

APPROVED

MINUTES
Utah Judicial Council
Committee on Court Forms
Administrative Office of the Courts
Matheson Courthouse
Judicial Council Room
450 South State Street
Salt Lake City, UT 84111
February 10, 2020
12 - 2 pm

MEMBERS: **PRESENT** **EXCUSED**

Randy Dryer, <i>Chair</i>	•	
Amber Alleman	•	
Cyndie Bayles		•
Judge Randy Birch	•	
Guy Galli	•	
Judge Elizabeth Lindsley	•	
Kara Mann	•	
Comm. Russell Minas	•	
Nathanael Player	•	
Clayson Quigley	•	
Stewart Ralphs		•
Judge James Taylor – by phone	•	
Jessica Van Buren	•	
Mary Westby		•

Guest:
Justice Deno Himonas

Staff:
Brent Johnson
Minhvan Brimhall

I. WELCOME, ANNOUNCEMENTS AND APPROVAL OF MINUTES:

Randy Dryer welcomed the committee members to the meeting. The Committee considered the minutes from the January 13 meeting. No revision was made to the minutes. Judge Lindsley moved to approve the full minutes. Commissioner Minas seconded the motion. The committee unanimously approved the motion.

II. COMMITTEE MEMBER TERMS:

Brent Johnson received notice that the terms of several committee members is set to expire March 1. Mr. Johnson proposes staggering the membership terms to avoid so many members leaving at once, and also allowing new members to gradually move into those positions. Those whose terms are set to expire are Judge Taylor, Judge Lindsley, Randy Dryer, Guy Galli, Mary Westby, Stewart Ralphs and Jessica Van Buren. Because of her role as director of the Law Library, Jessica's term is automatically renewed at the end of each term. Mr. Johnson recommends that the committee proposes to the Judicial Council that all individuals identified continue to serve for another term, however, those terms would be staggered to two year, three year, and four year terms. Committee members are asked to contact Mr. Johnson if they have a request for a shorter or longer term.

With no objection or motion, Mr. Johnson will make the recommended proposals to the Judicial Council and provide an update at a future meeting.

III. CHANGING TITLES OF THESE COUNCIL-APPROVED FORMS:

Waine Riches from OCAP has recommended name changes to two forms: the Motion for Summary Judgment to Declare Non-Parentage After Genetic Testing and Order Granting Motion for Summary Judgment on Non-Parentage. Mr. Riches recommends modifying those titles to: "Motion for Summary Judgment Concerning Parentage After Genetic Testing" and Order Granting Motion for Summary Judgment Concerning Parentage." Mr. Riches felt these changes will make the forms more accurate to the description of the parent/child relationship.

Mr. Dryer recommends a paragraph be included in the Order to indicate that the motion is granted as a matter of law. Judge Taylor recommends that in order to avoid an article distinction that is not warranted, and order may be included in the form to establish parentage connection to the child. This can be done through summary judgment or through a trial. As declaration of parentage is required for the Office of Vital Statistics, the committee discussed having a separate order that is submitted to that agency. Nathanael Player does not agree that filing another document is necessary as declarations can be made on the current form. Mr. Player does not feel that it is helpful to the public to have to file a separate order, as the order is considered public record. Judge Lindsley notes that a certified order of paternity is required to be filed with the Office of Vital Statistics for birth certificates. The Office of Vital Statistics does not need to know income or current residency of the child. Judge Taylor recommends that items #6-12 on the current order be created as a separate document, and be used as a separate order. This will help the Office of Vital Statistics in creating proper birth certificates.

Ms. Van Buren noted that the Judicial Council has approved the current form. Any changes to the form will need to go back to the Council for further review and approval. Mr. Player would like

to have Mr. Ralphs input on the current discussion and would suggest to hold off any changes until then.

With no further discussion, Mr. Player moved to table the forms and discussion until the next meeting. Judge Taylor seconded the motion. The committee unanimously approved to table the forms for discussion until another meeting.

IV. TEMPORARY SEPARATION OCAP PROVISIONS:

Clayson Quigley discussed proposed changes to the motion for temporary separation. Most of the recommended changes follow closely to divorce petitions and mirrors much of the same language used in other OCAP petitions. These forms are seldom used throughout the court but is available when needed. Mr. Quigley noted that the language was not changed on the divorce petition and the OCAP committee asked if this needed to be rewritten. Ms. Van Buren reminded the committee that the Stylistics group determined to remove the clause from divorce documents. Mr. Clayson will note this change with the OCAP group.

The committee discussed and made minor language changes to the form.

With no further discussion, Judge Lindsley moved to approve the forms with the recommended changes. Commissioner Minas seconded the motion. The committee unanimously approved the motion.

V. REQUEST TO SUBMIT – PROBATE CASES:

Mr. Player noted that URCP 26.4 is a new rule that requires a written objection to be filed within 7 days of an order, when an oral objection has been noted during the hearing. Failure to do so will deem the objection as waived. This will allow the petitioner to move the case forward.

With no further discussion, Mr. Player moved to approve the form as discussed. Judge Lindsley seconded the motion. The committee unanimously approved the motion.

VI. CERTIFICATE OF READINESS FOR TRIAL – PROBATE CASES:

A form is already on the website. Modification to the form has the correct caption and deletes optional items that were part of divorce forms. The substance of the form remains the same as what the committee has already previously approved.

With no further discussion, Judge Lindsley moved to approve the form as discussed. Mr. Player seconded the motion. The committee unanimously approved the motion.

VII. OBJECTION TO MINOR GUARDIANSHIP OR CONSERVATORSHIP:

This is a written form to allow a person to object to a petition for appointment of guardianship or conservatorship to a minor. The form has previously been reviewed by the committee and only minor language changes were made.

With no further discussions, Mr. Player moved to approve the form. Kara Mann seconded the motion. The committee unanimously approved the motion.

VIII. SMALL CLAIMS:

- Complaint – this form has been modified to be less confusing and use for post affidavit filing. The committee discussed that most petitioners do not know the cost to have papers served. The committee modified the amount to “To be determined” on paragraph #1. The committee changed affidavit to complaint in paragraph #7.

With no further discussion, Mr. Player moved to accept the form as modified. Ms. Mann seconded the motion. The committee unanimously approved the motion.

- Summons and notice of hearing – this form allows a petitioner to provide notice that a summons or notice of trial on small claims matters. No changes were made to this form.

With no further discussion, Mr. Player moved to accept the form as modified. Ms. Mann seconded the motion. The committee unanimously approved the motion.

- Counter complaint and notice to plaintiff – this form allows petitioner to file a counter complaint and provide notice to plaintiff that counter complaint has been filed. The Stylistics committee revised language in paragraph #5 based on Supreme Court decision from 2015. Court clerks will file the forms and fill out the certificate of service.

With no further discussion, Mr. Player moved to accept the form as modified. Ms. Mann seconded the motion. The committee unanimously approved the motion.

- Judgment – this form is for final judgment orders on small claims matters. The committee made modifications to the form to clarify the judgment amount, interest rates, and any other items a judge included in the order. The committee discussed and made additional minor language changes to the form.

The committee discussed that two separate certificate of service may be needed if a court of clerk is filing service. Mr. Johnson noted that a rule change would make the form consistent with rule 5 on the certificate of service for all parties on judgments order for small claims matters. Mr. Johnson will expedite a proposal for a rule change by the next meeting. Proposed changes to the rule will need to go to the Judicial Council for approval.

With no further discussion, Mr. Player moved to accept the form as modified subject to the rule change. Ms. Mann seconded the motion. The committee unanimously approved the motion.

- Notice of Appeal – due to lack of time, this item will be reviewed at a future meeting.

IX. DISCUSSION ABOUT NEED FOR COURT-APPROVED SETTLEMENT AGREEMENT FORMS FOR LPPS AND ODR:

At the last meeting, the committee questioned whether a settlement agreement should be part of court-approved forms to be used by LPPs and ODR. Justice Himonas states that the forms themselves are not court-approved forms but LPPs must be able to draft settlement agreements, as they are trained to be mediators. Settlement agreements are not generally filed by the courts. The committee notes that the court should not be creating a form that to be filed when parties settle on a dispute resolution. Judge Taylor suggests having a form that is free text to allow LPPs and self-

represented parties to put in what has been agreed by the parties and the resolution from the agreement. Justice Himonas recommends building a form that covers all those whom would be filing the forms and can be used by all parties. Judge Taylor expressed concerned that a federal or state law may be violated if a form for settlement agreement is too specific for one group over another group. Judge Taylor would like to have LPPs input on what they would like to see what should be on the forms.

The committee discussed creating a form that contains specific items to be filled out, or having a form that is more open range to allow for listing of the specific agreed upon terms of the agreement. The form would not contain items specific to ODR or debt collection, or subject matter related to child welfare.

Mr. Dryer asked if the committee would like a form that is detailed and more reasonable or a form that provides guidance with specific responsibilities and consequences if parties failed to comply. Judge Taylor believes that more instruction is appropriate; however, the instructions should go further to ensure the parties understand the purpose of the form.

The committee unanimously voted for more guidance on the form. The form will require additional work by the Stylistics committee in drafting a workable form to meet the needs of LPPs and Self-represented Parties. Ms. Van Buren agreed to collect recommendations for language to be used in the form. The form will be tabled to another meeting where the committee will meet to discuss changes to the form.

With no further discussions, Judge Taylor moved to table the form for further review at another meeting. The committee unanimously approved the motion.

X. MODIFICATION OF COURT-APPROVED FORMS:

Due to lack of time, this item will be reviewed at a future meeting.

XI. ADJOURN:

With no further items for discussion the meeting adjourned without a motion. The meeting adjourned at 2:06 pm. The next meeting will be March 9, 2020, from noon to 2 pm in the Judicial Council Room.