lawrence, and Ms. Sylvester will meet with the Supreme Court in a couple weeks on the creation of How-to videos on service, for example. They will be discussing cost and potentially finding volunteers to do video editing. More details will be forthcoming. This will be a partnership with this committee, the Civil Rules Committee, and others. This project came about because the Civil Rules Committee is in the process of updating its advisory committee notes and the Committee went to the Court for guidance. Recommendations had ranged from putting practice guides in the notes to removing them completely.

Ms. Sylvester reported that the Supreme Court does not like the committee's current name since it is not accurate (self-represented indicates a litigant's conscious choice to proceed on their own, which is not the case most of the time) and asked the committee to look at changing the committee's name. Ms. Sylvester will research names for this committee and provide them at the next meeting.

(8) Other potential projects: articles on access to justice issues and the ways they are being addressed across the U.S.

These matters were deferred since the committee appeared to have sufficient projects to address at this time.

(9) Other Business: discussion on vice chair

This item was not discussed during the meeting.

(10) Adjourn:

With no additional items to report, the meeting adjourned at 1:55 pm. The next meeting will be held on May 3, 2019 at the Utah State Bar.

Tab 2

Name

Address

City, State, Zip

Phone

Email

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

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Plaintiff/Petitioner</p> <p>v.</p> <p>_____ Defendant/Respondent</p>	<p>Rule 55 Declaration Supporting Default Judgment for Use in All Debt Collection Cases</p> <p>_____ Case Number</p> <p>_____ Judge</p>
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Pursuant to Rule 55(b)(1)(D), the undersigned provides the following facts necessary to support and establish the amount of its claim.

☐ **Principal Amount**

1. Plaintiff's claims are based on defendant's failure to pay a debt that arose out of a contract between _____ (creditor) and _____ (debtor). A copy of that Agreement is attached as Exhibit A.
2. Under that Agreement, the Debtor became indebted to the Creditor in the total amount of \$_____.

3. The Debtor has failed to pay the total amount of the debt owed, and payment is due on the debt.
4. The Debtor is entitled to offsets and credits of \$_____.
Accordingly, the principal amount due and owing herein is \$_____.
5. The last payment on the debt was made on _____ (date).

☐ **Debt Ownership**

6. ☐ Original Creditor: Plaintiff is the original Creditor.
☐ Assignment: Plaintiff is the assignee of the Creditor. A copy of the valid assignment document(s) is(are) attached as Exhibit B.

☐ **Interest**

7. ☐ Plaintiff is entitled to interest in the amount of ____% per annum pursuant to the Agreement at paragraph _____.
☐ Plaintiff is entitled to interest at the statutory amount of ____%, pursuant to Utah Code Section _____.

☐ **Collections Costs**

8. Plaintiff seeks a "collection fee" pursuant to Utah Code 12-1-11. The plaintiff affirms that it is a debt collection agency which is registered as such in the State of Utah. (Utah Code § 12-1-11(2)(c)).
9. The Agreement between the creditor and the debtor creating the debt provides for the imposition of a collection fee. See Agreement (Exhibit A) at paragraph _____. That Agreement permits a collection fee of up to ____%.
10. The written agreement between the creditor and the debt collection agency reflecting the amount of the collection fee actually incurred is attached as Exhibit C. That agreement reflects an actual collection fee of ____%.
11. Plaintiff thus seeks \$_____ as a collection fee.
12. That fee does not exceed the lesser of the actual amount the creditor is required to pay the debt collection agency or 40% of the principal amount owed to the creditor for the debt. The imposition of this collection fee is not prohibited or otherwise restricted by any other federal or state law.
13. To the best of my knowledge, the principal amount prayed for in the complaint, and sought in the proposed judgment, does not contain collection fees.

☐ **Attorneys Fees**

14. ☐ The Agreement between the Creditor and Defendant provides for the collection of reasonable attorneys fees. See Agreement at paragraph ____.
- ☐ Plaintiff is entitled to a reasonable attorneys fee pursuant to Utah Code Section _____.
15. ☐ Plaintiff seeks its attorneys fees pursuant to Rule 73, URCP, in the amount of \$_____.
- ☐ Plaintiff seeks its attorneys fees in the amount of \$_____, as reflected in the accompanying attorneys fees affidavit, attached as Exhibit D.

☐ **Court Costs**

16. ☐ Plaintiff seeks its court filing fee of \$_____, and service fee of \$_____.
- ☐ Plaintiff seeks other court costs of \$_____, as detailed in the accompanying attorneys fees affidavit, attached as Exhibit D.

Accordingly, Plaintiff seeks a default judgment as follows:

<input type="checkbox"/> Principal	\$
<input type="checkbox"/> Interest	\$
<input type="checkbox"/> Collection Fee	\$
<input type="checkbox"/> Attorneys Fees	\$
<input type="checkbox"/> Court Costs	\$
Total Judgment	\$

I certify to that to the best of my knowledge and in good faith that the amount sought was actually incurred and is due and owing, and that the claim is not barred by the applicable statute of limitations.

I certify under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my knowledge and belief. See Utah Code Section 78B-5-705.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and am serving a copy of this Rule 55 Declaration Supporting Default Judgment for Use in All Debt Collection Cases on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Signature ►

Date

Printed Name

Tab 3

MEMORANDUM

To: The Utah Judicial Council
Cc: Utah Supreme Court members
From: The Committee for Resources for Unrepresented Persons
Re: Request for Resolution Regarding Open Access to the Courts

This letter is written on behalf of the Committee for Resources for Unrepresented Persons. Ours is a standing committee tasked with “study[ing] and mak[ing] policy recommendations to the Judicial Council concerning the needs of self-represented parties.” UT R J ADMIN Rule 3-115(1). Part of our statutory duties are to “recommend measures to the Judicial Council, the State Bar and other appropriate institutions for improving how the legal system serves self-represented parties.” Rule 3-115(2).

Recently, an issue has come to our attention that we find extremely troubling. We have learned that people have been denied access to courthouses and courtrooms based on their appearance and/or dress. Frankly, when the issue was raised, we thought it was an anachronism from days long passed. However, much to our chagrine, we have confirmed recent instances where bailiffs have prevented people from entering courthouses, and judges have prevented people from entering their courtroom – based on their appearances or dress. *Let me be clear, our Committee feels strongly that under no circumstance should a person who has legitimate business in the Court, be prevented access from a courtroom or courthouse based on dress or appearance.*

I remind this Council of our State’s Constitution, which provides:

All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

UT CONST Art. 1, § 11. (Although there has been much written about the substantive implications of this provision, it appears to express -- clearly and unambiguously -- that people shall not be denied access to a courthouse or courtroom to protect or assert their legal rights.)

We have many serious concerns about these practices. First and foremost, our committee is concerned about the disproportionate impact such a policy has on underprivileged citizens, who may not have the means to dress in a manner appropriate for an idiosyncratic bailiff, clerk, or judge; or, who lacks the understanding of the court process and the need to present oneself a certain (subjective) way. (Not to mention the inherent fairness that a person who is showing up at court to contest an eviction, may be closed out of their premises and wearing the only clothes they have.) Excluding a person from a courthouse or courtroom may also result in distrust of the judiciary, and unneeded embarrassment of a person who is simply showing up to protect their rights.

Second, such a practice, where bailiffs and judges – primarily males – make determinations regarding appropriate attire, “decency” and “modesty” is inherently sexist. We have learned of various anecdotes where this has happened; *all*; have involved women being denied access to the courthouse or courtroom by male judges and bailiffs. (In fact, at least one judge acknowledged preventing a woman from coming into their courtroom because she was wearing a halter top, which he deemed to be “immodest.”)

Third, such a practice has the potential for bringing into play biases and prejudices which may be racially, cultural and ethnically based. Let us be clear, we are aware of no instance where this has happened, *per se*; however, we simply point out the danger of having a decision made affording people rights and denying people rights, based on their appearance. Utah is increasingly becoming more diverse – racially, ethnically and culturally. What might be acceptable cultural dress for one person, might be deemed inappropriate by another. No one should be denying access to people based on that subjective determination. These are dangerous practices that should not be countenanced by this branch of government.

Accordingly, we ask this body to issue a Resolution to all courts and court personnel in this state, and to all citizens of this State, as follows:

“NO PARTY, WITNESS, VICTIM, JUROR, OR LAWYER, WHO HAS BUSINESS IN A COURT, SHALL BE DENIED ACCESS TO A COURTROOM OR COURTHOUSE BASED ON THEIR MANNER OF DRESS AND/OR APPEARANCE.”

We believe that this body should support and adopt this Resolution. Upon that happening, it would be our hope and intent that it be implemented by the Courts as follows:

1. Rescind all contrary statements. Any statements in any policies, including those expressed any courthouse, or courtroom, or those stated on any website or policy manual, should be take down. And,at the entrance to each courthouse in the State, there should be a sign with the above language on it.
2. All Bailiffs and Law Enforcement personnel working in courthouses shall be notified and trained of the Resolution and the prohibition on them to deny access to people from courthouses and courtrooms.
3. All Court personnel shall be notified and trained of the Resolution and the prohibition on them to deny access to people from courthouses and courtrooms.
4. All Judges shall be notified of the Resolution. Nothing in this resolution impacts or dictates the manner in which a Judge responds to a person that he or she perceives is inappropriately dressed or whose presence they deem sub-par; a judge simply must afford these persons access to the courtroom and process. Similarly, this does not impact the manner in which a Judge may set appropriate decorum standards for his or her courtroom. The Resolution simply states that every person has a right to physical access to the courtroom; and that right cannot be denied based on dress or appearance.

. We sincerely hope the Council will adopt this simple and common sense measure for ensuring open access to the courts in this State as promised in our State's Constitution.