

**Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)**

Thursday, February 18, 2021 - 12:00 to 2:00 p.m.

Attended			Not Present	
Judge Keith Kelly	Xia Erickson	Nancy Sylvester	Judge David Connors	Nan Mendenhall
Judge James Brady	Wendy Fayles	Shonna Thomas	Shane Bahr	Alan Ormsby
Kent Alderman	Michelle Miranda	Katie Thomson	Rob Ence	James Toledo
Brant Christiansen	Daniel Musto	Norma Valavala-Ballard	Nels Holmgren	Todd Weiler
TantaLisa Clayton	Andrew Riggle	Michelle Wilkes		
Rob Denton	Danaka Robles	Kaye Lynn Wootton		

**Agenda**

	Topic	Presenter	Materials
12:00	Meeting begins		
	<ul style="list-style-type: none"> <li>• Housekeeping</li> <li>• Welcome New or Visiting Members</li> <li>• Minutes</li> </ul>	Judge Kelly	<i>December 2020 minutes</i>
12:15	<b>Rule Review Subcommittee - Update</b> <ul style="list-style-type: none"> <li>• CJA Rule 6-501</li> <li>• Guardianship for school purposes</li> </ul>	Nancy Sylvester Brant Christiansen Kent Alderman	<i>Rule 6-501 – Comments from Elder Law Section</i> <i>Summary – School Guardianships for Minors</i>
12:35	<b>Report Back – Annual Report to the Judicial Council</b>	Judge Kelly	<i>Report to Judicial Council (2021)</i>
12:45	<b>WINGS Projects Updates:</b>		
	<ul style="list-style-type: none"> <li>• Clerical Manual</li> </ul>	Shonna Thomas	<i>Case Management for Adult Guardianship and Conservatorship</i>
	<ul style="list-style-type: none"> <li>• Guardianship Manual</li> </ul>	Brant Christiansen	<i>Basic Guidelines for Court-Appointed Guardians and Conservators</i>
	<ul style="list-style-type: none"> <li>• Report Review Coversheet (annual &amp; court visitor)</li> </ul>	Judge Kelly Nancy Sylvester Shonna Thomas	<i>Review of Guardianship Reports</i>
1:30	<b>Guardianship Forms Revision</b>	Shonna Thomas	
1:40	<b>2021 Legislative Session</b>	Group discussion	
1:50	<b>Other Business:</b> <ul style="list-style-type: none"> <li>• Probate Rules Subcommittee</li> <li>• Membership Renewals                             <ul style="list-style-type: none"> <li>○ Judge Kelly</li> <li>○ TantaLisa Clayton</li> </ul> </li> </ul>	Judge Kelly	
2:00	Meeting adjourned		

## 1. Housekeeping

- Meeting began at 12:02pm.
- A motion was made to approve the minutes from the previous meeting (December 17, 2020). The motion was seconded and approved.
- Two new members were introduced – Katie Thomson (Probate Case Manager, 3<sup>rd</sup> district) and Danaka Robles (Judicial Assistant II, 4<sup>th</sup> district).
- The Committee thanked Norma Valavala-Ballard for her service on WINGS. Norma will be moving to a new job position outside of guardianship.
- Meeting adjourned at 1:25pm.

## 2. Rule Review Subcommittee - Update

### Rule 6-501

(Topic summary - Utah statute requires that the court approve annual reports. Concerns were raised about what this approval means, and if malfeasance by the guardian were discovered later, whether this earlier approval would exonerate them of wrongdoing. Additional considerations relate to corporate fiduciaries or professional guardians/conservators who rely on the perceived finality of that court approval. Revisions to the rule are looking to consider both aspects.)

A preliminary draft of revisions to 6-501 were shared with the Bar sections, clarifying what it means when the court actually approves an annual report, keeping in mind protection for protected people, as well as guardians and conservators. The Bar sections provided feedback and comments on the proposed revisions. The subcommittee will work on reviewing those suggestions, incorporating them into the rule draft, and will circulate the newest version to WINGS members once it has been updated.

#### Decisions made –

- The Rule Review Subcommittee will meet in March to work on the 6-501 draft.
- The draft will be sent to WINGS members for additional feedback.
- This item will be added to the Executive Committee meeting in March.

### Guardianship for School Purposes

(Topic summary – Concern was raised over some schools requiring full guardianships for school purposes, with parents effectively terminating all parental rights. The alternative of a limited guardianship of a minor may not be supported by statute.)

The subcommittee is looking at ways to work with and possibly educate the schools on limited versus full guardianship. In addition to the court's guardianship for school purposes, it was learned that schools have the power to grant guardianships with full powers, but it is unclear how often that occurs, and if there is a good understanding by these entities of what full guardianship means.

There is also a bill in the legislature that touches on this issue - when a person gives guardianship of a minor to another they understand the full legal consequences of doing so.

Decisions made –

- The subcommittee will meet in March with Heidi Alder, an attorney who works in the Weber school district and has her own private practice.
- This item will be added to the Executive Committee meeting in March.

**3. Report Back - Annual Report to the Judicial Council**

The report to the Judicial Council went well. There was a discussion with the Council on the annual guardianship reports, how they are reviewed by the courts, and that this is another unfunded mandate in the statute. The Council appeared interested in what is going to happen with Rule 6-501.

Discussion –

- WINGS may want to look into what it would take to implement something similar to the Minnesota model of having auditors. It would be an expensive proposal, but the committee might consider making a full proposal to the Judicial Council in the future.

**4. WINGS Projects Updates****Clerical Manual:**

The clerical manual project is nearing completion. Feedback from volunteer court staff has been incorporated, as well as updated information on the new CJA Rule 6-507. Court Services has indicated that the DC Just committee plans to meet in March and they would be able to review the screenshots in the manual for accuracy.

Discussion –

- It may be best to wait to finalize the manual until after the Report Review Coversheet is approved, so that this information can also be included.

Decisions made –

- Shonna will send the manual draft to the DC Just committee for a review of the CORIS screenshots.
- The manual will wait for the coversheet approval before finalizing.
- This item will be added to the Executive Committee meeting in March.

**Guardianship Manual:**

The manual has been circulated to WINGS members, as well as members of the Elder Law Section of the Bar. Additional language suggestions were made regarding least restrictive environment and explanations on the requirements of the fiduciary role. This language can be incorporated into the draft.

Some of the projects WINGS is working on (guardianship for school purposes and annual report review) are mentioned in the manual. WINGS needs to decide how to handle references to these items in the manual.

Discussion –

- It is unclear how often this manual is used by proposed guardians. Therefore, waiting to resolve the two WINGS projects before finalizing the manual should not be problematic.
- Once the manual is finalized, there needs to be some work to ensure that it is better utilized by the audience for which it is intended.

Decisions made –

- Shonna will incorporate the suggested language into the draft manual, and send it to WINGS members as a semi-final draft.
- The committee will wait to finalize the manual until the aforementioned items are resolved.
- This item will be added to the Executive Committee meeting in March.

**Report Review Coversheet:**

The Rule Review Coversheet was approved by the committee during a previous meeting. It will be discussed at the next Board of District Court Judges meeting, and then the Forms committee. Once it moves through the Forms committee, it will make its way to the Judicial Council agenda, likely as a consent item. If the Board does not have any changes, it should be able to move along quickly.

Discussion –

- After approval, WINGS should look at developing a process or procedure to go along with the coversheet, explaining its purpose and use.
- There might need to be an accompanying rule change for this. Since WINGS is already reviewing Rule 6-501, which pertains to the review of annual reports, the use of the coversheet could be included in those rule revisions.
- The coversheet form could receive approval first. If so, it could be rolled out to the districts with the caveat that a rule change that will require the use of this coversheet is likely to follow.

Decisions made –

- Nancy will present the coversheet to the Board of District Court Judges.
- This item will be added to the Executive Committee meeting in March.

**5. Guardianship Forms Revision**

GRAMP is reviewing and revising all guardianship forms. This includes the reports guardians/conservators must complete – Inventory, Status Report, and Financial Accounting Report.

The Financial Accounting report has been especially difficult for individuals to complete. A review of similar documents from other states shows that reports of this nature are often complex and confusing. The intent of the revised draft will be to simplify the report form, and create accompanying instructions to make it easier for guardians/conservators to understand and complete.

Decisions made –

- Shonna will send WINGS members the draft forms and instructions for review and feedback.
- This item will be added to the Executive Committee meeting in March.

**6. 2021 Legislative Session**

Kaye Lynn provided an update to the committee on behalf of the Medicaid Fraud Control Unit (MFCU), on a few bills that are not directly tied to guardianship, but are pertinent to the committee:

- Senate Bill 85, which has passed the Senate and has moved to the House. This is a disinheritance statute that would disinherit perpetrators who abuse, at a felony level, vulnerable adults, and that are convicted under 76-5-111 (*Abuse, neglect, or exploitation of a vulnerable adult*). There is a revision in process addressing if the victim does not want the perpetrator to disinherit.

- Senator Weiler has sponsored a bill on behalf of the MFCU. For cases that are open within this division, this bill would grant access to the control systems database.
- House Bill 332 is applicable to vulnerable adults. In December, the federal government increased jurisdiction for MCFU and agreed to pay a percent of all expenses for starting to investigate abuse, neglect, and exploitation that occurs in the home, rather than just facilities. This is a huge change for the unit, as it would apply to many types of cases they work on. This has passed the House Health and Human Services Committee, and will be moving to the Senate soon.

Question Asked –

*How do you think this will impact the work of the MFCU and APS?*

MFCU works closely with APS on the cases APS refers from facilities. The change could be positive in that right now APS can refer a case from a group home, but not a home, because there has to be two or more unrelated parties living together. This has frustrated at times OPG, APS, and others, because they try to refer cases and MFCU can take some but not others.

As this applies to Medicaid recipients only, APS has tried to track income for the various victims they have, but it is not a mandatory reporting field, so they have been unable to provide a specific number of cases they think this will create. However, they estimate that over 75% of their abuse, neglect, and exploitation cases occur in a home, so the impact could be significant if MFCU is able to help with those cases.

- House Bill 218 changes some of the language in the reporting statute for abuse, neglect, and exploitation. It has been presented several times to the House Law Enforcement Committee, and has raised several concerns including with the MFCU, APS, and DCFS. There is still work being done to revise the language further to address some of these concerns.

## 7. Other Business

### **Probate Rules Subcommittee**

Several WINGS members serve on the Probate Rules subcommittee, and the work conducted by this subcommittee is often complementary to the work of WINGS. This committee has been on hiatus for a few months. However, it is ready to start up again, and plans to meet next week.

### **Membership Renewals**

There are two WINGS members with membership up for renewal – TantaLisa Clayton and Judge Kelly. It is unclear whether renewals can happen automatically, if members need to vote, or another option.

Discussion –

- The WINGS bylaws do not specify the process used for new and renewing memberships.
- It may be time to look at updating the bylaws as it has been several years since they were drafted. An update could provide more clarity on the internal membership process.
- WINGS has been formal in terms of inviting community stakeholders to the committee and maintaining agency representative membership. However, the committee has been informal in the membership process for court staff.
- If WINGS does not have a process that formalizes people's membership, then there would be no point in having a membership, as people would come and go as they wanted and stay with or without the group's consent. There should be a system in place, whether that means the Executive Committee approves, or the full committee votes.

- One option is to consider looking into becoming a standing committee and going through the Judicial Council process to do so.

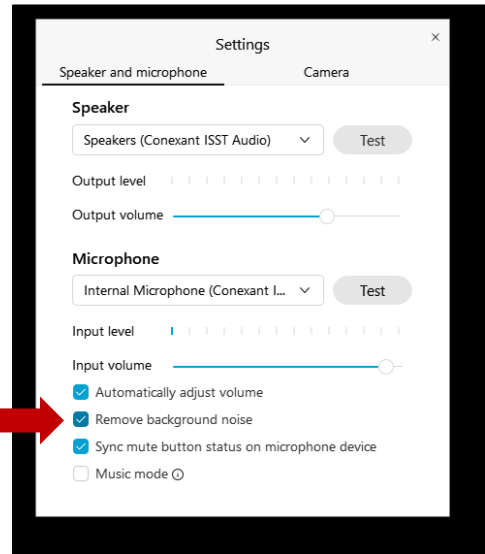
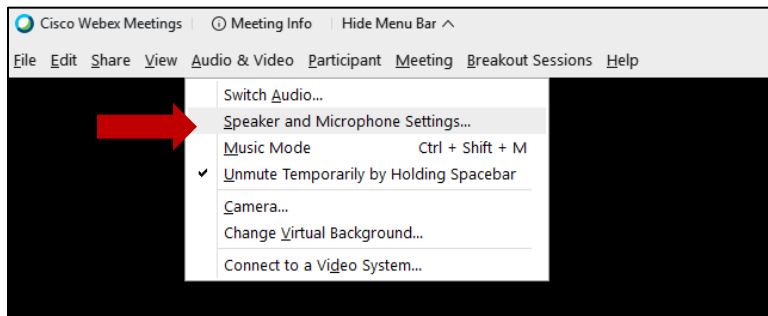
Decisions made –

- The Executive Committee will review the bylaws and membership considerations at the March meeting.
- Judge Kelly and Tantalisa Clayton excused themselves from the meeting.
- The committee voted to approve a second term for both Judge Kelly and TantaLisa Clayton.
- Shonna will update the WINGS membership list and webpage with the new members, renewed terms, and outgoing members.

**WebEx Tip**

Judge Brady shared a tip for improving the audio during WebEx meetings (see screenshots below):

- On the top right of the WebEx meeting screen, click on the *Audio & Video* dropdown menu.
- Select *Speaker and Microphone Settings*.
- Make sure the box next to the setting *Remove background noise* is checked.



**Action Items**

<ul style="list-style-type: none"> <li>– Continue revising the language for Rule 6-501, incorporating the feedback from the Bar sections.</li> <li>– Send the draft to WINGS members for additional feedback.</li> <li>– Meet with Heidi Alder, and obtain more information on the topic of guardianship for school purposes.</li> <li>– Make recommendations for next steps.</li> </ul>	<p>Rule Review subcommittee</p>
<ul style="list-style-type: none"> <li>– Send the clerical manual draft to the DC Just committee for a review of the CORIS screenshots.</li> </ul>	<p>Shonna Thomas</p>

<ul style="list-style-type: none"> <li>– Incorporate the suggested language into the draft guardianship manual, and send to WINGS members as a semi-final draft.</li> </ul>	<p style="text-align: center;">Shonna Thomas</p>
<ul style="list-style-type: none"> <li>– Present the coversheet to the Board of District Court Judges.</li> </ul>	<p style="text-align: center;">Nancy Sylvester</p>
<ul style="list-style-type: none"> <li>– Send to committee members drafts of revised annual report forms and instructions, for review and feedback.</li> <li>– Provide feedback on suggested changes.</li> </ul>	<p style="text-align: center;">Shonna Thomas WINGS Stakeholders</p>
<ul style="list-style-type: none"> <li>– Update the WINGS membership list and webpage with the new members, renewed terms, and outgoing members.</li> <li>– Review WINGS bylaws and membership considerations and make recommendations to share with the full committee</li> </ul>	<p style="text-align: center;">Shonna Thomas Executive Committee</p>

<p><b>Deferred / Continuing Items</b></p>
<ul style="list-style-type: none"> <li>– Rule Review subcommittee             <ul style="list-style-type: none"> <li>○ Rule 6-501</li> <li>○ School guardianships</li> </ul> </li> <li>– Manuals – Clerical &amp; Guardianship</li> <li>– Report Review coversheet</li> <li>– Guardianship forms revisions</li> <li>– Bylaws and membership process</li> </ul>

<p><b>Next Meeting(s):</b></p>	<p>April 15, 2021</p> <p>June 17, 2021</p> <p>August 19, 2021</p> <p>October 21, 2021</p> <p>December 16, 2021</p> <p>January 20, 2022</p>
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