

JUDICIAL COUNCIL MEETING

AGENDA

Friday, March 15, 2013

Sabra Ballroom FG

Lexington Hotel

St George, Utah

Chief Justice Matthew B. Durrant, Presiding

Lunch will be served at 12:30 p.m.

1. 1:00 p.m. Welcome & Approval of Minutes Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 1:05 p.m. Introduction of New Fifth District Judge. Judge John Walton
(Information)
3. 1:15 p.m. Chair's Report. Chief Justice Matthew B. Durrant
4. 1:25 p.m. Administrator's Report. Daniel J. Becker
5. 1:40 p.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant
Liaison Committee. . . . Justice Jill Parrish
Policy and Planning Judge Greg Orme
Bar Commission. . . . John Lund, esq.
(Tab 2 - Information)
6. 1:50 p.m. Remarks from Utah State Bar President/President Elect. . . . Lori Nelson
(Information) Curtis Jensen
John Baldwin
7. 2:10 p.m. Pro Bono Commission Update. Rob Rice
(Tab 3 - Information) Judge Royal Hansen
Michelle Harvey
8. 2:25 p.m. Board of District Court Judges Update. Judge Scott Hadley
(Information) Debra Moore
- 2:45 p.m. Break
9. 2:55 p.m. TCE Update. Sylvester Daniels
(Information) Rick Davis
10. 3:15 p.m. Judges Workspace Application. Debra Moore
(Information) Ron Bowmaster

- 11. 3:45 p.m. Legislative and Budget Update/Interim Highlights. Rick Schwermer
(Information) Daniel J. Becker
- 12. 4:30 p.m. Executive Session.
- 13. 5:00 p.m. Adjourn

Consent Calendar

The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.

- 1. Approval of Electronic Media Coverage
Request Form Tim Shea
(Tab 4)
- 2. Committee Appointment Tim Shea
(Tab 5)

TAB 1

JUDICIAL COUNCIL MEETING

Minutes
Monday, February 25, 2013
Matheson Courthouse
Salt Lake City, UT

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, vice chair
Justice Jill Parrish
Hon. Judith Atherton
Hon. Glen Dawson
Hon. George Harmond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. Reed Parkin
Hon. John Sandberg
Hon. Larry Steele
John Lund, esq.

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Lisa-Michele Church
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Nancy Volmer
Brent Johnson

GUESTS:

Judge Vernice Trease
Joanne Slotnik, JPEC
Judge Joanne Rigby, JPEC

EXCUSED:

1. **WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)**
Chief Justice Durrant welcomed everyone to the meeting.

Motion: Judge Steele moved to approve the minutes from the January 28, 2013 Judicial Council meeting. Judge Harmond seconded the motion, and it passed unanimously.

2. **CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)**
Chief Justice Durrant reported on the following:
He had the opportunity to speak along with Lt Governor Bell, Speaker of the House Rebecca Lockhart, and Senate President Wayne Niederhauser at the Bar CLE held on February 19.
Judge Judith Atherton has announced her upcoming retirement.
Judge Paul Maughan has agreed to serve on the Third District Nominating Commission to fill Judge Atherton's vacancy.
Chief Justice Durrant expressed his appreciation to Mr. Becker, Mr. Wahl, and Mr. Schwermer for all they do, on behalf of the courts, during the legislative session.

3. **ADMINISTRATOR'S REPORT: (Daniel J. Becker)**

Mr. Becker reported on the following items:

Court's Budget Update. A budget update will be provided later on the agenda.

Digital Court Reporting. The Utah court system continues to be a resource to other court systems interested in moving to digital court reporting.

Judicial Workspace Application. The judicial workspace application was recently released. The application provides tools accessible to judges while on the bench. Teams from each judicial district have been trained on its use, and they will provide training to court staff in their respective districts.

Mandatory E-Filing. The effective date for mandatory e-filing is April 1. Ms Moore highlighted what steps have been taken to bring awareness to the effective date for e-filing to include: 1) notices in the Bar's e-bulletin; 2) an advertisement and an article in the Bar Journal; 3) attended all Bar conferences and provided e-filing brochures; 4) local bar meetings held; 5) provided information at the Family Law and Litigation Section meetings; 6) provided information to the University of Utah Law School; 7) offered to provide information to the BYU Law School, 8) development of training programs and resources, an FAQ section, a user's manual and an e-filing guide for the court's website; and 9) the e-filing providers are conducting their own marketing campaigns. Questions were asked, and Ms. Moore provided explanations.

Legislative Child Welfare Audit. The audit has been completed. There were no recommendations relative to juvenile court. Details of the audit are available online, and the details of the audit will be reviewed with the Board of Juvenile Court Judges. Ms. Lisa-Michele Church and the juvenile court staff were thanked for the support they provided to legislative auditors during the audit review.

4. **COMMITTEE REPORTS:**

Management Committee Report:

Chief Justice Durrant reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

Liaison Committee Report:

Justice Parrish reported on the following:

She mentioned that Liaison Committee meeting minutes accurately reflect the bills discussed, with the exception of the February 22 meeting. Mr. Schwermer will provide additional details later in the meeting with his legislative update.

Policy and Planning Meeting:

Judge Orme reported on the following:

He mentioned that the Policy and Planning meeting minutes accurately reflect the issues discussed. All items needing additional attention are on the agenda for final action or for comment.

Bar Commission Report:

Mr. Lund reported on the following:

He noted that the Governmental Affairs Committee has been overseeing legislative matters being discussed during the 2013 Legislative Session.

The Mid-Year Bar Conference will be held in St. George March 14-16. The Summer Convention will be held in Snowmass Village, Colorado July 17-20.

5. ETHICS ADVISORY COMMITTEE UPDATE: (Brent Johnson)

Chief Justice Durrant welcomed Mr. Johnson to the meeting.

Mr. Johnson provided an update to the Council on the activities of the Ethics Advisory Committee over the past year. He highlighted the following in his update: 1) the membership of the Committee, 2) activities of the committee, 3) update of the website which will include links to the opinions, 4) Informal Opinion 12-01 as it relates to judges and their interaction with social media, and 5) Informal Opinion 12-02 as it relates to the use of a preapproved roster of service providers created by the court and making referrals.

Informal Opinion 12-01 was referred by the Council, at their December 2012 meeting, to Policy and Planning for further review and to determine the best plan of action.

Mr. Johnson noted that he has received a great deal of feedback concerning Informal Opinion 12-02.

Ms. Moore mentioned that upon discussion by the Board of District Court Judges at their meeting on Friday, February 22, a subcommittee has been formed to review the rule as it relates to Informal Opinion 12-02, and the Board is expected to seek an additional opinion.

Mr. Johnson covered how opinions can be reconsidered and the options available to the Council. The rule states that an opinion can be reconsidered, if the requestor or a committee member asks for reconsideration within 10 days of the opinion being issued.

The process of getting the opinion considered by the Council include: 1) a majority of the committee members can vote to bring the opinion before the Council, 2) the requestor can ask the Council to consider the opinion, and 3) the rule states that upon motion of the Council, the Council can consider the opinion. The rule does not have a time limit by which an opinion can be reconsidered.

Discussion took place.

Motion: Judge Dawson moved to request Informal Opinion 12-02 be reconsidered by the Council. The motion was amended to allow the opinion to be placed on the Council's May agenda for reconsideration. Judge Harmond seconded the motion, and it passed unanimously.

Motion: Judge Dawson moved to request Policy and Planning to review the Ethics Committee appeals and suspension process further. He withdrew his motion.

6. RULES FOR FINAL ACTION: (Tim Shea)

Mr. Shea highlighted the following four rules being recommended for final action:

CJA 01-0204 – Executive committees. This rule has been amended to give the Management Committee the authority to hear procurement protest appeals.

CJA 04-0503 – Mandatory electronic filing. The rule has been amended to require the electronic user to use a personal identity with an e-filing interface.

CJA 04-0508 – Guidelines for ruling on a motion to waive fees. This rule is new and was developed by the Board of District Court Judges to establish guidelines for ruling on a motion to waive fees. The rule requires the use of court-approved forms.

Mr. Shea noted that the Board of Juvenile Court Judges will develop court-approved forms unique to juvenile court. Discussion took place.

CJA – 11-0201 – Senior judges. This rule has been amended to remove the reference to the Judicial Council's attorney survey for certification of senior judges.

Motion: Judge McCullagh moved to approve rule CJA 04-0508 with an amendment to the applicability notation of civil cases and the expungement of criminal records. Judge Atherton seconded the motion, and it passed unanimously.

Motion: Judge McCullagh moved to approve the rules for final action as presented by Mr. Shea. Judge Maughan seconded the motion, and it passed unanimously.

7. DAGGETT COUNTY – INTENT TO DISSOLVE A JUSTICE COURT: (Rick Schwermer)

Daggett County has given notice of their intent to dissolve the justice court in the Dutch John precinct, effective February 1, 2014. The Manila precinct would handle all Daggett County justice court cases, if approved.

At this time, no action is required.

8. LEGISLATIVE AND BUDGET UPDATE/INTERIM HIGHLIGHTS: (Rick Schwermer and Daniel J. Becker)

Mr. Becker provided an update of the courts' budget by highlighting the following: 1) the courts' request for law clerks and IT are now before the Executive Appropriations Committee, 2) the prioritization for funding of buildings is scheduled for a February 27 meeting where the Ogden Juvenile Court Facility will be considered, and 3) the judgeship bills have passed the Senate and are pending in the House awaiting prioritization on fiscal note funding.

Mr. Schwermer provided an update on the following bills being considered during the 2013 legislative session:

- SB 49 – Child Welfare Modifications
- HB 156 – Restoration of Terminated Parental Rights
- SB 96 – Alimony Amendments
- SB 112 – Work Week Amendments
- SB 129 – Administrative Garnishment Order
- HB 105 – Serious Youth Offender Amendments
- HB 309 – Judicial Performance Evaluation Amendments
- HB 239 – Jury Service Amendments
- HB 339 – Indigent Defense in Justice Courts
- Circuit Court bill – will not be ran as a bill

Discussion took place. Mr. Schwermer provided clarification to questions asked.

9. COURT INTERPRETER COMMITTEE UPDATE: (Judge Vernice Trease and Tim Shea)

Chief Justice Durrant welcomed Judge Trease to the meeting.

Judge Trease provided an update to the Council on the activities of the Court Interpreter Committee. She highlighted the following in her update: 1) recognized Mr. Tim Shea and Ms. Rosa Oakes, AOC staff, and the rest of the Committee for all they do to support the Court Interpreter Committee, and 2) the Committee's review of their strategic plan to further improve the use of court interpretation and take into consideration changes that have occurred in the courts such as the expansion to provide court interpretation in civil cases.

The following objectives will be addressed by the Court Interpreter Committee: 1) concern of cultural sensitivity relative to court interpretation—having a basic understanding of the differences in culture; 2) increase awareness relative to native country differences, the complexities of different cultures, ethnicities and religions, etc. and how that affects interpretation in the courts; 3) community outreach to include advising the public and educating the public on the availability of interpreters and how to request an interpreter; 4) a continued need to recruit new interpreters in languages that we don't use frequently; 5) quality interpretation—by identifying areas where judges, court staff, probation officers, attorneys, bar members, can be educated on best practices in interpreting; 6) address issues unique to civil cases relative to translation of certain documents; 7) jury instructions translated and available in a Spanish/English version.

Questions were asked relative to interpretation, and Judge Trease provided explanations. Judge Trease was thanked for her update.

10. JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE: (Joanne Slotnik and Judge Joanne Rigby)

Chief Justice Durrant welcomed Ms. Slotnik and Judge Joanne Rigby to the meeting.

Ms. Slotnik introduced Judge Rigby and provided her background on the Commission.

She mentioned Ms. Shannon Sebahar, the newest commission member, appointed by the House to fill a citizen slot. Ms. Slotnik provided background information on Ms. Sebahar.

Ms. Slotnik and Judge Rigby highlighted the following in their update: 1) HB 309 – Judicial Performance Evaluation Amendments which clarifies when a judge may appear before the Judicial Performance Evaluation Commission (JPEC), 2) the status of the Appellate opinion evaluation pilot, 3) the status of the part-time justice court judge project, and 4) provided upcoming dates relative to judges up for retention in 2014.

Questions were asked, and Ms. Slotnik provided responses.

Mr. Becker noted that the JPEC Workgroup will discuss a number of issues, concerns and suggestions with JPEC at their April 9 meeting.

Chief Justice Durrant thanked Ms. Slotnik and Judge Rigby for their update.

11. EXECUTIVE SESSION

An executive session was entered into at this time.

12. ADJOURN

The meeting was adjourned.

TAB 2

Management Committee Minutes

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE
MINUTES**

**Monday, February 25th, 2013
Matheson Courthouse
450 South State Street
Salt Lake City, Utah**

MEMBERS PRESENT:

Chief Justice Matthew B. Durrant, Chair
Hon. Kimberly Hornak, vice chair
Hon. Judith Atherton
Hon. George Harmond
Hon. John Sandberg

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Lisa-Michele Church
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea

EXCUSED:

GUESTS:

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant welcomed everyone to the meeting. After reviewing the minutes, the following motion was made:

Motion: Judge Hornak moved to approve the minutes. Judge Sandberg seconded the motion, and it passed unanimously.

2. APPROVAL OF ELECTRONIC MEDIA COVERAGE REQUEST FORM: (Tim Shea)

Mr. Shea reviewed the *Request and Order for Electronic Media Coverage of Court Proceedings Form* which is intended to be used in conjunction with Rule 4-401.01, with an April 1, 2013 effective date. He noted that the form has been reviewed by the Bench-Media Subcommittee of the Judicial Outreach Committee, and their suggestions have been incorporated.

Motion: Judge Harmond moved to approve the *Request and Order for Electronic Media Coverage of Court Proceedings Form* and place it on the March Judicial Council consent calendar. Judge Sandberg seconded the motion, and it passed unanimously.

3. COMMITTEE APPOINTMENT: (Tim Shea)

The Court Interpreter Committee has a vacancy for a prosecutor with the expiration of Mr. Craig Johnson's second term. It has been recommended by Judge Trease, committee chair, to appoint Mr. Randall McUne to fill the vacancy.

Motion: Judge Atherton moved to approve the recommendation of Mr. Randall McUne to fill the prosecutor position on the Court Interpreter Committee and place it on the March Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

4. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reviewed the proposed Council agenda for the March 15 Council meeting.

Motion: Judge Hornak moved to approve the agenda for the March 15 Council meeting as amended. Judge Sandberg seconded the motion, and it passed unanimously.

5. ADJOURN

The meeting was adjourned.

Liaison Committee Minutes

JUDICIAL COUNCIL LIAISON COMMITTEE MEETING

Minutes
Friday, February 22, 2013
Matheson Courthouse
Board Room

Honorable Jill Parrish, Presiding

ATTENDEES:

Hon. Kimberly Hornak
Hon. Brendan McCullagh
Hon. David Mortensen
Justice Jill Parrish

STAFF PRESENT:

Daniel J. Becker
Lisa-Michele Church
Nancy Merrill
Debra Moore
Rick Schwermer
Tim Shea
Ray Wahl

1. **WELCOME: (Justice Jill Parrish)**

Justice Parrish welcomed everyone to the meeting.

***Motion:** Judge Mortensen moved to approve the minutes from the Liaison Committee Meeting on February 15, 2013. Judge McCullagh seconded the motion, and the motion carried unanimously.*

2. **H.B 314 Parent-Time Amendments (Chief Sponsor: Val L. Peterson) (Judge David Mortensen)**

This bill creates an optional parent-time schedule that may result in joint physical custody.

Judge Mortensen reported that the comments from the judges on this bill are mainly drafting issues. He believes that the majority of the arguments against the bill are policy.

***Liaison Committee's Position:** No position.*

3. **H.B. 327 Probate Amendments (Chief Sponsor: V. Lowry Snow) (Judge David Mortensen)**

This bill makes amendments regarding probate, guardians, conservators, and funeral and burial arrangements.

Judge Mortensen noted that in the bill there is no consequence for not sending notice when a person is moved or dies. Judge Mortensen questioned the purpose of this bill. Mr. Schwermer told the committee that there is no fiscal note. The committee decided that some

of the bill they support as it contains parts of the Council's guardianship proposal. Mr. Shea noted that the majority of the bill does not affect the courts.

Liaison Committee's Position: Support most of the provisions and policies in regards to the guardianship bill passed last year, but the rest are policy for others to consider.

**4. H.B. 328 Highway Littering and Failing To Secure a Load Amendments
(Chief Sponsor: Richard A. Greenwood) (Judge Brendan McCullagh)**

This bill modifies provisions relating to littering or failing to secure a load on a highway.

Judge McCullagh pointed out a programming cost for this bill. The fine amount is being raised and the allocation of the money is being changed. Mr. Schwermer asked the committee if they are concerned with the approach in the bill of redirecting fine revenue to dedicated purposes. Mr. Schwermer confirmed that there is a fiscal note. After further discussion the committee took no position.

Liaison Committee's Position: No position.

**5. H.B. 331 Property Damage Claims
(Chief Sponsor: V. Lowry Snow) (Justice Jill Parrish)**

This bill amends provisions related to small claims courts.

Justice Parrish believes this bill's intent is to overrule a past Supreme Court opinion. Justice Parrish believes that there is a risk of conflicting verdicts but she still thinks it is policy.

Judge McCullagh pointed out some language problems on lines 54-55, "original small claims court" should read "small claims action." Mr. Shea suggested on line 56 to strike the word "subsequent."

Liaison Committee's Position: No position but there is some clean up language.

**6. H.B. 332 Alternative Dispute Resolution Amendments
(Chief Sponsor: Rebecca P. Edwards) (Judge David Mortensen)**

This bill amends provisions related to the Utah Uniform Probate Code.

After some discussion on open courts Judge Mortensen and the committee believe that this bill is not an obvious open courts issue and the bill is a matter of policy.

Liaison Committee's position: No position.

**7. H.B. 339 Indigent Defense In Justice Courts
(Chief Sponsor: Brian M. Greene) (Judge Brendan McCullagh)**

This bill requires the appointment of counsel for indigents if the offense the person is charged with includes the possibility of incarceration.

Mr. Schwermer said that his fiscal note is zero. The bill is going to cost the locals a large amount of money and they do not get to put a fiscal note on the bill. Judge McCullagh suggested that the bill is policy.

Liaison Committee's Position: No position.

**8. S.B. 80- Removal From Data Base Restricting FireArm Purchase
(Chief Sponsor: Daniel W. Thatcher) (Judge David Mortensen)**

This bill provides a procedure for a person to be removed from a database which would restrict the person's access to a firearm.

Mr. Schwermer explained to the committee that Senator Thatcher is trying to create a way to allow a person to have their name taken off a list prohibiting them from purchasing a gun. He is concerned with the changes that were made from Brent Johnson's original version of the bill. Mr. Schwermer suggested that Brent Johnson review the bill. Mr. Shea pointed out that lines 62 and 63 contradict each other.

Liaison Committee's Position: No position Mr. Schwermer will review drafting issues with Brent Johnson.

**9. S.B. 112- Work Week Amendments (1st. Sub)
(Chief Sponsor: Aaron Osmond) (Judge Kimberly Hornak)**

This bill amends Title 67, Chapter 25, General Requirements for State Officers and Employees, regarding the state agency work week.

The committee agreed that the bill addresses the concerns raised earlier. The bill has language stating that it is necessary for state agencies to make staff available as necessary to provide services accompanying court proceedings.

Liaison Committee's Position: No position.

**10. S.B 204- Judiciary Amendments
(Chief Sponsor: Lyle W. Hillyard) (Rick Schwermer)**

This bill makes amendments related to the judiciary.

Mr. Schwermer explained this is a house keeping bill and the bill includes the issues that the committee discussed last October. The cash bail provision section was taken out because Sen. Hillyard believes it encourages the use of bail bondsman.

Liaison Committee's Position: Support

11. **S.R.J. 14- Joint Resolution Amending Civil Procedure Rule 62
(Chief Sponsor: Curtis S. Bramble) (Justice Jill Parrish)**

This joint resolution amends Utah Rule of Civil Procedure 62 by providing that certain political subdivisions of the state shall post a bond upon appeal.

Justice Parrish believes this bill is policy. He asked Mr. Shea's committee to review the bill at their next meeting.

Liaison committee's Position: No position.

12. **Other Business:**

Mr. Schwermer informed the committee that all the bill titles are out.

NEXT MEETING:

March 1, 2013

12:00 P.M

Administrative Office of the Courts, Council Room

TAB 3

Pro Bono Commission Referral Process

1. Determine if a client is a good fit for a pro bono attorney
2. Review client's financial declaration or fee waiver to determine if the client would fit within the parameters of the Commission. Please see reverse side for details.
3. Give the client a Pro Bono Commission card with contact information for them to use to participate in the program.
4. Advise client to tell PBC that you referred them, and to disclose case number to PBC.
5. Advise client that this is not a guarantee that they will receive an attorney.
6. Enter in the minutes that the client was referred to the Pro Bono Commission.

Pro Bono Commission Referral Process

7. Determine if a client is a good fit for a pro bono attorney
 - a. Sympathetic
 - b. Cooperative
 - c. Receptive
8. Review client's financial declaration or fee waiver to determine if the client would fit within the parameters of the Commission. Please see reverse side for details.
9. Give the client a Pro Bono Commission card with contact information for them to use to participate in the program.
10. Advise client to tell PBC that you referred them, and to disclose case number to PBC.
11. Advise client that this is not a guarantee that they will receive an attorney.
1. Enter in the minutes that the client was referred to the Pro Bono Commission.

Pro Bono Commission Parameters

1. Financial Eligibility – Please review financial declarations or fee waivers and determine if the potential client would fall below 125% of the poverty line:

Persons in Household	1	2	3	4	Each additional person
Poverty Guideline	\$13,963	\$18,913	\$23,863	\$28,813	\$4,950

Pro Bono Commission Parameters

1. Financial Eligibility – Please just review financial declarations or fee waivers and determine if the potential client would fall below 125% of the poverty line.

Persons in Household	1	2	3	4	Each additional person
Poverty Guideline	\$13,963	\$18,913	\$23,863	\$28,813	\$4,950

2. Case Type – The following cases are those that the Pro Bono Commission accepts

Appeals	Bankruptcy	Consumer
Employment	Estate Planning	Family Law
Immigration	Guardian ad Litem	Post Conviction
Probate	Real Property	Small Claims

2. Case Type – The following cases are those that the Pro Bono Commission accepts

Appeals	Bankruptcy	Consumer
Employment	Estate Planning	Family Law
Immigration	Guardian ad Litem	Post Conviction
Probate	Real Property	Small Claims



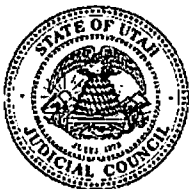
Request a Free Lawyer

Steps to take:

1. Contact Utah Legal Services:
1-800-662-4545
2. Tell them your Judge referred you
3. Have your case number available

There is no guarantee you will be appointed an attorney.

TAB 4



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Management Committee
From: Tim Shea *T. Shea*
Date: February 12, 2013
Re: Form for requesting electronic media coverage of court proceedings

I have attached a draft form for your consideration and approval. It is intended to be used in conjunction with Rule 4-401.01, which goes into effect April 1. The form has been reviewed by the Bench-Media Subcommittee of the Judicial Outreach Committee, and their suggestions have been incorporated.

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and Independent system for the advancement of justice under the law.



Request and Order for Electronic Media Coverage of Court Proceedings

I request that the court permit electronic media coverage of the hearing identified below. I certify that if the court grants this request, all participating personnel in this media agency will be informed of and will abide by all court orders and rules, including CJA Rule 4-401.01.

Date and Time Request Submitted to the Court

Person Submitting Request

Media Agency

Position in Media Agency

Telephone

Email Address

Name of Judge or Commissioner

Case Name or Number

Date and Time of Hearing

Still Photography Video Audio

Type of Coverage

Court Order

- (1) **The request is granted.**
- (2) The news reporter must share all photographs, video or audio with other media organizations upon request. There will be no:
 - ✓ electronic media coverage of a juror or prospective juror until the person is dismissed;
 - ✓ electronic media coverage of a person known to be a minor;
 - ✓ electronic media coverage of exhibits or documents not in the official public record;
 - ✓ audio recording or transmission of the content of bench conferences;
 - ✓ audio recording or transmission of the content of confidential communications between counsel and client, between clients, or between counsel;
 - electronic media coverage of witnesses;
 - electronic media coverage of the judge;
 - electronic media coverage of victims;
 - electronic media coverage of victims' family members;
 - electronic media coverage of _____.

Except as follows:

- (3) **The request is denied.** The following reasons for prohibiting electronic media coverage are sufficiently compelling to outweigh the presumption in favor of electronic media coverage.

Date Sign here ► _____

Typed or Printed Name (Judge) _____

Rule 4-401.01 Electronic media coverage of court proceedings.

Intent:

To establish uniform standards and procedures for electronic media coverage of court proceedings.

To permit electronic media coverage of proceedings while protecting the right of parties to a fair trial, personal privacy and safety, the decorum and dignity of proceedings, and the fair administration of justice.

Applicability:

This rule applies to the courts of record and not of record.

This rule governs electronic media coverage of proceedings that are open to the public.

Statement of the Rule:

(1) Definitions.

(1)(A) "Judge" as used in this rule means the judge, justice, or court commissioner who is presiding over the proceeding.

(1)(B) "Proceeding" as used in this rule means any trial, hearing, or other matter that is open to the public.

(1)(C) "Electronic media coverage" as used in this rule means recording or transmitting images or sound of a proceeding.

(1)(D) "News reporter" as used in this rule means any person who gathers, records, photographs, reports, or publishes information for the primary purpose of disseminating news and information to the public, and any newspaper, magazine, or other periodical publication, press association or wire service, radio station, television station, satellite broadcast, cable system or other organization with whom that person is connected.

(2) Presumption of electronic media coverage; restrictions on coverage.

(2)(A) There is a presumption that electronic media coverage by a news reporter shall be permitted in public proceedings. The judge may prohibit or restrict electronic media coverage only if the judge finds that the reasons for doing so are sufficiently compelling to outweigh the presumption.

(2)(B) When determining whether the presumption of electronic media coverage has been overcome and whether such coverage should be prohibited or restricted beyond the limitations in this rule, a judge shall consider some or all of the following factors:

(2)(B)(i) whether there is a reasonable likelihood that electronic media coverage will prejudice the right of the parties to a fair proceeding;

(2)(B)(ii) whether there is a reasonable likelihood that electronic media coverage will jeopardize the safety or well-being of any individual;

(2)(B)(iii) whether there is a reasonable likelihood that electronic media coverage will jeopardize the interests or well-being of a minor;

(2)(B)(iv) whether there is a reasonable likelihood that electronic media coverage will constitute an unwarranted invasion of personal privacy of any party or witness;

(2)(B)(v) whether electronic media coverage will create adverse effects greater than those caused by media coverage without recording or transmitting images or sound;

(2)(B)(vi) the adequacy of the court's physical facilities for electronic media coverage;

(2)(B)(vii) the public interest in and newsworthiness of the proceeding;

(2)(B)(viii) potentially beneficial effects of allowing public observation of the proceeding through electronic media coverage; and

(2)(B)(ix) any other factor affecting the fair administration of justice.

(2)(C) If the judge prohibits or restricts electronic media coverage, the judge shall make particularized findings orally or in writing on the record. Any written order denying a request for electronic media coverage shall be made part of the case record.

(2)(D) Any reasons found sufficient to prohibit or restrict electronic media coverage shall relate to the specific circumstances of the proceeding rather than merely reflect generalized views or preferences.

(3) Duty of news reporters to obtain permission; termination or suspension of coverage.

(3)(A) Unless otherwise ordered by the court, news reporters shall file a written request for permission to provide electronic media coverage of a proceeding at least one business day before the proceeding. Upon a showing of good cause, the judge may grant a request on shorter notice.

(3)(B) A judge may terminate or suspend electronic media coverage at any time without prior notice if the judge finds that continued electronic media coverage is no longer appropriate based upon consideration of one or more of the factors in Paragraph (2)(B). If permission to provide electronic media coverage is terminated or suspended, the judge shall make the findings required in Paragraphs (2)(C) and (2)(D).

(4) Conduct in the courtroom; pool coverage.

(4)(A) Electronic media coverage is limited to one audio recorder and operator, one video camera and operator, and one still camera and operator, unless otherwise approved by the judge or designee. If more than one news reporter has requested permission to provide electronic media coverage, it is the responsibility of news reporters to determine who will participate at any given time, how they will pool their coverage, and how they will share audio, video or photographic files produced by pool coverage. The pool equipment operators shall use equipment that is capable of sharing audio, video or photographic files to pool recipients in a generally accepted format. The pooling arrangement shall be reached before the proceedings without imposing on the judge or court staff. Neither the judge nor court staff shall be called upon to resolve disputes concerning pool arrangements.

(4)(B) News reporters shall designate a representative with whom the court may consult regarding pool coverage, and shall provide the court with the name and contact information for such representative.

(4)(C) Tripods may be used, but not flash or strobe lights. Normally available courtroom equipment shall be used unless the judge or a designee approves modifications, which shall be installed and maintained without court expense. Any modifications, including microphones and related wiring, shall be as unobtrusive as possible, shall be installed before the proceeding or during recess, and shall not interfere with the movement of those in the courtroom.

(4)(D) The judge may position news reporters, equipment, and operators in the courtroom. Proceedings shall not be disrupted. Equipment operators and news reporters in the courtroom shall:

(4)(D)(i) not use equipment that produces loud or distracting sounds;

(4)(D)(ii) not place equipment in nor remove equipment from the courtroom nor change location while court is in session;

(4)(D)(iii) conceal any identifying business names, marks, call letters, logos or symbols;

(4)(D)(iv) not make comments in the courtroom during the court proceedings;

(4)(D)(v) not comment to or within the hearing of the jury or any member thereof at any time before the jury is dismissed;

(4)(D)(vi) present a neat appearance and conduct themselves in a manner consistent with the dignity of the proceedings;

(4)(D)(vii) not conduct interviews in the courtroom except as permitted by the judge; and

(4)(D)(viii) comply with the orders and directives of the court.

(5) Violations. In addition to contempt and any other sanctions allowed by law, a judge may remove from the proceeding anyone violating this rule or the court's orders and directives and terminate or suspend electronic media coverage.

(6) Limitations on electronic media coverage. Notwithstanding an authorization to conduct electronic media coverage of a proceeding, and unless expressly authorized by the judge, there shall be no:

(6)(A) electronic media coverage of a juror or prospective juror until the person is dismissed;

(6)(B) electronic media coverage of the face of a person known to be a minor;

(6)(C) electronic media coverage of an exhibit or a document that is not part of the official public record;

(6)(D) electronic media coverage of proceedings in chambers;

(6)(E) audio recording or transmission of the content of bench conferences; or

(6)(F) audio recording or transmission of the content of confidential communications between counsel and client, between clients, or between counsel.

(7) Except as provided by this rule, recording or transmitting images or sound of a proceeding without the express permission of the judge is prohibited. This rule shall not diminish the authority of the judge conferred by statute, rule, or common law to control the proceedings or areas immediately adjacent to the courtroom.

TAB 5



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Management Committee
From: Tim Shea *T. Shea*
Date: February 21, 2013
Re: Committee appointments

Craig Johnson's second term on the Court Interpreter Committee has expired. The committee chair, Judge Vernice Trease, recommends that Randall McUne be appointed to replace him. The vacancy is reserved for a prosecutor, and the Utah Prosecution Council circulated an announcement on the committee's behalf. Mr. McUne is the only person to apply. He is qualified and interested, but I have committed to paying his mileage to and from Cedar City, as authorized by Rule 1-205.

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.



CEDAR CITY

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www.cedarcity.org

Mayor
Joe Burgess

Council Members
Ronald R. Adams
Nina R. Barnes
John Black
Paul Cozzens
Don Marchant

City Manager
Rick B. Holman

February 20, 2013

Timothy Shea
Administrative Office of the Courts
P.O. Box 140241
Salt Lake City, UT 84114-0241
Sent via email: tims@utcourts.gov

Dear Tim and Judicial Council:

Please find attached my resume and accept this letter as my letter of interest in the position left vacant by Craig Johnson on the Court Interpreter Committee of the Judicial Council. As you can see from my resume, I have worked in the court system for most of the last thirteen years as a deputy court clerk, misdemeanor probation officer, and now prosecutor.

Although my Spanish was not and is not as perfect as I would wish, I infrequently acted as an unapproved interpreter when I worked as a deputy court clerk in Idaho when no certified or approved interpreter was available and tested one point shy on two occasions from becoming a locally approved interpreter during that same time. Thus, while I make no claim to being a fluent and qualified interpreter, I feel I have a unique perspective among prosecutors as to what an interpreter goes through in court.

If you need any additional information from me or would like to talk to me prior to making a decision, I am happy to provide whatever is requested. Thank you for considering me for this position.

Sincerely,

/s/ Randall K. McUne

Randall K. McUne
Assistant Cedar City Attorney
randallm@cedarcity.org

Encl.

Randall K. McUne

457 W 2075 N, Cedar City, UT 84721

Phone: (435) 592-1985

Email: rkmcune@gmail.com

EDUCATION

Juris Doctor (April 2006) Utah Bar License #: 11288

J. Reuben Clark Law School, Brigham Young University, Provo, Utah

- ◆ Ranking: Top 10%, Magna Cum Laude
- ◆ GPA: 3.68
- ◆ Merit Scholarship, 2003-2006
- ◆ Moot Court, 2004-2005
- ◆ Inns of Court, 2004-2005

Bachelor of Arts and Sciences (May 2003)

Idaho State University, Pocatello, Idaho

- ◆ Political Science Major/Spanish Minor
- ◆ Honors, G.P.A. 3.79
- ◆ Dean's List, 2001-2003
- ◆ Member, Pi Sigma Alpha, 2002-2003

Associate of Arts and Sciences (April 2001)

Ricks College, Rexburg, Idaho

- ◆ Political Science Major
- ◆ High Honors, G.P.A. 3.84

EXPERIENCE

Assistant City Attorney, Cedar City Attorney's Office (2006-present)

- ◆ Prosecution of misdemeanor criminal cases.
- ◆ Ordinance, contract, and resolution research and drafting.

Law Clerk, Provo City Attorney's Office (2005-2006)

- ◆ Provided research and writing assistance in civil and criminal matters.

Law Clerk, Utah Attorney General - Prosecution Council (2004-2005)

- ◆ Edited Prosecution Council's monthly newsletter, *The Utah Prosecutor*.
- ◆ Provided research assistance in criminal matters.

Externship, Dexter & Dexter (2004)

- ◆ Assisted in research and file management in personal injury, criminal, and bankruptcy cases.

Misdemeanor Probation Officer, Bannock County, Idaho (2002-2003)

- ◆ Successfully supervised 220 to 315 clients by conducting monthly meetings by phone or in person, drug testing, and home visits.
- ◆ Provided information to court via affidavits, memoranda, and testimony.

Deputy Clerk, Jefferson County, Idaho (2000-2002)

- ◆ Worked directly under Judge Michael B. Kennedy, Magistrate Judge, for six months screening calls, visitors, and documents, preparing the courtroom, and communicating with attorneys and parties.
- ◆ Provided clerical duties for various filings including divorce, adoption/ termination, criminal, juvenile, probate, and general civil filings.

SKILLS

Language: Read and write Spanish fluently; speak Spanish semi-fluently

INTERESTS

Computers, volleyball (member of Ricks College Men's Club Team 2000-2001), science fiction, and music.