

MINUTES
Utah Judicial Council's Committee
On Court Forms

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84111

May 9, 2017
12:00 – 2:00 pm

ATTENDEES

Randy Dryer, Chair
Kim Allard
Cyndie Bayles
Commissioner T. Patrick Casey
Mary Jane Ciccarello
Christina Cope
Guy Galli
Judge Elizabeth Lindsley - by phone
Stewart Ralphs
Judge James Taylor
Jessica Van Buren

EXCUSED

Brent Johnson
Mary Westby
Judge J.C. Ynchausti

STAFF

Jeni Wood, Recording Secretary

GUESTS

James Ishida

I. WELCOME AND APPROVAL OF MINUTES

Randy Dryer welcomed the committee members to the meeting.

The committee discussed the April 2017 minutes. With a couple of minor changes, Judge James Taylor moved to approve the minutes. Commissioner Patrick Casey seconded the motion and it passed unanimously.

II. INTRODUCTION OF NEW MEMBERS AND THE LPP LIAISON

Mr. Dryer welcomed Cyndie Bayles and Christina Cope to the meeting. Ms. Bayles is the President of the Utah Paralegal Association. Ms. Cope is a paralegal with the University of Utah. Mr. Dryer welcomed James Ishida as the liaison between the LPP Steering Committee and this committee.

III. DISCUSS ADEQUACY OF COMMITTEE AND THE SUBCOMMITTEE MEMBERSHIP

Mr. Dryer discussed how the subcommittees were formed. Mr. Dryer said the chairs of the subcommittee can add members to the subcommittees as needed, however, any new members to the Forms Committee will need prior approval. Judge Taylor said he believes this committee is in good condition as far as members but he said this committee will need additional help, especially from judges and commissioners, since they are so involved with the use of forms. Mr. Dryer agreed with Judge Taylor to keep this committee more focused.

Mr. Dryer said perhaps in the future the committee can create a subcommittee whose sole charge would be to disseminate forms to the other subcommittees. Commissioner Casey discussed that it is important to have practicing attorneys on the committee. Kim Allard stated that once her subcommittee looks at the forms they will have a better idea of what assistance they may need. Mr. Dryer said each subcommittee should give direction on what their needs are.

IV. SUBCOMMITTEE REPORTS

LANDLORD/TENANT

Ms. Allard said the subcommittee members are Marty Blaustein, Christina Cope, Guy Galli, Laura Price, Judge James Taylor, and Nancy Sylvester as staff. They had their first meeting last week. The subcommittee pulled samples of all landlord/tenant forms from OCAP. They also looked at the database to see what forms are currently being filed in the courts. There were assignments given out. The subcommittee will meet again on June 14. Judge Taylor noted Ms. Allard had created a list of how many forms were currently being used in these cases. Within the last year there were 7351 complaints, 2287 answers and 7 demands for jury trial. There are approximately 40% answered. Mary Jane Ciccarello asked how many are OCAP generated. Ms. Allard said only about 10% are from OCAP. Ms. Ciccarello noted that consumers should be providing feedback since they are the ones who are using the forms. Mr. Dryer said one of the committee's charges is to approve forms in an easily accessible format, such as written in plain language. Mr. Dryer said each subcommittee should be responsible for accomplishing this task. Judge Taylor would like to see all forms in a similar style and format. Judge Taylor said there should be a separate subcommittee to be in charge of the final screening of forms. Mr. Dryer agreed with Judge Taylor about having consistency. Mr. Dryer suggested putting this discussion to a later date until the committee can look further into consultants on design. Commissioner Casey said the priority is the LPP forms. Commissioner Casey believes forming a new subcommittee could potentially be a year away. Jessica Van Buren asked if the LPP committee has discussed forms yet, such as where the paralegal's name will be on the form. James Ishida said they have not. Mr. Ishida said there is an executive committee meeting in a few weeks. Mr. Dryer asked Mr. Ishida to discuss this particular issue at that meeting. Mr. Ishida said he suspects the answer is yes, that the paralegals will want to be identified on the forms. Ms. Ciccarello said there are ethics opinions that allow lawyers to ghost write pleadings. She said if the LPPs are required to identify themselves then attorneys who ghost write should as well.

Commissioner Casey noted domestic cases are private so he wondered how that policy issue will be made clear so LPPs can have an identifying number, such as a Bar number, to attach to the case. Judge Taylor wanted to know if LPPs will need malpractice insurance. Cyndie Bayles said malpractice insurance has not been decided yet.

Mr. Dryer asked the committee members to send him emails, within the next couple of days, with questions he can present to the LPP Committee.

Mr. Dryer asked Ms. Allard to compile her statistics and send them to this committee.

FAMILY LAW

Stewart Ralphs reported on the family law subcommittee. Mr. Ralphs noted Keisa Williams is staff, and Commissioner Casey, Mary Jane Ciccarello, Judge Lindsley, and Cyndie Bayles are on the committee. Mr. Ralphs noted Ms. Williams has family law background as well as managerial expertise. The subcommittee met and has divided out their forms and assigned them to subcommittee members. They also set priorities for the forms. In reviewing the Legal Aid forms they found duplicates. The subcommittee will address the forms with priority at their next meeting. Mr. Ralphs noted the highest priority is a motion for temporary orders. There are multiple versions of the forms and it is used multiple times a day, in family law and self help clinics. It's not an OCAP form. Ms. Ciccarello said there are court approved forms online. Mr. Ralphs noted he and Ms. Ciccarello are working on those together. An issue is that different districts are governed by different rules. Rule 101 governs practice before commissioners, whereas rule 7 applies to practice before judges. Ultimately, the goal is to have a document that can be used that would contain the motion and supporting information for all areas. They agreed that the form should reference where litigants can find information. Ms. Allard noted this is a huge effort. Judge Taylor said this is a great idea. Judge Taylor noted a judge makes a final decision in the case, whereas a commissioner makes a decision that can be appealed to the judge. Mr. Ralphs said he believes they can fashion an order that can be used in either circumstance. Commissioner Casey said they can draft documents for either court as well. Ms. Ciccarello said these are on the website.

Mr. Ralphs noted their next subcommittee meeting is on May 22. Judge Taylor recommends the subcommittee reach out to the Fifth District because they practice without a commissioner. Mr. Dryer asked if Mr. Ralphs had an estimate on the number of forms. Mr. Ralphs said they have seven "sets" of forms and there are hundreds of OCAP forms. Ms. Allard said she has looked at the standard provisions in OCAP. The best way, in her opinion, is to look at it on an individual provision basis. Mr. Ralphs and Ms. Allard said they discussed this at the OCAP meeting last week. Ms. Allard said she would prefer simplifying these. Commissioner Casey noted the OCAP forms will not interfere with the LPP program at this time. Mr. Ralphs said in order of priorities, the subcommittee cannot address these at this time. Mr. Ralphs said eventually they will need to work hand-in-hand with the OCAP committee. Guy Galli asked Ms. Allard if the ultimate goal is to have all of these forms that could be on OCAP. Ms. Van Buren said this cannot be addressed at this time. Mr. Dryer noted the LPPs will need to have access to

the forms. Ms. Allard said it may be early for this discussion. She stated in the past there were packets of forms approved by the judges. Ms. Allard noted on OCAP there are mandatory sections that will force an answer where it needs to be. Mr. Ralphs noted OCAP had two requests for review, the motions to set aside and the 60(b) motion. Ms. Allard said the military service forms should be completed soon. There is a new statute effective July 1 that affects the forms. Mr. Ralphs suggested Ms. Allard's subcommittee work on the military forms. Ms. Allard agreed.

Mr. Ralphs said at their next meeting they will be reviewing the substance of some forms. Ms. Allard said at her next subcommittee meeting they will also address the substance of forms. Mr. Dryer asked if the subcommittees can present them at the next meeting.

Mr. Ishida confirmed with Mr. Dryer that he's received forms from the education subcommittee of the LPP Committee. Mr. Dryer said they received some of the forms but not all. The feasibility of using the forms, and not the content, was the goal. Judge Taylor said the committee should invite input from groups that may have a substantive interest. Judge Taylor gave examples of Boards or LPPs. Mr. Ishida said the LPP Committee had published the forms for public comment. They found that to be effective. Mr. Dryer agreed that this is a good idea for both Judge Taylor's suggestion as well as Mr. Ishida's recommendation to publish them for public comment. Mr. Dryer will talk to Brent Johnson about whether the rules require or address whether forms must be published. Commissioner Casey said he wondered if the Judicial Council would prefer this committee submit forms for public comment without first sending them to the Council for approval. Ms. Ciccarello said her understanding is that the subcommittee can bring in additional people as needed, but she doesn't want to make a standard for this. Ms. Ciccarello said the states that have worked on these have realized that it can become too large.

Mr. Dryer encouraged the subcommittees to seek as wide an audience as possible for input before the subcommittees bring the forms to this committee. Mr. Dryer will discuss this with the Judicial Council to see what they prefer. Ms. Ciccarello said, especially concerning family law, sending out notice will result in multiple responses because each attorney has their own process. Ms. Allard said the committee should be seeking approval of the process from outside entities. Mr. Dryer said perhaps the Judicial Council can approve the forms on a one-year basis then the forms can be reviewed each year. There was concern that this would be way too much for the committee to handle. Mr. Dryer said because this committee is a standing committee and will continue indefinitely then the forms should be reviewed periodically. Commissioner Casey suggested tasking the staff attorneys or an individual with reviewing legislative changes. Mr. Dryer noted Brent Johnson already does this. Ms. Van Buren noted they do as well. Christina Cope said the end goal should be kept in mind when making these up-front decisions, such as getting the LPP program forms online. Mr. Dryer suggested the committee will attempt to have as much input as possible but not have a formal input period, such as a public comment period. The committee agreed.

DEBT COLLECTION

Ms. Van Buren said the subcommittee met. Ms. Van Buren said the members are Mary Westby, Susan Vogel, Judge JC Ynchausti, and Brent Johnson is staff. The subcommittee identified the forms they need to address. There are about 90 forms and they have been assigned to the subcommittee. They have not scheduled the next subcommittee meeting yet. Ms. Van Buren said this subcommittee's forms have the least amount of forms on OCAP.

Ms. Van Buren said all forms will eventually need to be changed. Ms. Allard said there has been a forms committee already in place, including Jessica Van Buren, where the forms were approved then given to court services to add to OCAP.

Ms. Allard said the representation to the Judicial Council is that a form is presented then placed on OCAP. Mr. Dryer said the committee has to report to the Judicial Council that the current forms have been reviewed. Ms. Allard said debt collection is all hard copy forms. Ms. Allard said the courts do not have approved hard copy forms for divorce cases. Those all reside in OCAP. Ms. Allard said it's the same for landlord/tenant. Ms. Allard said domestic forms might be tricky because there are so many forms and so many different types of cases.

Mr. Dryer confirmed Ms. Van Buren will have a substantive review at their next meeting of some forms. Ms. Cope noted they are in the first draft stage, then they will circulate, but they most likely won't be ready for the Judicial Council at the next meeting.

The committee agreed sending forms to the Judicial Council in smaller groups, when they are ready. Ms. Van Buren said there are generic motion and answer forms that apply to multiple groups. Ms. Ciccarello asked who is in charge of those generic forms. Mr. Dryer said each subcommittee should be working on them. Commissioner Casey said there shouldn't be a rule 60b motion for each case type. Commissioner Casey believes this committee should address those generic motions. Ms. Ciccarello said these forms have been approved and are on the website and can now be addressed at the next committee meeting and either approved or recommended for revision. Ms. Van Buren has compiled the list. This will be presented at the next meeting. Mr. Dryer said prior to the next meeting the committee needs to review Ms. Van Buren's list on the Google drive and come to the meeting prepared to discuss any suggested revisions.

V. REPORT ON FORM COLLECTION

Mr. Dryer stated Mr. Johnson could not attend the meeting. Therefore, this will be addressed at the next meeting.

VI. PROBATE FORMS

Ms. Ciccarello discussed the packet that was included with the meeting materials. Ms. Ciccarello said she, Ms. Van Buren, and Brent Johnson prepared the forms then presented them to the Board of District Court Judges. Ms. Ciccarello said the Self-Help Center and the Law

Library are overwhelmed with requests for these forms. Currently, they are distributing the BYU forms. The forms are for non-disputed cases. Ms. Ciccarello has found that most attorneys do not want to represent litigants in these cases. Mr. Ralphs asked if this could be on the agenda for the next meeting to review and approve these forms. The committee agreed.

Ms. Ciccarello said these forms have been looked at for quite some time. They have also looked at forms used in other states. They have reviewed the statutes as well in creating these forms. Additionally, the Board has reviewed them.

Mr. Ralphs asked if the agenda could be specific as to what each member is required to do. Mr. Dryer confirmed the committee wants to see each individual form on the agenda. Ms. Ciccarello said she would like to see these forms addressed, especially the vital records.

VII. NEW ASSIGNMENTS

Mr. Dryer said there are no new assignments.

VIII. NEXT STEPS

Mr. Dryer asked each subcommittee have a report ready for the next meeting.

IX. SCHEDULING OF FUTURE COMMITTEE MEETINGS

Mr. Dryer said he believes the committee will need to meet more than once a month unless he hears from the LPP Committee that they are further out than anticipated. The committee agreed to hold off on this until the June 6 meeting.

X. OTHER BUSINESS

There was no other business to address.

XX. ADJOURN

There being no further issues, the meeting adjourned at 1:52 pm. The next meeting will be held June 6, 2017 at 12:00.