

Approved

MINUTES  
Utah Judicial Council's Committee  
On Court Forms

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

June 6, 2017  
12:00 – 2:00 pm

ATTENDEES

Randy Dryer, Chair  
Kim Allard  
Cyndie Bayles  
Commissioner T. Patrick Casey  
Mary Jane Ciccarello  
Guy Galli  
Stewart Ralphs  
Judge James Taylor  
Jessica Van Buren  
Mary Westby

EXCUSED

Christina Cope  
Judge Elizabeth Lindsley  
Judge J.C. Ynchausti

STAFF

Brent Johnson  
Jeni Wood, Recording Secretary

GUESTS

James Ishida  
Dillon Johnson, Law Library Intern

**I. WELCOME AND APPROVAL OF MINUTES**

Randy Dryer welcomed the committee members to the meeting.

The committee discussed the May 9, 2017 minutes. There being no changes, Judge James Taylor moved to approve the minutes. Stewart Ralphs seconded the motion and it passed unanimously.

**II. DISCUSSION OF FORM NOTICE/DISCLAIMER**

Mr. Dryer discussed the proposed notice/disclaimer. Mr. Dryer stated this notice could be included on each form or a notice could be put on the website where the directory of forms will be found. Mr. Dryer noted most people will access the forms electronically so putting the notice on the website may be the better way. Judge Taylor said the committee may be in a position now to create an index system. Judge Taylor noted every form should have an index

number and a disclaimer or a link to a disclaimer. Jessica Van Buren noted the approved forms have dates on the bottom. Mr. Dryer noted this will be discussed later in the meeting. Mary Jane Ciccarello asked what the purpose of the disclaimer would be. Mr. Dryer said the disclaimer would let individuals know they are ultimately responsible for proper use of the forms. Ms. Ciccarello noted having the forms indexed is a valuable tool. Ms. Ciccarello said she strongly supports having the disclaimer on the website rather than adding it to every form. Ms. Ciccarello doesn't believe the disclaimer is needed. Mary Westby agreed with Ms. Ciccarello that the disclaimer could be on the website and not on the forms. Ms. Westby noted this is pretty much already covered on the website. Stewart Ralphs said he prefers an approval date on each form, leaving a history to track for future revision reviews. Mr. Ralphs noted this would also be important for court personnel. Mr. Dryer said it would be important for judges to see a date on the form so they know the form being used is the most current.

Brent Johnson said in the future there will be two footers, the Judicial Council approval date, and the other will be the committee approval date. Mr. Johnson said the Judicial Council does not want to see and approve every form. They have given this committee authority to approve many of the forms. Ms. Ciccarello noted the forms on the website are the most current. Ms. Ciccarello said she knows that litigants are using outdated forms obtained from other sources. Commissioner Patrick Casey suggested updating the date on the forms each year even without revision so judges will know those are the most current for that year. Mr. Ralphs suggested having the initial date as "approved" and follow up dates as "revision" dates. Judge Taylor noted an older form would be looked at more closely. Kim Allard said the LPPs would need to know where to get the most current forms. Ms. Allard noted there is a cost to updating the forms each year.

Commissioner Casey moved to have each form have a unique number, which body approved it, and the date. Mr. Ralphs seconded the motion. The committee agreed to have a disclaimer on the website and not on each form. Mr. Dryer noted that OCAP forms do not have a date. Mr. Dryer said this motion would apply to all forms -- independent forms and OCAP forms. Mr. Dryer would like an additional line added to the captions for the LPP program users. Judge Taylor agreed that this would be a good idea. Ms. Ciccarello asked how adding this information would affect CORIS, such as whether the LPP users will be appearing on behalf of the litigant. The committee agreed it would show as an appearance and therefore give them access even to private documents. Ms. Allard said the LPP users would have essentially the same access as attorneys. Ms. Allard said she understands what would need to be changed in CORIS to accommodate this.

Mr. Dryer next discussed Code of Judicial Administration rule 3-117, with an amendment that was just approved effective May 22, 2017. Commissioner Casey stated it shouldn't be difficult to comply by adding the rules or statutes relating to that form. The committee briefly discussed the possibility of putting the rule number in the title of the form. Judge Taylor questioned if it would be possible to cross-connect each form with the associated statute or rule. Ms. Allard said looking forward a couple of years the committee should start now with a database of the forms. Ms. Allard said she can help create a database. Mr. Dryer said if this would create a need for additional resources the committee should take this to the Judicial

Council for approval. Mr. Johnson suggested a document being created and then edited by this committee to create standards and set policies. Mr. Johnson stated the style and format subcommittee can work on this. Ms. Allard offered her assistance. Mr. Dryer questioned what will happen to the forms that rules committees are no longer allowed to work on. The committee agreed these will come up eventually but for now, the committee needs to concentrate on their current workload. Commissioner Casey said CORIS categorizes forms and that could be a basis for the database.

Mr. Dryer asked Mr. Johnson to create a form design with the form number, and the other essential information.

Commissioner Casey asked about which forms need to be translated. He said the bilingual forms with English and Spanish are helpful, but there are other languages that are used. Mr. Dryer said this can be discussed at a later meeting. Mr. Dryer said Utah law requires all government business to be conducted in English. Mr. Johnson noted the courts will do what is necessary to protect the due process rights of all individuals.

### **III. SUBCOMMITTEE REPORTS AND FORM REVIEW**

#### **DEBT COLLECTION**

Ms. Van Buren said she has nothing new to add beyond the forms previously submitted for review. The subcommittee is reviewing and circulating forms. The committee discussed the debt collection forms submitted. Mr. Dryer noted in light of the new agreed upon formatting process the forms submitted today will need to be revised. Mr. Johnson asked if each form can be addressed individually for changes. Ms. Allard said it's helpful to review each form because it allows for a style review. Judge Taylor was concerned the group is too large to effectively review each form line-by-line. Judge Taylor suggested having a small group created, independent of the subcommittees, making plain language and form changes. Mr. Dryer said the substantive information in the form should be up to the subcommittees. Mr. Dryer stated the formatting and style issues can be done later. Mr. Dryer said it's unrealistic to have each subcommittee decide on their formatting. The committee agreed that this would be an effective direction for this committee. Ms. Van Buren said as for the debt collection forms, she believes they are complete. Commissioner Casey addressed minor changes he believes the forms should have. Judge Taylor addressed the form "ex parte motion for hearing to identify judgment debtor's property." Judge Taylor believes the language should be simpler. Ms. Allard said these forms can serve as a model for the other subcommittees. Ms. Van Buren said if there are suggested changes, she would like to see the forms marked up with the suggestions.

Mr. Dryer said he sees the process as the subcommittees will send out forms that they believe are complete for review and formatting by the style and format subcommittee. Then the forms committee will sign off on the final form. Mr. Johnson said he will take the initial effort of creating a style guide. Mr. Dryer would like to see this by the next meeting.

Mr. Johnson and Ms. Van Buren will discuss at a later time the proposed changes to the ex parte motion.

Mr. Johnson next discussed the need for an interpreter in the Order Scheduling Hearing to Identify Debtors Property. He wondered if this should be separated out and not in numbers 9 and 10. Guy Galli noted CORIS notices have these notes at the bottom of the pleadings.

Ms. Ciccarello asked if this notice should be in Spanish. Ms. Van Buren noted it should. Mr. Dryer stated that each subcommittee, as they are working on forms, they need to identify which forms should be in Spanish. Judge Taylor wondered if a notice could be created ahead of time, such as at the beginning of a case, perhaps on a summons, that would give individuals advance notice on how to request an interpreter.

There being no other substantive issues to discuss, Mr. Dryer said the two forms will be revised as per Mr. Johnson's recommendations. The forms will then go to the style and format subcommittee for final review. The forms will then return to the committee for final approval. Commissioner Casey noted the debt collection forms will be test cases for the new style guide.

No formal motion was made but the committee agreed on the proposed process.

## **LANDLORD/TENANT**

Ms. Allard said tomorrow is the deadline for her subcommittee members to get back with their suggestions. Ms. Allard noted these will be ready by the next meeting.

The committee agreed that they would like to see the style guide when it is complete, rather than have people creating their forms then address the style guide afterwards. Mr. Dryer asked the style and format subcommittee to send the style guide out to the committee members when it's complete.

## **FAMILY LAW**

Stewart Ralphs reviewed the forms submitted to the committee. Mr. Dryer asked if the committee members have suggestions on substantive changes. Mr. Ralphs noted each of the forms would need a signature declaration when there is not a notary signature. Mr. Ralphs noted the forms need to be amended to add the reference to the rules/statutes. The committee reviewed various forms and suggested changes. Regarding the Order on Motion to Correct Clerical Mistake the committee agreed to add a section three to the "The Court Finds That" section giving an option to explain the clerical mistake.

Ms. Ciccarello discussed adult adoptions. Ms. Ciccarello noted there are two petitions, because there are two scenarios. Ms. Ciccarello said certain statutes apply to adult adoptions and certain statutes apply to adoptions of minor children. Ms. Ciccarello noted these forms are requested in the self-help center on a regular basis. Ms. Ciccarello said these forms are not

available on the courts website at this time. The committee discussed that all forms currently on the website were approved by some committee at some point.

Judge Taylor motioned to approve the adult adoption forms. Commissioner Casey seconded the motion. Mr. Ralphs reviewed section 11 of the Verified Petition for Adoption of an Adult. Ms. Ciccarello noted this is specific to the statute therefore it needs to be left as is. With this, Mr. Ralphs called in question the motion to approve the rules. Mr. Johnson discussed section 10. Ms. Ciccarello noted again, this is what the statute requires. Ms. Ciccarello noted litigants are not waiving the adoption, only the written notice of the proceeding. Mr. Johnson stated that this is basically notice for the judge. Mr. Ralphs said he will make changes with a hard indent and give an option stating the adoptee's spouse "has" or "has not" consented.

Ms. Ciccarello discussed the notary section. She noted some statutes require the petition to be verified and other petitions need not be verified, but many form petitions have a verification section anyway. Judge Taylor recommends all petitions be verified and then the court may not have to independently receive evidence on some issues.

Mr. Dryer said the motion for approval will stand and the forms will go to the style and format subcommittee. The motion then carried unanimously.

#### **IV. REVIEW AND APPROVAL OF PROBATE FORMS**

Many committee members noted they weren't sure if they were looking at the correct forms. Mr. Dryer noted the committee is therefore not in the position to take action at this meeting. Ms. Ciccarello noted the self-help center is getting a lot of requests and these forms are not available on the website.

Ms. Ciccarello will circulate the forms to the committee. Ms. Ciccarello noted the probate forms are only for "uncontested proceedings." Ms. Ciccarello will include the Verified Petition to Amend a Utah Vital Record form. Mr. Johnson said the law does not expressly grant the court jurisdiction on these petitions. However, the courts are signing them. Ms. Ciccarello stated the point in this petition is to simply correct a Utah created vital record. Ms. Ciccarello said she believes the LPP program users can prepare this form as well. Mr. Johnson is concerned about the jurisdictional question leaving judges uncertain and putting the LPP users in the middle. Ms. Ciccarello said the self-help center receives requests for this petition approximately once a week. This does not include name change requests. Additionally, they receive requests to modify out-of-state documents. These are denied because Utah does not have jurisdiction outside of the state. James Ishida noted the LPP committee meets next week and he will address this issue.

Mr. Dryer asked if the committee believes they should ask the Bar to stop selling these forms. Judge Taylor said the committee is not in a position to make this request. Mr. Johnson noted the LPP program will not initially be authorized to use probate forms. Mr. Dryer noted if the Judicial Council makes probate forms mandatory then the Bar would not be able to continue to sell the BYU versions. Mr. Dryer said this can be addressed at a later meeting.

## **V. DISCUSSION ON GENERAL FORMS**

The committee addressed this earlier in the meeting and the style subcommittee will also review the general forms.

## **VI. REPORT ON STATE COURT FORM COLLECTION**

The committee did not address this.

## **VII. DISCUSSION OF NEW SUBCOMMITTEES**

Mr. Dryer next discussed the creation of a new subcommittee. Judge Taylor recommended a style and format subcommittee. Mr. Dryer stated Mr. Johnson, Jessica Van Buren and Mary Jane Ciccarello will be on the general forms subcommittee. And this subcommittee will also review formatting issues for each of the subcommittees forms. This subcommittee will also review certain OCAP forms, the ones that do not fall into the current subcommittee categories. The committee agreed to allow this subcommittee to add additional members if necessary. Mr. Johnson noted the rule allows a language expert to be on the committee.

## **VIII. DISCUSSION ON VETTING AND FORMAT OF FORMS BEFORE SENDING TO JUDICIAL COUNCIL**

Mr. Dryer asked the committee about tracking a form's history. Commissioner Casey noted this could be for each batch of forms instead of tracking each form. Mr. Dryer said the general forms used by pro se litigants that have been around for a long time could potentially be sent directly to the Judicial Council. However, with the LPP forms, he would like to see a 20-day notice for comments before they are sent to the Judicial Council. Mr. Dryer recommends sending any OCAP forms directly to the Judicial Council. Mr. Johnson said he believes notice should be given, such as a comment phase. Mr. Johnson noted this committee could simply inform the OCAP committee what the form changes are. Mr. Johnson and Ms. Allard agree that the forms should be addressed by their names and not as OCAP forms, since OCAP is just a mechanism on delivering the forms. Mr. Dryer said he would like to see a letter to this committee from the OCAP committee stating they do not need to comment on forms before they are approved.

Mr. Dryer next discussed the LPP forms. He suggested sending all LPP forms to the LPP committee for review prior to sending them to the Judicial Council. Mr. Ishida noted he will address this at the next LPP meeting. However, he believes they do not want to see the forms ahead of time. Mr. Dryer asked Mr. Ishida to have Justice Himonas provide a letter expressing this. Ms. Ciccarello stated she understands the Judicial Council gave this committee the authority to not be required to seek out others' opinions on the forms. Mr. Ralphs said the forms

should be addressed individually as to whether the committee believes other entities should review them or not. Judge Taylor said he doesn't believe there is a significant gain that will come from vetting with other entities. Commissioner Casey does not want to see this committee have more burdens upfront. Mr. Ishida noted the LPP committee appreciates this committee. However, he stated that Justice Himonas believes the jurisdiction should be with this committee.

## **IX. OTHER BUSINESS**

There was no additional business to discuss.

## **X. SCHEDULING OF FUTURE COMMITTEE MEETINGS**

The committee discussed the next meeting. The committee scheduled its next meeting for July 17 at noon.

Mr. Dryer urged the style and format subcommittee to complete their assignment as soon as possible. Commissioner Casey asked if the forms could be circulated and approved by email. Judge Taylor noted he does not care for Dropbox. Commissioner Casey said having too many vehicles to review forms is confusing as to which forms they are reviewing. The committee agreed that forms should be sent by email.

## **XI. ADJOURN**

There being no further issues, the meeting adjourned at 2:26 pm. The next meeting will be held July 17, 2017 at 12:00.