

## JUDICIAL COUNCIL MEETING

### AGENDA

**Tuesday, September 10, 2013**

**Superior B  
Snowbird Resort  
Snowbird, Utah**

***Chief Justice Matthew B. Durrant, Presiding***

Lunch will be served at 12:00 p.m.

1. 12:30 p.m. Welcome & Approval of Minutes . . . . Chief Justice Matthew B. Durrant  
(Tab 1 - Action)
2. 12:35 p.m. Chair's Report. . . . . Chief Justice Matthew B. Durrant
3. 12:45 p.m. Administrator's Report. . . . . Daniel J. Becker
4. 1:00 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)
5. 1:10 p.m. Legislative Update and Interim Highlights. . . . . Rick Schwermer  
(Information)
6. 1:25 p.m. FY 2014 Budget Adjustments. . . . . Daniel J. Becker  
(Action) Ray Wahl
7. 1:40 p.m. Court Commissioner Conduct Committee  
Update. . . . . Judge Michele Christiansen  
(Information) Rick Schwermer
8. 2:00 p.m. E-Filing Hardship Exemption. . . . . Debra Moore  
(Tab 3 - Action)
9. 2:10 p.m. Third District Commissioner Vacancy. . . . . Daniel J. Becker  
(Tab 4 - Action)
10. 2:15 p.m. Second District Commissioner Vacancy. . . . . Daniel J. Becker  
(Tab 5 - Action)
- 2:20 p.m. Break

11. 2:30 p.m. Judicial Performance Evaluation Commission Update. . . . . Joanne Slotnik  
(Information)
12. 2:55 p.m. Standing Committee on Technology Update. . . . . Judge Carolyn McHugh  
(Information) Ron Bowmaster
13. 3:15 p.m. Rules for Final Action. . . . . Tim Shea  
(Tab 6 - Action)
14. 3:30 p.m. Senior Judge Certifications. . . . . Tim Shea  
(Action)
15. 3:45 p.m. Senior Judges and Court Commissioners Certification. . . . . Tim Shea  
(Tab 7 - Action)
16. 4:25 p.m. Executive Session. . . . .
17. 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. Committee Appointments Tom Langhorne  
(Tab 8) Ron Bowmaster  
Nancy Volmer

# **TAB 1**

# **Budget and Planning Minutes**

**JUDICIAL COUNCIL  
Budget and Planning Session  
Minutes  
Friday, August 16th, 2013  
Large Conference Room A  
Matheson Courthouse  
Salt Lake City, UT**

**Chief Justice Matthew B. Durrant, Presiding**

**ATTENDEES:**

Chief Justice Matthew B. Durrant  
Hon. Kimberly K. Hornak, vice chair(by phone)  
Justice Jill Parrish  
Hon. Glen Dawson  
Hon. George Harmond  
Hon. Paul Maughan  
Hon. Brendan McCullagh  
Hon. David Mortensen  
Hon. Gregory Orme  
Hon. David Marx for Hon. Reed Parkin  
Hon. John Sandberg  
Hon. Larry Steele  
Hon. Kate Toomey  
John Lund, esq.

**EXCUSED:**

Hon. Reed Parkin

**STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Diane Abegglen  
Jody Gonzales  
Debra Moore  
Rick Schwermer  
Tim Shea  
Kim Allard  
Ron Bowmaster  
Derek Byrne  
Liz Knight  
Alyn Lunceford  
Alison Adams-Perlac  
Nancy Volmer  
Katie Gregory  
Brent Johnson

**GUESTS:**

Judge Scott Hadley  
Judge Mark May  
Judge Mary Noonan  
Gary Syphus  
David Walsh  
Juliette Tennert, GOPB  
Marissa Lang, SL Tribune

**1. WELCOME: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant welcomed everyone to the meeting. He extended a welcome to the following: 1) Judge Kate Toomey, Third District Court representative on the Council for the month of August with the retirement of Judge Judith Atherton; 2) Judge David Marx, sitting in for Judge Reed Parkin; 3) David Walsh, GOMB and Commission on Criminal and Juvenile Justice; and 4) Gary Syphus, Legislative Fiscal Analyst.

**2. GOVERNOR'S OFFICE OF PLANNING AND BUDGET ECONOMIC PRESENTATION: (Juliette Tennert)**

Chief Justice Durrant welcomed Ms. Juliette Tennert, Budget Director and Chief Economist, from the Governor's Office of Management and Budget to the meeting.

Ms. Tennert highlighted the following in her update: 1) reviewed the organization of the Governor's Office of Management and Budget; 2) institute a 25% operational efficiency improvement measure; 3) restructure of the GOMB to include a Performance Measurement Data Director; 4) Utah level of employment from June 2003 – June 2013; 5) employment figures in Utah and the US from June 2003 – June 2013; 6) federal funding impacted by sequestration in Utah; 7) selected economic indicators; 8) new unrestricted general and education funds; and 9) current issues being monitored.

The current issues being monitored by the GOMB include: 1) sequestration, 2) federal health care reform, 3) public education enrollment growth, 4) higher education enrollment growth, 5) employee compensation and benefits/liabilities, and 6) prison relocation.

Chief Justice Durrant thanked Ms. Tennert for her update.

**3. OVERVIEW OF BUDGET PLANNING SESSION: (Daniel J. Becker)**

Mr. Becker provided an overview of the court's budget and planning session for members new to the process. He mentioned that the objective for the session included: 1) set a prioritized budget request, and 2) develop a plan to address budget needs for FY 2015.

Mr. Becker reviewed the agenda for the budget and planning session. He noted that a copy of the following documents was sent to each Council member for review prior to the meeting: 1) FY 2015 Annual Budget Plan, 2) Navigating the budget, and 3) Court Administrator's Review and Recommendations. The budget and planning session will include the following: 1) an update from GOMB on the state's economy, 2) fiscal trends and restricted funds reports, 3) data and performance measure overview, 4) reports and budget requests from boards and committees, 5) the court administrator's analysis and recommendations, 6) discussion and voting on budget priorities, and 7) review of proposed legislation.

The afternoon will consist of a Council meeting with an executive session, and a Management Committee meeting.

**4. FISCAL TRENDS AND RESTRICTED FUNDS REPORTS: (Derek Byrne)**

Mr. Byrne reviewed the Utah Courts budget summary as it relates to the fiscal data and trends. He mentioned that available funding for use by the courts is categorized as follows: 1) general fund, 2) general fund, one-time, and 3) general fund, restricted accounts.

Mr. Byrne highlighted the following restricted accounts: 1) Children's Legal Defense Fund (CLDF), 2) Alternative Dispute Resolution, 3) Court Complex Funding, 4) Law Library Non-Lapsing Dedicated Credit Fund, 5) Security Fee, and 6) Justice Court Technology, Security and Training Account.

**DATA PRESENTATION OVERVIEW: (Kim Allard)**

Ms. Allard updated the Council on the FY 2013 Caseload Review.

Supreme Court. There were 595 case filings in FY 2013 compared to 600 case filings in FY 2012 which represents a 1% decrease.

Court of Appeals. There were 943 case filings in FY 2013 compared to 956 case filings in FY 2012 which represents a 1% decrease.

District Court. There were 285,196 case filings in FY 2013 compared to 286,587 case filings in FY 2012 which represents a .5% decrease. Ms. Allard highlighted the district court case filings to include: 1) by case type, 2) case types statewide, 3) raw filing distribution, 4) weighted filing distribution, 5) judicial weighted workload, and 6) time to disposition.

Justice Court. There were 524,628 case filings in FY 2013 compared to 551,023 case filings in FY 2012 which represents a 5% decrease. Ms. Allard highlighted the justice court case filings to include: 1) by case type, and 2) time to disposition.

Juvenile Court. There were 37,789 referrals and filings in FY 2013 compared to 41,066 in FY 2012 which represents an 8% decrease. Ms. Allard highlighted the juvenile court referrals and filings to include: 1) by case type, 2) referral trend data, 3) case types statewide, 4) comparison to other states, 5) by district, 6) comparison of referrals and weighted hours, 7) judicial weighted workload, and 8) time to disposition.

## **5. REPORTS AND BUDGET REQUESTS FROM BOARDS AND COMMITTEES**

### **BOARD OF DISTRICT COURT JUDGES: (Judge Scott Hadley and Debra Moore)**

Chief Justice Durrant welcomed Judge Hadley to the meeting.

Judge Hadley reported on the Board of District Court Judges budget request to obtain ongoing funding for six law clerk positions. Four of the six law clerk positions currently are funded with one-time funding, and the remaining two are additional law clerk positions being requested.

Judge Hadley expressed his appreciation regarding Mr. Becker's recommendation to fund four time-limited district court law clerk positions from savings derived from the redeployment of resources made possible by mandatory e-filing, and consideration of the two additional law clerk positions at the April 2014 Council meeting as a one-time funding request.

### **BOARD OF JUVENILE COURT JUDGES: (Judge Mark May and Ray Wahl)**

Chief Justice Durrant welcomed Judge May to the meeting.

Judge May highlighted the following: 1) listed members of the Board of Juvenile Court Judges, and 2) reviewed requests received by the Board and background behind each request.

The requests received include: 1) ongoing funding of the juvenile court law clerk position, and 2) funding for an additional judgeship and staff in the Fourth Juvenile Court.

The Board decided to advance the law clerk funding to the Judicial Council, but decided against recommending the new judgeship. Instead, they recommended that the Fourth District's judicial need be addressed in the coming year through assistance from another district and senior judge assistance.

Judge Mary Noonan spoke on behalf of the Fourth District Juvenile Court regarding their request for funding of an additional judgeship and staff. She noted that 25 days of senior judge assistance and assistance from available judges in other districts was used in the past year.

The recommendation being made for judicial assistance in the Fourth Juvenile Court includes the following: 1) arrange for judicial assistance from the Seventh District, 2) utilize senior judge assistance to supplement the assistance to be provided by the Seventh District, and 3) provide clerical assistance with one-time funding of \$42,000 for this fiscal year to help with the judicial assistance being recommended.

It was indicated that the Board will closely monitor judicial needs in the Fourth District and may make a request in 2014, if the workload increases.

**TECHNOLOGY STANDING COMMITTEE: (Ron Bowmaster)**

Chief Justice Durrant welcomed Mr. Bowmaster to the meeting.

The Technology Standing Committee is requesting reinstatement of the Court's desktop replacement schedule. To implement a five-year computer replacement schedule, the amount being requested to fund the schedule is \$250,000.

Mr. Bowmaster mentioned that carry-forward funding has been used to keep the schedule on track.

**STANDING COMMITTEE – COURT FACILITIES PLANNING COMMITTEE:  
(Alyn Lunceford)**

Chief Justice Durrant welcomed Mr. Lunceford to the meeting.

Mr. Lunceford mentioned that Judge Davis was unable to attend.

Mr. Lunceford highlighted the following budget requests: 1) the budget request in the amount of \$268,800, from the Court Facilities Planning Committee, is to cover facilities, leases and O & M, 2) Duchesne County expansion, and 3) Northern Utah County land bank.

Mr. Lunceford mentioned that the Juab County court facility is under construction and is scheduled to be operational by January 1, 2014.

He highlighted the contract and lease increases for FY 2015.

Mr. Lunceford reviewed details of the Duchesne County expansion project that will add additional space for the new district courtroom and chambers and the new juvenile courtroom and chambers and clerical staff.

**GUARDIAN AD LITEM: (Liz Knight)**

Chief Justice Durrant welcomed Ms. Knight to the meeting.

Ms. Knight reported that the GAL Oversight Committee has approved a building block request for an attorney salary parity increase for the guardian ad litem attorneys. She noted the differential in salaries between the Guardian ad Litem attorneys and the attorneys working in the Attorney General's office.

**6. JURY/WITNESS/INTERPRETER FUNDING**

Mr. Derek Byrne provided background information on the juror/witness/interpreter fund and the continued practice of the fund being underfunded. There are two requests submitted for the juror/witness/interpreter fund. One request is to obtain ongoing funding for the fund in the amount of \$930,000. The second request is a supplemental request to fund the FY 2013 deficit in the amount of \$861,700.



## **7. COURT ADMINISTRATOR'S REVIEW AND RECOMMENDATIONS**

Mr. Becker highlighted the following as he provided his review and recommendations for the FY 2015 budget requests: 1) mentioned the members of the Executive Budget Committee, 2) ongoing budget requests received totaling \$2 million, and 3) supplemental budget requests totaling \$861,700.

He mentioned that the weighted workload formulas at the state-level reflect resources closely matched to the needs for the district and juvenile judges and juvenile probation officers. The Fourth District Juvenile Court and the Fifth District Court judicial workloads warrant close attention. He recommended the use of internal savings to provide assistance with visiting and senior judges.

District Law Clerks. It was recommended to fund four time-limited district court law clerk positions through the redeployment of resources made possible by mandatory e-filing. It was recommended to defer the additional law clerk positions requested for the district court to the April Council meeting as a one-time funding request.

Juvenile Law Clerk. It was recommended to fund the .50 juvenile court law clerk position through the redeployment of resources made possible by mandatory e-filing.

IT Equipment Replacement Schedule. It was recommended to defer this request and use one-time funding.

Facility Requests. It was recommended to advance the facility lease increases as a building block request. It was recommended to advance the Duchesne Courthouse expansion project and Utah County land banking as capital development projects.

Juror/Witness/Interpreter Fund. It was recommended to advance the ongoing request and the supplemental request to fund the juror/witness/interpreter fund.

Prior to any votes being taken, Chief Justice Durrant swore in Judge Kate Toomey as a Council member.

## **8. BUILDING BLOCK DISCUSSION AND JUDICIAL COUNCIL DECISIONS ON PROPOSED FY 2014 LEGISLATIVE REQUESTS**

Mr. Schwermer reviewed the process of prioritizing the budget requests. He mentioned the importance of assessing each request, reviewing the options, and making a decision on each request.

He reviewed the budget categories to be considered when prioritizing the budget requests to include: 1) obligations, 2) alternative funding, 3) elimination, 4) building blocks, 5) supplemental, and 6) fiscal note building blocks. Discussion took place on this year's requests and the process for prioritizing the requests.

Questions were asked relative to the clerical weighted caseload and Fourth District's request for juvenile clerical one-time assistance for FY 2014. Clarification was provided.

Clarification for the supplemental and ongoing request for the juror/witness/interpreter funds was provided.

Discussion took place.

**Motion:** Judge Mortensen moved to adopt the recommendations made by Mr. Becker for the following budget requests: 1) alternative/internal funding of four district law clerks and .5 juvenile law clerk position, and defer funding consideration of the additional two district law clerks to April 2014 when the one-time spending plan for FY 2015 is considered; 2)

alternative/internal funding of the Fourth District juvenile clerical assistance for FY 2014, one time; 3) defer funding of the five-year computer replacement schedule to April 2014 when the one-time spending plan for FY 2015 is considered; 4) advance a building block request for an ongoing increase to the juror/witness/interpreter fund. Judge Toomey seconded the motion, and it passed unanimously.

**Motion:** Judge McCullagh moved to advance the facilities requests including: 1) lease, O & M increases advanced as a building block request; 2) Duchesne Courthouse expansion advanced to the Building Board; and 3) North Utah County Land Bank advanced to the Building Board. Judge Steele seconded the motion, and it passed unanimously.

**Motion:** Judge McCullagh moved to submit the supplemental budget request to advance the juror/witness/interpreter fund as a mandate. Judge Harmond seconded the motion, and it passed unanimously.

**Motion:** Judge Maughan moved to prioritize the following budget requests as follows: 1) first priority – leases, O & M increase; 2) second priority – juror/witness/interpreter FY 13 deficit supplemental; and 3) third priority – juror/witness/interpreter ongoing increase. The motion was second and passed unanimously.

## FY15 Annual Budget Planning Meeting--8/16/13

Courts' Requests for Legislative Consideration			Final Judicial Council Recommendations					
Priority #	FY 2015 Requests	Requested	Alternative / Internal Funding	Defer	Eliminate	Mandate	Building Blocks	Fiscal Note Bills
1	Lease, O & M Increases	268,800					X	
2	Juror /Witness/Interpreter--FY 13 Deficit Supplemental	861,700				X		
3	Juror /Witness/Interpreter Ongoing Increase	930,000					X	
Grand Total		2,060,500						

### Capital Development Requests

Priority #	FY 2015 Requests	Requested
1	Duchesne Courthouse Expansion	3,000,000
2	North Utah County Land Bank	1,750,000

Other Judicial Council Actions			Alternative / Internal Funding	Defer	Eliminate	Mandate	Building Blocks	Fiscal Note Bills
N/A	4th District Juvenile Clerical Assistance for FY14, One-time	42,000	X					
N/A	District Law Clerks (6 FTEs)	518,400	X - 4 FTEs	X - 2 FTEs				
N/A	Juvenile Law Clerk (.5 FTE)	42,000	X					
N/A	Implement 5-year Computer Replacement Schedule	250,000		X				

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## 9. PROPOSED LEGISLATION

Mr. Schwermer reported that the Liaison Committee met prior to the Budget and Planning Session. He highlighted the following legislation to be considered: 1) domestic violence citation which requires the law enforcement officer to indicate on the citation whether the offense is a domestic violence offense; 2) dating violence order corrects a technical effort in last year's legislation; 3) certificate of eligibility for expungement which requires the petitioner

to retain the original certificate of eligibility for expungement of records; 4) plat maps which eliminates the requirement that a plat map be filed in an eminent domain petition; 5) fee for modification of domestic relations order which would conform the statute to the practice and expands the cases that qualify for \$100 filing fee beyond modification of a divorce decree to include modification of any domestic relations order; 6) emailing probate notices which allows notices of a second or subsequent hearing to be served under the Rules of Civil Procedure, which includes e-mail, if the law permits service by first-class mail; 7) service of process in protective proceedings which requires the initial service in all protective proceedings include a copy of the petition and that the notice of hearing include the possible consequences if the appointment is made; 8) selection from master jury list which requires that before qualifying any person for jury service a second time, the court select everyone from the master jury list once; 9) appointment of attorney guardian ad litem in district court matters, and 10) private guardian ad litem – appointment.

Discussion took place.

**10. ADJOURN**

The meeting was adjourned.

# **Council Minutes**

# JUDICIAL COUNCIL MEETING

## Minutes

Friday, August 16, 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. Glen Dawson  
Hon. George Harmond  
Hon. Paul Maughan  
Hon. Brendan McCullagh  
Hon. David Mortensen  
Hon. Gregory Orme  
Hon. David Marx for Hon. Reed Parkin  
Hon. John Sandberg  
Hon. Larry Steele  
Hon. Kate Toomey  
John Lund, esq.

### **STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Diane Abegglen  
Jody Gonzales  
Debra Moore  
Rick Schwermer  
Brent Johnson  
Alyn Lunceford

### **GUESTS:**

Judge Scott Hadley  
Sylvester Daniels, 2<sup>nd</sup> Dist TCE

### **EXCUSED:**

Hon. Reed Parkin

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

Chief Justice Durrant welcomed everyone to the meeting.

**Motion:** Mr. Lund moved to approve the minutes from the July 22, 2013 Judicial Council meeting. Judge Mortensen seconded the motion, and it passed unanimously.

### **2. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant reported on the following items:

He, Justice Lee, Judge Voros, Mr. Becker and Mr. Schwermer attended JPEC's monthly meeting on August 13. The following was highlighted from the meeting: 1) communication between JPEC and the judiciary was addressed, 2) problems relative to the appellate opinion process were discussed, and 3) a draft report from the audit of the survey results has been received.

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

Mr. Becker reported on the following items:

Legislative Retirement Committee. This committee is scheduled to meet on September 25. Judicial retirement is scheduled to be discussed at the meeting. Chief Justice Durrant and Mr. Becker plan to attend.

Prison Relocation and Development Amendments (PRADA). The Committee is scheduled to meet on August 29 to discuss prison relocation. Judge Atherton has been selected as a committee member. Mr. Becker, Mr. Schwermer, and Ms. Moore plan to attend. Discussion will include: 1) remote hearings, 2) alternatives to incarceration, and 3) perspective from the bench.

Juvenile Court Administrator. Ms. Dawn Marie Rubio has been selected as the new juvenile court administrator. She will attend the Annual Judicial Conference early in September and begin working for the courts on September 30. Mr. Becker provided background on her experience in the court system.

Conference of Court Public Information Officers (CCPIO). They held their annual conference in Salt Lake City last week, and the event went very well.

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:***

Proposed legislation was discussed during the Budget and Planning Session.

***Policy and Planning Meeting:***

Judge Orme reported on the following items:

The meeting on August 2 was a lengthy meeting. Rules for final action and rules for comment are included on today's agenda. Discussion also took place regarding guidelines for court payment of interpreters for non-court proceedings.

***Bar Commission Report:***

Mr. Lund reported on the following:

The Bar Commission has not met since the Bar's Summer Conference in July.

Ms. Slotnik and Mr. John Ashton of the Judicial Performance Evaluation Commission (JPEC) will meet with the Bar Commission later in the month regarding the work of JPEC.

The Bar exam was administered to 350 law students in July.

The Pro Bono/Low Bono program and the Modest Means program are gaining momentum. He noted that the bankruptcy judges are asking for referral capabilities.

**5. ETHICS ADVISORY – INFORMAL OPINION 12-02 - FOLLOWUP: (Brent Johnson)**

Mr. Johnson provided background information on Informal Opinion 12-02 as it relates to the use of a preapproved roster of service providers created by the courts and making referrals. The informal opinion was originally presented to the Council for consideration at their February 2013 meeting. In February, the Board of District Court judges formed a subcommittee to review the rule as it relates to Informal Opinion 12.02. In May, a Judicial Council workgroup was formed to review Informal Opinion 12-02 and determine if revisions were necessary and whether the opinion should remain as an informal opinion or be amended as a formal opinion.

An amended Informal Opinion 12-02 was drafted which allows for the court to create a preapproved roster. The criteria created for being admitted to the roster must be reasonable and directly related to the services needed by the courts and allow for any interested individual or entity to apply to be included on the roster.

Discussion took place.

**Motion:** Judge Dawson moved to approve Informal Opinion 12-02 as amended and as an informal opinion. Judge Steele seconded the motion, and it passed unanimously.

**6. BOARD OF DISTRICT COURT JUDGES UPDATE: (Judge Scott Hadley and Ms. Debra Moore)**

Chief Justice Durrant welcomed Judge Hadley and Ms. Moore to the meeting.

The following was highlighted in their reports: 1) use of the judicial workspace with a hearing, 2) 59 out of 82 district court judges and commissioners have been trained on the use of the judicial workspace, 3) data shared on the number of hearings completed, 4) data shared on the number of uploaded documents, 5) working with Justice Lee on preparation of proposed standards for professionalism for judges by providing comments, and 6) prepared guidelines for judges for monitoring guardians and conservators.

Judge Hadley thanked members of the Council for providing regular reports to the Board of District Court Judges on the outcome of their monthly meetings. He also expressed the Board's gratitude for the work being completed by Ms. Melanie Haney, the capital litigator attorney.

Chief Justice Durrant thanked Judge Hadley for his update.

**7. UPDATE ON MANDATORY E-FILING OF PROBATE AND CITATION CASES: (Ms. Kim Allard and Mr. Ron Bowmaster)**

This item was deferred to the September Council meeting.

**8. MORGAN COUNTY PETITION TO END CONTRACT SITE: (Sylvester Daniels)**

Chief Justice Durrant welcomed Mr. Daniels to the meeting.

Mr. Daniels provided background information on Morgan County's request to transfer responsibility for operation of the district court in Morgan County from a contract-managed site to a state-managed site. He mentioned that preparatory measures have begun to transfer operation of the court site to a state-managed site. He highlighted the following areas that will be addressed as preparations are made for the transfer: 1) an audit of the financial records, 2) transfer of funds, 3) establish proper accounts, 4) minimum staffing issues, 5) matters concerning the lease of the facility, 6) staff space issues, and 7) equipment, furnishings and funding.

The recommended effective date of November 1, 2013 for the transfer from a contract-managed site to a state-managed site of the Morgan County district court was made.

The matter of the court not being open on Fridays was discussed. Security concerns were expressed relative to the courts being manned by a single clerk. It was suggested to request Mr. Alyn Lunceford discuss the matter further with the Morgan County sheriff's office.

The Council requested Mr. Becker address the statutory five-day open requirement for the Morgan County court facility in a letter to Morgan County.

**Motion:** Judge Dawson moved to approve the recommendation to transfer responsibility for the operation of the district court in Morgan County from a contract-managed site to a state-managed site, effective November 1, 2013; and address the five-day open requirement by way of a letter prepared by Mr. Becker. Judge Steele seconded the motion, and it passed unanimously.

**9. RULES FOR FINAL ACTION: (Tim Shea)**

Mr. Shea noted that all the recommendations for the rules for final action need no further review, with the exception of Rule CJA 04.0202.02 and Rule CJA 04.0202.03.

The amendments to Rule CJA 04-0202.02 – Records Classification and Rule CJA 04-0202.03 – Records Access were reviewed. Rule CJA 04-0202.02 was amended to classify the addendum to an appellate brief in a case involving termination of parental rights or adoption as a private record and to establish the classification of a “safeguarded” record and which records are classified as safeguarded records. Rule CJA 04-0202.03 was amended to describe who has access to safeguarded records.

Discussion took place.

**Motion:** Judge Steele moved to approve all rules being recommended for final action noting that with Rule CJA 04-0202.02 and CJA 04-0202.03, they be approved as amended, with the understanding that a juvenile addendum would be considered at a later date. Judge Orme seconded the motion, and it passed unanimously.

**10. LEGISLATIVE UPDATE AND INTERIM HIGHLIGHTS: (Rick Schwermer)**

Nothing new to report.

**11. EXECUTIVE SESSION:**

An executive session was held at this time.

**12. ADJOURN**

The meeting was adjourned.



# TAB 2

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE  
MINUTES**

**Friday, August 16th, 2013  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah**

**MEMBERS PRESENT:**

Chief Justice Matthew B. Durrant, Chair  
Hon. George Harmond  
Hon. John Sandberg  
Hon. Larry Steele for Hon. Kimberly Hornak  
Hon. Kate Toomey

**EXCUSED:**

Hon. Kimberly K. Hornak

**STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Diane Abegglen  
Jody Gonzales  
Debra Moore  
Rick Schwermer  
Ron Bowmaster  
Tom Langhorne  
Rob Godfrey

**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 Harmond moved to approve the minutes. Judge Sandberg seconded the motion, and it passed unanimously.

**2. UTAH STATE RETIREMENT BOARD – MEMBERSHIP—COUNCIL  
APPOINTMENT: (Daniel J. Becker)**

The Utah State Retirement Board has a vacancy for a Judicial Council representative with the expiration of Judge Greg Orme's term. The Management Committee asked Mr. Becker to talk to several Council members regarding their willingness to serve on the Retirement Board.

**3. COMMITTEE APPOINTMENTS: (Tom Langhorne, Ron Bowmaster, and Nancy Volmer)**

The Standing Committee on Education has a vacancy on the committee with the resignation of Ms. Jana O'Hearon, Seventh District Deputy Clerk. The following candidates have been recommended to fill the vacancy: 1) Ms. Amanda Acevedo, Third District Judicial Assistant; 2) Ms. Robin Newbold, Second Juvenile Judicial Assistant; and 3) Ms. Aloha Reynolds, Second District Team Manager.

The Management Committee recommended forwarding the name of Ms. Amanda Acevedo to the Council for consideration and approval.

The Standing Committee on Technology has a vacancy on the committee for a Bar representative. The Bar has forwarded the following names for consideration: 1) Mr. Randall Bateman, 2) Mr. Russell Minas, and 3) Mr. Bently Tolk.

The Management Committee recommended forwarding the name of Mr. Bently Tolk to the Council for consideration and approval.

The Standing Committee on Judicial Outreach has two vacancies on the Committee.

First, the vacancy for a state level administrator representative; Mr. Brent Johnson's second term serving in this capacity has expired. The Standing Committee has requested Mr. Johnson serve a third term to allow for completion of ongoing projects and to provide his expertise on the ethical limitations of the judiciary.

The Management Committee recommended forwarding Mr. Johnson's name to the Council to serve a third term on the Standing Committee on Judicial Outreach as the state level administrator representative.

Second, the vacancy for a justice court judge representative; Judge John Baxter's second term has expired. The following names have been recommended to fill the vacancy: 1) Judge Gus Chin, Holladay Justice Court; 2) Judge Sherlyn Fenstermaker, Springville and Mapleton Justice Courts; 3) Judge Ivo Peterson, multiple justice courts; and 4) Judge Catherine Roberts, Salt Lake City Justice Court.

The Management Committee recommended forwarding Judge Catherine Roberts name to the Council to fill the justice court judge representative on the Standing Committee on Judicial Outreach.

**Motion:** Judge Sandberg moved to place the committee recommendations on the September Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

#### **4. SENIOR JUDGE CERTIFICATIONS: (Tim Shea)**

Mr. Shea noted the ongoing problems with attorney survey data being reported to the survey contractor (National Center for State Courts). The terms of office for the senior judges in question will expire at the end of December 2013.

It was noted that, short of the surveys, the senior judges meet the minimum performance standards to be recertified. Mr. Becker recommended that the Council act on the certification information minus the attorney surveys and that the matter be discussed further with the Council at the September meeting.

**Motion:** Judge Harmond moved to place the matter of senior judge certifications relative to survey of attorneys' data on the September Council agenda for further discussion. Judge Sandberg seconded the motion, and it passed unanimously.

#### **5. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant reviewed the proposed Council agenda for the September 10 Council meeting.

**Motion:** Judge Toomey moved to approve the agenda for the September 10 Council meeting as amended. Judge Harmond seconded the motion, and it passed unanimously.

Ms. Moore reviewed an e-filing hardship request from an attorney in a rural location with inadequate internet access. Discussion took place.

**Motion:** Judge Sandberg moved to grant a temporary exemption until further discussion at the September Council meeting. Judge Harmond seconded the motion, and it passed unanimously.

**Motion:** It was moved and seconded to enter into an executive session. The motion passed unanimously.

6. **ANNUAL AWARDS: (Ray Wahl)**  
This matter was discussed in an executive session.
7. **EXECUTIVE SESSION**  
An executive session was held at this time.
8. **ADJOURN**  
The meeting was adjourned.

# TAB 3



Debra Moore &lt;debram@utcourts.gov&gt;

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## FW: Electronic Signatures in eFiling

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**Steve simpson** <Stevesimpson@frontiernet.net> Tue, Aug 27, 2013 at 10:44 AM

To: debram@utcourts.gov

Cc: janao@utcourts.gov

Dear Ms. Moore,

As you will note from the string of email messages set forth below, I have been speaking with Ms. Jana O'Haran regarding one of the challenges associated with living in small town rural Utah. Although I have diligently worked at becoming proficient at Utah's recently implemented electronic filing system, I have been effectively frustrated by the lack of technological infrastructure in the community of Bluff. Our town, as you may know, is comprised of a population of approximately 225 people and is located in southern San Juan County, immediately adjacent to the Navajo Reservation.

As I informed Ms. O'Haran, I have attempted to participate in webinars regarding electronic filing, I have attempted to view videos regarding electronic filing and I have even attempted to file documents electronically, all without success. Indeed, I have spent most of a day with tech support at Green Filing. We attempted every fix and screen sharing program the young woman could muster to allow me to submit my document. In the end she concluded the speed of our connection was so slow it would not allow filing. She therefore suggested I send her a pdf copy, which she filed in my behalf.

As a result, Ms. O'Haran has suggested I request an exemption, which I believe is a reasonable recommendation. While I am both embarrassed and frustrated with this development, I do not believe I have any other alternative unless or until the exclusive ISP in this area upgrades its system, which currently often provides speeds slower than a dial-up. Please be advised I have spoken with the ISP's representatives many times regarding this shortfall and have been advised that, "Bluff is low on the priority list." I have been assured Frontier Communications has no intention of upgrading a system that supports such a small number of individuals.

As such, please consider this my request for an exemption from the electronic filing process.

Additionally, please confirm receipt of this message so that I will know I have complied with the requirements set by Ms. O'Haran.

Thank you for your time and patience.

Sincerely,

*Steven P. Simpson*

*Attorney at Law*

*Steven P. Simpson P.C.*

*913 E. Navajo Twins Drive*

*Post Office Box 330*

*Bluff, UT 84512-0330*

*Telephone: (435) 672-2351*

*Facsimile: (435) 672-2370*

*E-mail: [steve@spsimpsonlaw.com](mailto:steve@spsimpsonlaw.com)*

**CONFIDENTIALITY NOTICE:**

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# TAB 4





## Third District Court

Judge Royal I. Hansen

August 20, 2013

Honorable Matthew B. Durrant  
Chief Justice  
Utah Supreme Court  
450 S. State Street  
Salt Lake City, Utah 84114-0210

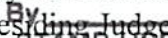
Re: Commissioner Thomas N. Arnett, Jr.

Dear Chief Justice Durrant:

Based upon the resignation letter dated August 8, 2013, which was received from Commissioner Thomas N. Arnett, Jr., the Third Judicial District Court seeks leave from the Utah Judicial Council to fill the Commissioner vacancy, effective November 17, 2013.

Very truly yours,

Royal I. Hansen

By:   
Presiding Judge

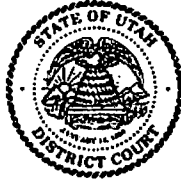
STAMP USED AT DIRECTION OF JUDGE



RIH:jsh

cc: Daniel J. Becker ✓  
Peyton Smith

# TAB 5



## Second District Court

W. Brent West  
Presiding Judge

August 20, 2013

Matthew B. Durrant  
Chief Justice Utah Supreme Court  
Chair Utah Judicial Council  
450 South State  
PO Box 140210  
Salt Lake City, Utah 84414-0210

Re: Appointment of Commissioner for the Second Judicial District

Dear Chief Justice,

With the recent nomination, by Governor Gary R. Herbert, of our Domestic Relations Commissioner Catherine S. Conklin to replace the retiring District Court Judge Michael D. Lyon, I anticipate a vacancy in one of our domestic relation commissioner positions. I am, therefore, asking the Judicial Council, pursuant to Rule 3-201(B) of the Utah Code of Judicial Administration, to please authorize the Second District to refill the position. The Commissioner would serve Weber, Davis and Morgan counties.

I do not intend to be presumptuous. I realize that Commissioner Conklin still has to go through the Senate confirmation process. But, given the timing of events and meetings involved, there is a possibility that Commissioner Conklin's confirmation proceedings could occur as early as September 16, 2013. If that were to occur, we would not want to wait until the Council's October meeting for a determination by the Council.

I appreciate the Council's consideration and would be willing to submit additional information or appear at Judicial Council to discuss more fully our District's need for a Commissioner.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Brent West", is written over a horizontal line.

W. Brent West  
Presiding Judge

# TAB 6



## 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:** Judicial Council  
**From:** Tim Shea *T. Shea*  
**Date:** September 6, 2013  
**Re:** Rules for final action

The comment period for the following rules has closed, and the Policy and Planning Committee recommends that they be approved. We did not receive any comments.

- CJA 01-0205. Standing and ad hoc committees. Changes the name of the Court Interpreter Committee to the Language Access Committee.
- CJA 03-0306. Court interpreters. Creates a complaint process for failure to follow the requirements of the rule. Clarifies that Rule 3-306 is not authority to charge for language access costs. Cites the competing authority of federal and state law. Recognizes interpreter credentials from other states. Requires staff to be acting within the scope of human resource policies and procedures, which includes qualifications for a second language stipend, before engaging in a first-hand conversation with a person of limited English proficiency.
- CJA 03-0402. Human resources administration. Changes the name of the career service review board to the grievance review panel.
- CJA 04-0110. Transfer of juvenile cases from district and justice courts to the juvenile court. Technical change, recognizing that Section 78A-7-106 governs transfer of cases from justice court to juvenile court.
- CJA 04-0404. Jury selection and service. Implements the requirement of Section 78B-1-110 that compliance with a summons satisfies a person's jury service obligation for two years. Permits a court to establish a shorter term of service than is provided by rule, but not longer.
- CJA 04-0508. Guidelines for ruling on a motion to waive fees. Includes juvenile court within the guidelines of the rule.

Rule 4-404 should be effective January 1, 2014. The others can be effective November 1, 2013.

In addition, Rule 4-408.01 needs to be amended to remove Morgan from the list of contract sites. The amendment needs to be published for comment, but it should be effective November 1, 2013.

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.

450 South State Street / POB 140241 / Salt Lake City, Utah 84114-0241 / 801-578-3808 / Fax: 801-578-3843 / email: [tms@utcourts.gov](mailto:tms@utcourts.gov)

**Rule 1-205. Standing and ad hoc committees.**

**Intent:**

To establish standing and ad hoc committees to assist the Council and provide recommendations on topical issues.

To establish uniform terms and a uniform method for appointing committee members.

To provide for a periodic review of existing committees to assure that their activities are appropriately related to the administration of the judiciary.

**Applicability:**

This rule shall apply to the internal operation of the Council.

**Statement of the Rule:**

**(1) Standing committees.**

(1)(A) Establishment. The following standing committees of the Council are hereby established:

(1)(A)(i) Technology Committee;

(1)(A)(ii) Uniform Fine/Bail Schedule Committee;

(1)(A)(iii) Ethics Advisory Committee;

(1)(A)(iv) Justice Court Standards Committee;

(1)(A)(v) Judicial Branch Education Committee;

(1)(A)(vi) Court Facility Planning Committee;

(1)(A)(vii) Committee on Children and Family Law;

(1)(A)(viii) Committee on Judicial Outreach;

(1)(A)(ix) Committee on Resources for Self-represented Parties;

(1)(A)(x) ~~Court Interpreter~~ Language Access Committee; and

(1)(A)(xi) Guardian ad Litem Oversight Committee.

**(1)(B) Composition.**

(1)(B)(i) The Technology Committee shall consist of one judge from each court of record, one justice court judge, one lawyer recommended by the Board of Bar Commissioners, two court executives, two court clerks and two staff members from the Administrative Office.

(1)(B)(ii) The Uniform Fine/Bail Schedule Committee shall consist of one district court judge who has experience with a felony docket, three district court judges who have experience with a misdemeanor docket, one juvenile court judge and three justice court judges.

(1)(B)(iii) The Ethics Advisory Committee shall consist of one judge from the Court of Appeals, one district court judge from Judicial Districts 2, 3, or 4, one district court judge from Judicial Districts 1, 5, 6, 7, or 8, one juvenile court judge, one justice court judge, and an attorney from either the Bar or a college of law.

(1)(B)(iv) The Justice Court Standards Committee shall consist of one municipal justice court judge from a rural area, one municipal justice court judge from an urban area, one county justice court judge from a rural area, and one county justice court judge from an urban area, all appointed by the Board of Justice Court Judges; one mayor from either Utah, Davis, Weber or Salt Lake Counties, and one mayor from the remaining counties, both appointed by the Utah League of Cities and Towns; one county commissioner from either Utah, Davis, Weber or Salt Lake Counties, and one county commissioner from the remaining counties, both appointed by the Utah Association of Counties; a member of the Bar from Utah, Davis, Weber or Salt Lake Counties, and a member of the Bar from the remaining counties, both appointed by the Bar Commission; and a judge of a court of record appointed by the Presiding Officer of the Council. All Committee members shall be appointed for four year staggered terms.

(1)(B)(v) The Judicial Branch Education Committee shall consist of one judge from an appellate court, one district court judge from Judicial Districts 2, 3, or 4, one district court judge from Judicial Districts 1, 5, 6, 7, or 8, one juvenile court judge, the education liaison of the Board of Justice Court Judges, one state level administrator, the Human Resource Management Director, one court executive, one juvenile court probation representative, two court clerks from different levels of court and different judicial districts, one data processing manager, and one adult educator from higher education. The Human Resource Management Director and the adult educator shall serve as non-voting members. The state level administrator and the Human Resource Management Director shall serve as permanent Committee members.

(1)(B)(vi) The Court Facility Planning Committee shall consist of one judge from each level of trial court, one appellate court judge, the state court administrator, a trial court executive, and two business people with experience in the construction or financing of facilities.

(1)(B)(vii) The Committee on Children and Family Law shall consist of one Senator appointed by the President of the Senate, one Representative appointed by the Speaker of the House, the Director of the Department of Human Services or designee, one attorney of the Executive Committee of the Family Law Section of the Utah State Bar, one attorney with experience in abuse, neglect and dependency cases, one attorney with experience representing parents in abuse, neglect and dependency cases, one representative of a child advocacy organization, one mediator, one professional in the area of child development, one representative of the community, the Director of the Office of Guardian ad Litem or designee, one court commissioner, two district court judges, and two juvenile court judges. One of the district court judges and one of the juvenile court judges shall serve as co-chairs to the committee. In its discretion the committee may appoint non-members to serve on its subcommittees.

(1)(B)(viii) The Committee on Judicial Outreach shall consist of one appellate court judge, one district court judge, one juvenile court judge, one justice court judge, one state level administrator, a state level judicial education representative, one court executive, one Utah State Bar representative, one communication representative, one law library representative, one civic community representative, and one state education representative. Chairs of the Judicial Outreach Committee's subcommittees shall also serve as members of the committee.

(1)(B)(ix) The Committee on Resources for Self-represented Parties shall consist of two district court judges, one juvenile court judge, one justice court judge, three clerks of court – one from an appellate court, one from an urban district and one from a rural district – one member of the Online Court Assistance Committee, one representative from the Utah State Bar, two representatives from legal service organizations that serve low-income clients, one private attorney experienced in providing services to self-



90 represented parties, two law school representatives, the state law librarian, and two  
91 community representatives.

92 (1)(B)(x) The ~~Court Interpreter Language Access~~ Committee shall consist of one  
93 district court judge, one juvenile court judge, one justice court judge, one trial court  
94 executive, one court clerk, one interpreter coordinator, one probation officer, one  
95 prosecuting attorney, one defense attorney, two certified interpreters, one approved  
96 interpreter, one expert in the field of linguistics, and one American Sign Language  
97 representative.

98 (1)(B)(xi) The Guardian ad Litem Oversight Committee shall consist of seven  
99 members with experience in the administration of law and public services selected from  
100 public, private and non-profit organizations.

101 (1)(C) The Judicial Council shall designate the chair of standing committees.  
102 Standing committees shall meet as necessary to accomplish their work but a minimum  
103 of once every six months. Standing committees shall report to the Council as necessary  
104 but a minimum of once every six months. Council members may not serve, participate  
105 or vote on standing committees. Standing committees may invite participation by others  
106 as they deem advisable, but only members designated by this rule may make motions  
107 and vote. All members designated by this rule may make motions and vote unless  
108 otherwise specified. Standing committees may form subcommittees as they deem  
109 advisable.

110 (1)(D) Six months before the scheduled termination of a standing committee, the  
111 Management Committee shall review the performance of the committee and make  
112 recommendations to the Judicial Council regarding reauthorization. Unless reauthorized  
113 by the Judicial Council, the committees shall terminate on the date indicated and every  
114 six years thereafter.

115 (1)(D)(i) The Technology Committee shall terminate on June 30, 2006.

116 (1)(D)(ii) The Uniform Fine/Bail Schedule Committee shall terminate on June 30,  
117 2006.

118 (1)(D)(iii) The Ethics Advisory Committee shall terminate on June 30, 2007.

119 (1)(D)(iv) The Justice Court Standards Committee shall terminate on June 30, 2008.

(1)(D)(v) The Judicial Branch Education Committee shall terminate on June 30, 2008.

(1)(D)(vi) The Court Facility Planning Committee shall terminate on June 30, 2009.

(1)(D)(vii) The Committee on Children and Family Law shall terminate on June 30, 2009.

(1)(D)(viii) The Committee on Judicial Outreach shall terminate on June 30, 2010.

(1)(D)(ix) The Committee on Resources for Self-represented Parties shall terminate on June 30, 2010.

(1)(D)(x) The Court Interpreter Committee shall terminate on June 30, 2011.

(1)(D)(xi) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight Committee, recognized by Section 78A-6-901, shall not terminate.

(2) Ad hoc committees. The Council may form ad hoc committees or task forces to consider topical issues outside the scope of the standing committees and to recommend rules or resolutions concerning such issues. The Council may set and extend a date for the termination of any ad hoc committee. The Council may invite non-Council members to participate and vote on ad hoc committees. Ad hoc committees shall keep the Council informed of their activities. Ad hoc committees may form subcommittees as they deem advisable. Ad hoc committees shall disband upon issuing a final report or recommendations to the Council, upon expiration of the time set for termination, or upon the order of the Council.

(3) General provisions.

(3)(A) Appointment process.

(3)(A)(i) Administrator's responsibilities. The state court administrator shall select a member of the administrative staff to serve as the administrator for committee appointments. Except as otherwise provided in this rule, the administrator shall:

(3)(A)(i)(a) announce expected vacancies on standing committees two months in advance and announce vacancies on ad hoc committees in a timely manner;

(3)(A)(i)(b) for new appointments, obtain an indication of willingness to serve from each prospective appointee and information regarding the prospective appointee's present and past committee service;

(3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve from the prospective reappointee, the length of the prospective reappointee's service on the committee, the attendance record of the prospective reappointee, the prospective reappointee's contributions to the committee, and the prospective reappointee's other present and past committee assignments; and

(3)(A)(i)(d) present a list of prospective appointees and reappointees to the Council and report on recommendations received regarding the appointment of members and chairs.

(3)(A)(ii) Council's responsibilities. The Council shall appoint the chair of each committee. Whenever practical, appointments shall reflect geographical, gender, cultural and ethnic diversity.

(3)(B) Terms. Except as otherwise provided in this rule, standing committee members shall serve staggered three year terms. Standing committee members shall not serve more than two consecutive terms on a committee unless the Council determines that exceptional circumstances exist which justify service of more than two consecutive terms.

(3)(C) Members of standing and ad hoc committees may receive reimbursement for actual and necessary expenses incurred in the execution of their duties as committee members.

(3)(D) The Administrative Office shall serve as secretariat to the Council's committees.

**Rule 3-306. ~~Court interpreters~~ Language access in the courts.**

Intent:

To state the policy of the Utah courts to secure the rights of people under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. in legal proceedings who are unable to understand or communicate adequately in the English language.

To outline the procedure for certification, appointment, and payment of court interpreters for legal proceedings.

To provide certified interpreters in legal proceedings in those languages for which a certification program has been established.

Applicability:

This rule shall apply to legal proceedings in the courts of record and not of record. This rule shall apply to interpretation for non-English speaking people and not to interpretation for ~~the persons with a hearing-impaired impairment~~, which is governed by Utah and federal statutes.

Statement of the Rule:

(1) Definitions.

(1)(A) "Appointing authority" means a judge, commissioner, referee or juvenile probation officer, or delegate thereof.

(1)(B) "Approved interpreter" means a person who has been rated as "superior" in ~~the Oral Proficiency Interview conducted by Language Testing International testing~~ and has fulfilled the requirements established in paragraph (3).

(1)(C) "Certified interpreter" means a person who has successfully passed the examination of the Consortium for Language Access in the Courts and has fulfilled the requirements established in paragraph (3).

(1)(D) "Committee" means the ~~Court Interpreter~~ Language Access Committee established by Rule 1-205.

(1)(E) "Conditionally-approved interpreter" means a person who, in the opinion of the appointing authority after evaluating the totality of the circumstances, has language skills, knowledge of interpreting techniques, and familiarity with interpreting sufficient to interpret the legal proceeding. A conditionally approved interpreter shall read and is

bound by the Code of Professional Responsibility and shall subscribe the oath or affirmation of a certified interpreter.

(1)(F) "Code of Professional Responsibility" means the Code of Professional Responsibility for Court Interpreters set forth in Code of Judicial Administration Appendix H. An interpreter may not be required to act contrary to law or the Code of Professional Responsibility.

(1)(G) "Legal proceeding" means a proceeding before the appointing authority, court-annexed mediation, communication with court staff, and participation in mandatory court programs. Legal proceeding does not include communication outside the court unless permitted by the appointing authority.

(1)(H) "Limited English proficiency" means the inability to understand or communicate in English at the level of comprehension and expression needed to participate effectively in legal proceedings.

(1)(I) "Registered interpreter I" means a person who interprets in a language in which testing by the Consortium for Language Access in the Courts or Language Testing International is not available and who has fulfilled the requirements established in paragraph (3) other than paragraph (3)(A)(v).

(1)(J) "Registered interpreter II" means a person who interprets in a language in which testing by the Consortium for Language Access in the Courts or Language Testing International is available and who has fulfilled the requirements established in paragraph (3) other than paragraph (3)(A)(v).

(1) (K) "Testing" means using an organization approved by the committee that uses the American Council on the Teaching of Foreign Languages (ACTFL) scale.

(2) Court Interpreter Language Access Committee. The Court Interpreter Language Access Committee shall:

(2)(A) research, develop and recommend to the Judicial Council policies and procedures for interpretation in legal proceedings and translation of printed materials;

(2)(B) issue informal opinions to questions regarding the Code of Professional Responsibility, which is evidence of good-faith compliance with the Code; and

(2)(C) discipline court interpreters.

(3) Application, training, testing, roster.

(3)(A) Subject to the availability of funding, and in consultation with the committee, the administrative office of the courts shall establish programs to certify and approve court interpreters in English and the non-English languages most frequently needed in the courts. The administrative office shall publish a roster of certified, approved, and registered interpreters ~~and a roster of approved interpreters~~. To be certified, ~~or approved~~ or registered, an applicant shall:

(3)(A)(i) file an application form approved by the administrative office;

(3)(A)(ii) pay a fee established by the Judicial Council;

(3)(A)(iii) pass a background check;

(3)(A)(iv) complete training as required by the administrative office;

(3)(A)(v) obtain a passing score on the court interpreter's test(s) as required by the administrative office;

(3)(A)(vi) complete 10 hours observing a certified interpreter in a legal proceeding; and

(3)(A)(vii) take and subscribe the following oath or affirmation: "I will make a true and impartial interpretation using my best skills and judgment in accordance with the Code of Professional Responsibility."

(3)(B) A person who is certified in good standing by the federal courts or by a state having a certification program that is equivalent to the program established under this rule may be certified without complying with paragraphs (3)(A)(iv) through (3)(A)(vii) but shall pass an ethics examination and otherwise meet the requirements of this rule.

(3)(C) No later than December 31 of each even-numbered calendar year, certified, ~~and approved, and registered~~ interpreters shall pass the background check for applicants, and certified interpreters shall complete at least 16 hours of continuing education approved by the administrative office of the courts.

(4) Appointment.

(4)(A) Except as provided in paragraphs (4)(B), (4)(C) and (4)(D), if the appointing authority determines that a party, witness, victim or person who will be bound by the legal proceeding has a primary language other than English and limited English

91 proficiency, the appointing authority shall appoint a certified interpreter in all legal  
92 proceedings. A person requesting an interpreter is presumed to be a person of limited  
93 English proficiency.

94 (4)(B) An approved interpreter may be appointed if no certified interpreter is  
95 reasonably available.

96 (4)(C) A registered interpreter may be appointed if no certified or approved  
97 interpreter is reasonably available.

98 (4)(D) A conditionally-approved interpreter may be appointed if the appointing  
99 authority, after evaluating the totality of the circumstances, finds that:

100 (4)(D)(i) the prospective interpreter has language skills, knowledge of interpreting  
101 techniques and familiarity with interpreting sufficient to interpret the legal proceeding;  
102 and

103 (4)(D)(ii) appointment of the prospective interpreter does not present a real or  
104 perceived conflict of interest or appearance of bias; and

105 (4)(D)(iii) a certified, approved, or registered interpreter is not reasonably available  
106 or the gravity of the legal proceeding and the potential consequence to the person are  
107 so minor that delays in obtaining a certified or approved interpreter are not justified.

108 (4)(E) The appointing authority may appoint an interpreter with certified or approved  
109 or equivalent credentials from another state if the appointing authority finds that the  
110 approved, registered or conditionally approved interpreters who are reasonably  
111 available do not have the language skills, knowledge of interpreting techniques, or  
112 familiarity with interpreting sufficient to interpret the legal proceeding. The appointing  
113 authority may consider the totality of the circumstances, including the complexity or  
114 gravity of the legal proceeding, the potential consequences to the person of limited  
115 English proficiency, and any other relevant factor.

116 ~~(4)(E)~~ (4)(F) No interpreter is needed for a direct verbal exchange between the  
117 person and court staff if the court staff can fluently speak the language understood by  
118 the person and the employee is acting within guidelines established in the Human  
119 Resources Policies and Procedures. An approved, registered or conditionally approved

interpreter may be appointed if the court staff does not speak the language understood by the person.

~~(4)(F)~~ (4)(G) The appointing authority will appoint one interpreter for all participants with limited English proficiency, unless the judge determines that the participants have adverse interests, or that due process, confidentiality, the length of the legal proceeding or other circumstances require that there be additional interpreters.

~~(4)(G)~~ (4)(H) A person whose request for an interpreter has been denied may apply to review the denial. The application shall be decided by the presiding judge. If there is no presiding judge or if the presiding judge is unavailable, the clerk of the court shall refer the application to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the denial.

(5) Payment.

(5)(A) The ~~interpreter fees and expenses~~ for language access shall be paid by the administrative office of the courts in courts of record and by the government that funds the court in courts not of record. The court may assess the ~~interpreter fees and expenses~~ as costs to a party as otherwise provided by law. (Utah Constitution, Article I, Section 12, Utah Code Sections 77-1-6(2)(b), 77-18-7, 77-32a-1, 77-32a-2, 77-32a-3, 78B-1-146(3), and URCP 54(d)(2), and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and regulations and guidance adopted under that title.)

(5)(B) A person who has been ordered to pay ~~for an interpreter fees and expenses~~ for language access ~~after filing an affidavit of impecuniosity~~ may apply to the presiding judge to review the order. If there is no presiding judge, the person may apply to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the ~~denial~~ order.

(6) Waiver. A person may waive an interpreter if the appointing authority approves the waiver after determining that the waiver has been made knowingly and voluntarily. A person may retract a waiver and request an interpreter at any time. An interpreter is for the benefit of the court as well as for the non-English speaking person, so the appointing authority may reject a waiver.



(7) Removal from legal proceeding. The appointing authority may remove an interpreter from the legal proceeding for failing to appear as scheduled, for inability to interpret adequately, including a self-reported inability, and for other just cause.

(8) Discipline.

(8)(A) An interpreter may be disciplined for:

(8)(A)(i) knowingly making a false interpretation in a legal proceeding;

(8)(A)(ii) knowingly disclosing confidential or privileged information obtained in a legal proceeding;

(8)(A)(iii) knowingly failing to follow standards prescribed by law, the Code of Professional Responsibility and this rule;

(8)(A)(iv) failing to pass a background check;

(8)(A)(v) failing to meet continuing education requirements;

(8)(A)(vi) conduct or omissions resulting in discipline by another jurisdiction; and

(8)(A)(vii) failing to appear as scheduled without good cause.

(8)(B) Discipline may include:

(8)(B)(i) permanent loss of certified or approved credentials;

(8)(B)(ii) temporary loss of certified or approved credentials with conditions for reinstatement;

(8)(B)(iii) suspension from the roster of certified or approved interpreters with conditions for reinstatement;

(8)(B)(vi) prohibition from serving as a conditionally approved interpreter;

(8)(B)(v) suspension from serving as a conditionally approved interpreter with conditions for reinstatement; and

(8)(B)(vi) reprimand.

~~(8)(C) Any person may file a complaint in writing on a form provided by the program manager. The complaint may be in the native language of the complainant, which the AOC shall translate in accordance with this rule. The complaint shall describe in detail the incident and the alleged conduct or omission. The program manager may dismiss the complaint if it is plainly frivolous, insufficiently clear, or alleges conduct that does not~~

~~violate this rule. If the complaint is not dismissed, the program manager shall mail the complaint to the interpreter at the address on file with the administrative office.~~

(9) Complaints.

(9)(A) Any person may file a complaint about a matter for which an interpreter can be disciplined. A party, witness, victim or person who will be bound by a legal proceeding, may file a complaint about the misapplication of this rule.

(9)(B) The complaint shall allege an act or omission for which an interpreter can be disciplined or that violates this rule. The complaint shall be in writing and signed and filed with the program coordinator. The complaint may be in the native language of the complainant, which the AOC shall translate in accordance with this rule. The complaint shall describe the circumstances of the act or omission, including the date, time, location and nature of the incident and the persons involved.

(9)(C) The program coordinator may dismiss the complaint if it is plainly frivolous, insufficiently clear, or does not allege an act or omission act or omission for which an interpreter can be disciplined or that does not violate this rule.

(9)(D) If the complaint alleges that the court did not provide language access as required by this rule, the program coordinator shall investigate and recommend corrective actions that are warranted.

(9)(E) If the complaint alleges an act or omission for which the interpreter can be disciplined, the program coordinator shall mail the complaint to the interpreter at the address on file with the administrative office of the courts and proceed as follows:

~~(8)(D)~~ (9)(E)(i) The interpreter shall answer the complaint within 30 days after the date the complaint is mailed or the allegations in the complaint are ~~considered~~ deemed true and correct. The answer shall admit, deny or further explain each allegation in the complaint.

~~(8)(E)~~ (9)(E)(ii) The program ~~manager-coordinator~~ may review records and interview the complainant, the interpreter and witnesses. After considering all factors, the program ~~manager-coordinator~~ may propose a resolution, which the interpreter may stipulate to. The program ~~manager-coordinator~~ may consider aggravating and mitigating circumstances such as the severity of the violation, the repeated nature of violations,

the potential of the violation to harm a person's rights, the interpreter's work record, prior discipline, and the effect on court operations.

~~(8)(F)-(9)(E)(iii)~~ If the complaint is not resolved by stipulation, the program manager coordinator will notify the committee, which shall hold a hearing. The committee chair and at least one interpreter member must attend. If a committee member is the complainant or the interpreter, the committee member is recused. The program manager-coordinator shall mail notice of the date, time and place of the hearing to the interpreter. The hearing is closed to the public. Committee members and staff may not disclose or discuss information or materials outside of the meeting except with others who participated in the meeting or with a member of the Committee. The committee may review records and interview the interpreter, the complainant and witnesses. A record of the proceedings shall be maintained but is not public.

~~(8)(G)-(9)(E)(iv)~~ The committee shall decide whether there is sufficient evidence of the alleged conduct or omission, whether the conduct or omission violates this rule, and the discipline, if any. The chair shall issue a written decision on behalf of the committee within 30 days after the hearing. The program manager-coordinator shall mail a copy of the decision to the interpreter.

~~(8)(H)-(9)(E)(v)~~ The interpreter may review and, upon payment of the required fee, obtain a copy of any records to be used by the committee. The interpreter may attend all of the hearing except the committee's deliberations. The interpreter may be represented by counsel and shall be permitted to make a statement, call and interview the complainant and witnesses, and comment on the claims and evidence. The interpreter may obtain a copy of the record of the hearing upon payment of the required fee.

~~(8)(I)-(9)(E)(vi)~~ If the interpreter is certified in Utah under Paragraph (3)(B), the committee shall report the findings and sanction to the certification authority in the other jurisdiction.

~~(9)-(10)~~ Fees.

~~(9)(A)-(10)(A)~~ In April of each year the Judicial Council shall set the fees and expenses to be paid to interpreters during the following fiscal year by the courts of

record. Payment of fees and expenses shall be made in accordance with the Courts Accounting Manual.

~~(9)(B)~~ (10)(B) The local government that funds a court not of record shall set the fees and expenses to be paid to interpreters by that court.

~~(10)~~ (11) Translation of court forms. Forms must be translated by a team of at least two people who are interpreters certified under this rule or translators accredited by the American Translators Association.

~~(11)~~ (12) Court employees as interpreters. A court employee may not interpret legal proceedings except as follows.

~~(11)(A)~~ (12)(A) A court may hire an employee ~~to be an~~ interpreter. The employee will be paid the wages and benefits of the employee's grade and not the fee established by this rule. If the language is a language for which certification in Utah is available, the employee must be a certified interpreter. If the language is a language for which certification in Utah is not available, the employee must be an approved interpreter. The employee must meet the continuing education requirements of an employee, but at least half of the minimum requirement must be in improving interpreting skills. The employee is subject to the discipline process for court personnel, but the grounds for discipline include those listed in this rule.

~~(11)(B)~~ (12)(B) A state court employee employed as an interpreter has the rights and responsibilities provided in the Utah state court human resource policies, including the Code of Personal Conduct, and the Court Interpreters' Code of Professional Responsibility also applies. A justice court employee employed as an interpreter has the rights and responsibilities provided in the county or municipal human resource policies, including any code of conduct, and the Court Interpreters' Code of Professional Responsibility also applies.

~~(11)(C)~~ (12)(C) A court may use an employee as a conditionally-approved interpreter under paragraph (4)(C). The employee will be paid the wage and benefits of the employee's grade and not the fee established by this rule.

**Rule 3-402. Human resources administration.**

**Intent:**

To establish guidelines for the administration of a human resources system for the judiciary.

**Applicability:**

This rule shall apply to all state employees in the judicial branch.

**Statement of the Rule:**

(1) A department of human resources is established within the Administrative Office to direct and coordinate the human resources activities of the judiciary.

(2) The department of human resources shall provide the necessary human resources services to the judiciary in compliance with the state constitution, state statute and this Code. The department of human resources shall keep all state employees in the judicial branch informed of benefits, compensation, retirement and other human resources related matters.

(3) The human resources policies and procedures for non-judicial employees:

(3)(A) shall include classification of exempt and non-exempt positions, guidelines governing recruitment, selection, classification, compensation, working conditions, grievances and other areas deemed necessary; and

(3)(B) shall be based upon the following merit principles:

(3)(B)(i) The recruitment, selection and promotion of employees is based on relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment.

(3)(B)(ii) A salary schedule which provides for equitable and adequate compensation based upon studies conducted every three years of the salary levels of comparable positions in both the public and private sector and available funds.

(3)(B)(iii) Employee retention on the basis of adequate performance. Where appropriate, provision will be made for correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.

(3)(B)(iv) Fair treatment in all aspects of human resources administration without regard to race, color, religion, sex, national origin, age, creed, disability, political

31 affiliation or other nonmerit factors and proper regard for employees' constitutional and  
32 statutory rights as citizens.

33 (3)(B)(v) Notification to employees and an explanation of their political rights and  
34 prohibited employment practices.

35 (4) The state court level administrator shall be responsible for the day-to-day  
36 administration of the human resources system within that court level. A director of  
37 human resources, appointed by the State Court Administrator, shall be responsible for  
38 directing and coordinating the human resources activities of the human resources  
39 system and will assist the state level administrators and court executives with human  
40 resources related matters.

41 (5) Human resources policies and procedures and a Code of Ethics for non-judicial  
42 employees shall be adopted by the Council in accordance with the rulemaking  
43 provisions of this Code and shall be reviewed every three years.

44 (5)(A) There is established a human resources policy and procedure review  
45 committee responsible for making and reviewing proposals for repealing human  
46 resources policies and procedures and promulgating new and amended human  
47 resources policies and procedures. The committee shall consist of:

48 (5)(A)(i) the director of human resources;

49 (5)(A)(ii) two trial court executives;

50 (5)(A)(iii) a district court clerk of court;

51 (5)(A)(iv) a juvenile court clerk of court;

52 (5)(A)(v) a probation supervisor from the juvenile court; and

53 (5)(A)(vi) an assistant clerk of court from the district court or circuit court.

54 (5)(B) The chair of the committee shall be designated by the director in consultation  
55 with the state court administrator. Other members of the committee shall be appointed  
56 in a manner consistent with Rule 1-205. The department of human resources shall  
57 provide necessary support.

58 (5)(C) New and amended policies and procedures recommended by the committee  
59 shall be reviewed by the court executives prior to being submitted to the Judicial

Council. The Court Executives may endorse or amend the draft policies and procedures or return the draft policies and procedures to the committee for further consideration.

(6) A ~~career-service-review board~~ grievance review panel is established within the grievance process to sit as a quasi-judicial body and review any action taken under the authority of the judiciary's human resources procedures and which pertains to employee promotions, dismissals, demotions, wages, salary, violations of human resources rules, benefits, reductions in force and disciplinary actions.

(7) An official human resources file for each employee shall be maintained in the Administrative Office and shall include the following records: leave records, education records, biographical information, performance plans and appraisals, records of official human resources action, records of official disciplinary action and supporting documentation, letters of commendation, job applications and payroll and benefits information.

**Rule 4-110. Transfer of juvenile traffic cases from ~~D~~district and ~~J~~justice  
Gcourts to the ~~J~~juvenile Gcourt.**

Intent:

To establish criteria and procedures for transferring juvenile traffic cases from the district and justice courts to the juvenile court for post-judgment proceedings.

Applicability:

This rule applies to juvenile, district and justice courts.

Statement of the Rule:

(1) The justice court may transfer a criminal matter in which the defendant is a minor to the juvenile court under Section 78A-7-106.

~~(1) Juvenile traffic cases may be transferred from the~~ (2) The district and justice courts may transfer a traffic matter in which the defendant is a minor to the juvenile court for post-judgment proceedings if:

(2)(A) the case has been adjudicated, either by the entry of a guilty plea or by a trial on the merits; and all of the following conditions exist;

~~(2)(A) T~~ (2)(B) there is an outstanding fine or restitution obligation or a compensatory service order; and

~~(2)(B) R~~ (2)(C) reasonable collection efforts have been made, including the issuance of an order to show cause or bench warrant; and

~~(2)(C) A~~ (2)(D) an order has been issued to the State Driver's License Division suspending the juvenile's minor's driver's license; and

~~(2)(D) T~~ (2)(E) the juvenile minor is in contempt of the district or justice court.

~~(2) (3)~~ Fine revenue generated by the juvenile court in cases transferred for post-judgment proceedings shall be considered is state revenue.

~~(3) (4)~~ Cases transferred from the district or justice court shall be accompanied by an order of transfer and a mailing certificate verifying that a copy of the order was mailed to the juvenile minor and, where available, to the juvenile's minor's parent, guardian or custodian.



**Rule 4-404. Jury selection and service.**

**Intent:**

To identify the source lists from which the master jury list is built.

To establish a uniform procedure for jury selection, qualification, and service.

To establish administrative responsibility for jury selection.

To ensure that jurors are well informed of the purpose and nature of the obligations of their service at each stage of the proceedings.

**Applicability:**

This rule shall apply to all trial courts.

**Statement of the Rule:**

(1) Master jury list and jury source lists; periodic review.

(1)(A) The state court administrator shall maintain for each county a master jury list as defined by the Utah Code.

(1)(B) The master jury list for each county shall be a compilation of the following source lists:

(1)(B)(i) driver licenses and identification cards for citizens of the United States 18 years of age and older from the Drivers License Division of the Department of Public Safety; and

(1)(B)(ii) the official register of voters from the Elections Division of the Office of the Lt. Governor.

(1)(C) The Judicial Council may use additional source lists to improve the inclusiveness of the master jury list for a county.

(1)(D) At least twice per year the state court administrator shall obtain from the person responsible for maintaining each source list a new edition of the list reflecting any additions, deletions, and amendments to the list. The state court administrator shall renew the master jury list for each county by incorporating the new or changed information.

(1)(E) The master jury list shall contain the name, address, and date of birth for each person listed and any other identifying or demographic information deemed necessary

30 by the state court administrator. The state court administrator shall maintain the master  
31 list on a data base accessible to the district courts and justice courts of the state.

32 (1)(F) The state court administrator shall compare the number of persons on each  
33 master jury list for a county with the population of the county 18 years of age and older  
34 as reported by the Economic and Demographic Data Projections published for the year  
35 by the Office of Planning and Budget. The state court administrator shall report the  
36 comparison to the Judicial Council at its October meeting during even numbered years.  
37 The sole purpose of this report is to improve, if necessary, the inclusiveness of the  
38 master jury list.

39 (2) Term of service and term of availability of jurors.

40 (2)(A) The following shall constitute satisfactory completion of a term of service of a  
41 juror:

42 (2)(A)(i) service-serving on a jury panel for one trial whether as a primary or alternate  
43 juror regardless of whether the jury is called upon to deliberate or return a verdict;

44 (2)(A)(ii) reporting once to the courthouse for potential service as a juror;

45 (2)(A)(iii) complying with a summons as directed, even if not directed to report to the  
46 courthouse; or

47 (2)(A)(iii) expiration of the term of availability.

48 (2)(B) The term of availability of jurors shall be as follows, unless a shorter term is  
49 ordered by the court:

50 (2)(B)(i) one month for the trial courts of record in Salt Lake county;

51 (2)(B)(ii) three months for the trial courts of record in Davis, Utah, and Weber  
52 counties; and

53 (2)(B)(iii) six months for all other courts ~~unless otherwise ordered by the court.~~

54 (3) Random selection procedures.

55 (3)(A) Random selection procedures shall be used in selecting persons from the  
56 master jury list for the qualified jury list.

57 (3)(B) Courts may depart from the principal principle of random selection in order to  
58 excuse or postpone a juror in accordance with statute or these rules and to remove  
59 jurors challenged for cause or peremptorily.

(4) Qualified jury list.

(4)(A) For each term of availability as defined above, the state court administrator shall provide, based on a random selection, to the court the number of jurors requested by that court. This shall be the list from which the court qualifies prospective jurors. The names of prospective jurors shall be delivered to the requesting court in the random order in which they were selected from the master jury list. The court shall maintain that random order through summons, assignment to panels, selection for voir dire, peremptory challenges, and final call to serve as a juror; or the court may rerandomize the names of jurors at any step.

(4)(B) For each term of availability the court should request no more than the number of prospective jurors reasonably calculated to permit the selection of a full jury panel with alternates if applicable for each trial scheduled or likely to be scheduled during the term. The number of prospective jurors requested should be based upon the size of the panel plus any alternates plus the total number of peremptory challenges plus the anticipated number of prospective jurors to be postponed, excused from service or removed for cause less the number of jurors postponed to that term.

(4)(C) The clerk of the court shall mail to each prospective juror a qualification form. The prospective juror shall file the answers to the questions with the clerk within ten days after it is received. The state court administrator shall develop a uniform form for use by all courts. In addition to the information required by statute, the qualification form shall contain information regarding the length of service, and procedures and grounds for requesting an excuse or postponement.

(4)(D) If a prospective juror is unable to complete the answers, they may be completed by another person. The person completing the answers shall indicate that fact.

(4)(E) If the clerk determines that there is an omission, ambiguity, or error in the answers, the clerk shall return the form to the prospective juror with instructions to make the necessary addition, clarification, or correction and to file the answers with the clerk within ten days after it is received.

89 (4)(F) The clerk shall review all answers and record the prospective juror as qualified  
90 or disqualified as defined by statute.

91 (4)(G) The clerk shall notify the state court administrator of any determination that a  
92 prospective juror is not qualified to serve as a juror, and the state court administrator  
93 shall accordingly update the master jury list.

94 (4)(H) A prospective juror whose qualification form is returned by the United States  
95 Postal Service as "undeliverable," or "moved - left no forwarding address," or  
96 "addressee unknown," or other similar statement, shall not be pursued further by the  
97 clerk. The clerk shall notify the state court administrator who shall accordingly update  
98 the master jury list.

99 (4)(I) If a prospective juror fails to respond to the qualification questionnaire and the  
100 form is not returned by the U.S. Postal Service as undeliverable, the clerk shall mail the  
101 qualification form a second time with a notice that failure to answer the questions may  
102 result in a court order requiring the prospective juror to appear in person before the  
103 clerk to complete the qualification form. If a prospective juror fails to answer the  
104 questions after the second mailing, the qualification form and a summons may be  
105 delivered to the sheriff for personal service upon the prospective juror. The summons  
106 shall require the prospective juror to answer the questions and file them with the court  
107 within ten days or to appear before the clerk to prepare the form. Any prospective juror  
108 who fails to answer the questions or to appear as ordered shall be subject to the  
109 sanctions set forth in the Utah Code.

110 (5) Excuse or postponement from service.

111 (5)(A) No competent juror is exempt from service.

112 (5)(B) Persons on the qualified juror list may be excused from jury service, either  
113 before or after summons, for undue hardship, public necessity or because the person is  
114 incapable of jury service under the Utah Code. The court shall make reasonable  
115 accommodations for any prospective juror with a disability. Excuse from jury service  
116 satisfies the prospective juror's statutory service obligation.

117 (5)(C) A prospective juror may be postponed to later in the term or to a future term  
118 for good cause.

(5)(D) Without more, being enrolled as a full or part-time post-high school student is not sufficient grounds for excuse from service.

(5)(E) Disposition of a request for excuse from service or postponement may be made by the judge presiding at the trial to which panel the prospective juror is assigned, the presiding judge of the court, or the judge designated by the presiding judge for that purpose. The presiding judge may establish written standards by which the clerk may dispose of requests for excuse from service or postponement.

(6) Summons from the qualified jury list.

(6)(A) After consultation with the judges or the presiding judge of the court, the clerk shall determine the number of jurors needed for a particular day. The number of prospective jurors summoned should be based upon the number of panels, size of the panels, any alternates, the total number of peremptory challenges plus the anticipated number of prospective jurors to be postponed, excused from service or removed for cause. The clerk shall summon the smallest number of prospective jurors reasonably necessary to select a trial jury.

(6)(B) The judge may direct that additional jurors be summoned if, because of the notoriety of the case or other exceptional circumstances, the judge anticipates numerous challenges for cause.

(6)(C)(i) The summons may be by first class mail delivered to the address provided on the juror qualification form or by telephone.

(6)(C)(ii) Mailed summonses shall be on a form approved by the state court administrator. The summons may direct the prospective juror to appear at a date, time, and place certain or may direct the prospective juror to telephone the court for further information. The summons shall direct the prospective juror to present the summons for payment. The summons may contain other information determined to be useful to a prospective juror.

(6)(C)(iii) If summons is made by telephone, the clerk shall follow the procedures of paragraph (9) of this rule.

(7) Assignment of qualified prospective jurors to panels. Qualified jurors may be assigned to panels in the random order in which they appear on the qualified jury list or

may be selected in any other random order. If a prospective juror is removed from one panel, that prospective juror may be reassigned to another panel if the need exists and if there are no prospective jurors remaining unassigned.

(8) Selection of prospective jurors for voir dire. Qualified jurors may be selected for voir dire in the random order in which they appear on the qualified jury list, or may be selected in any other random order.

(9) Calling additional jurors. If there is an insufficient number of prospective jurors to fill all jury panels, the judge shall direct the clerk to summon from the qualified jury list such additional jurors as necessary. The clerk shall make every reasonable effort to contact the prospective jurors in the order listed on the qualified jury list. If after reasonable efforts the clerk fails to contact a juror, the clerk shall attempt to contact the next juror on the list. If the clerk is unable to obtain a sufficient number of jurors in a reasonable period of time, the court may use any lawful method for acquiring a jury.

**Rule 4-508. Guidelines for ruling on a motion to waive fees.**

**Intent:**

To promote statewide consistency in deciding motions to waive fees in civil cases and in the expungement of criminal records in which the moving party is not a prisoner.

To promote statewide consistency in deciding motions to waive fees in juvenile court cases in which the moving party is not a prisoner.

Nothing in this rule should be interpreted as limiting the discretion of the judge to decide a motion to waive fees.

**Applicability:**

This rule applies to all civil and small claims cases and in the expungement of criminal records in which the moving party is not a prisoner.

This rule applies to all juvenile court cases in which the moving party is not a prisoner.

As used in this rule "fee waiver" and similar phrases include waiving the fee in full or in part, as may be ordered by the judge.

**Statement of the Rule:**

(1) The moving party must complete a motion to waive fees and a financial affidavit approved by the Board of District Court Judges or, in the juvenile court, by the Board of Juvenile Court Judges. The moving party must provide supporting documentation of the claims made in the affidavit. In juvenile court, the minor or a minor's parent, guardian or authorized representative may move to waive fees.

(2) Upon the filing of a motion to waive fees and financial affidavit, the court, sheriff or any other provider of a service offered by or through a government entity shall do what is necessary and proper as promptly as if the fee had been fully paid.

(3) A motion to waive fees may be decided without notice to the other parties, requires no response, request to submit for decision or hearing. The court will review the affidavit and make an independent determination whether the fee should be waived. The court should apply a common sense standard to the information and evaluate whether the information is complete, consistent and true. Section 78A-2-304 requires a

30 party to pay a full or partial fee if the financial affidavit and any further questioning  
31 demonstrate the party is reasonably able to pay a fee.

32 (4) In general, a party is reasonably able to pay a fee if:

33 (4)(A) gross monthly income exceeds 100% of the poverty guidelines updated  
34 periodically in the Federal Register by the U.S. Department of Health and Human  
35 Services under the authority of 42 U.S.C. 9902(2).

36 (4)(B) the moving party has liquid assets that can be used to pay the fee without  
37 harming the party's financial position;

38 (4)(C) the moving party has credit that can be used to pay the fee without harming  
39 the party's financial position;

40 (4)(D) the moving party has assets that can be liquidated or borrowed against  
41 without harming the party's financial position;

42 (4)(E) expenses are less than net income;

43 (4)(F) Section 30-3-3 applies and the court orders another party to pay the fee of the  
44 moving party; or

45 (4)(G) in the judge's discretion, the moving party is reasonably able to pay some part  
46 of the fee.

47 (5) If the moving party is represented by private counsel, the motion to waive fees  
48 may be granted in proportion to the attorney's discount of the attorney fee. The moving  
49 party's attorney must provide an affidavit describing the fee agreement and what  
50 percentage of the attorney's normal, full fee is represented by the discounted fee.

51 (6) A motion to waive fees should be ruled upon within ten days after being filed.

52 (6)(A) If the fee is fully waived, the court, sheriff or any other provider of a service  
53 offered by or through a government entity shall do what is necessary and proper as  
54 promptly as if the fee had been fully paid.

55 (6)(B) If the fee is not fully waived, the court, sheriff or any other provider of a service  
56 offered by or through a government entity may require payment of the fee before doing  
57 what is necessary and proper. If the service has already been performed, the court,  
58 sheriff or service provider may do what is necessary and proper to collect the fee,  
59 including dismissal of the case.



60 (6)(C) If the fee is not fully waived, the court shall notify the party in writing of the fee  
61 amount, the procedure to challenge the fee; the consequences of failing to pay the fee.

62 (6)(D) If the motion is rejected because of a technical error, such as failure to  
63 complete a form correctly or to attach supporting documentation, the court shall notify  
64 the moving party, and the moving party may file a corrected motion and affidavit within  
65 14 days after being notified of the decision.

66 (7) In addition to any statutory remedies, an order granting a fee waiver may be  
67 reviewed at any time if the court has jurisdiction of the case. If the court determines,  
68 after waiving a fee, that the moving party is reasonably able to pay the fee, including  
69 from the proceeds of a judgment, the court may modify its previous order. The court  
70 may allocate the fee among the parties under Utah Rule of Civil Procedure 54, Utah  
71 Code Section 30-3-3, or as otherwise provided by law.

Rule 4-408.01.

**Rule 4-408.01. Responsibility for administration of trial courts.**

Intent:

To designate the court locations administered directly through the administrative office of the courts and those administered through contract with local government.

Applicability:

This rule shall apply to the trial courts of record and to the administrative office of the courts.

Statement of the Rule:

(1) All locations of the juvenile court shall be administered directly through the administrative office of the courts.

(2) All locations of the district court shall be administered directly through the administrative office of the courts, except the following, which shall be administered through contract with county or municipal government: Fillmore, Junction, Kanab, Loa, Manila, Morgan, Panguitch, Randolph, and Salem.

# TAB 8

**Memorandum**

**To:** Judicial Council  
**From:** Tom Langhorne  
**Date:** August 19, 2013  
**RE:** Standing Education Committee Vacancy Appointment

During the August 16, 2013 Management Committee meeting, three nominations were presented to replace a standing education committee vacancy. The Management Committee selected Amanda Acevedo, judicial assistant to Judge Todd Shaughnessy, to fill the vacancy. Her resume is attached.

Amanda Acevedo

801-238-7383

amandako@utcourts.gov

#### PROFESSIONAL PROFILE

I have five years cumulative experience working in the Judicial system.

Intermediate to advanced skills with Microsoft Office Programs

Intermediate skills with Workspace and Efiling programs

Intermediate skills with Adobe products

Comfortable with computers, learn new programs quickly

#### PROFESSIONAL EXPERIENCE

Third District Court, Salt Lake City, UT

Judicial Assistant II October 2011 - Present

Judicial Service Representative June 2011-October 2011

#### Achievements:

Employee Recognition Award for creating a training presentation on PowerPoint

Employee Recognition Award for creating a back up duties plan

#### Responsibilities:

Process paper and efiled documents timely and efficiently

Assist legal community and pro se parties with questions

Balance and maintain court calendar

Prepare necessary documents for hearings

Turn on and monitor the court recordings during hearings

Clark County Courts, Las Vegas, NV

Administrative Assistant

November 2006 - June 2009

#### Achievements:

Received Recognition Award for assisting the Judicial Legislative Committee

Amanda resume (2).txt

Assisted with and was a key component to the successful transition from county clerk to a Clerk of Court

Responsibilities:

Schedule meetings and appointments for the Clerk of Court and the Court Executive Officer

Take accurate meeting minutes and distribute to appropriate committee members in a timely fashion

Assist the Specialty Court Judges with creating and presenting PowerPoint presentations and creating handouts for national conferences

Assist Judges in the District and Justice court with making arrangements to attend, travel to and seek reimbursements for national conferences, continuing education opportunities, and visiting other courts.

EDUCATION

College of Southern Idaho, Twin Falls, ID

Sept 1997 to May 2000 Cumulative GPA: 3.9

Studied Pre-Law and Mortuary Sciences On the Deans List 1997-2000

□

# Utah Court of Appeals

Chambers of  
Judge Carolyn B. McHugh

450 South State Street  
Salt Lake City, Utah 84114 - 0230  
(801) 578-3950  
FAX (801) 238-7981

September 4, 2013

Chief Justice Matthew B. Durant  
Chairperson, Utah Judicial Council  
Matheson Courthouse, 450 South State Street  
Salt Lake City, Utah 84111

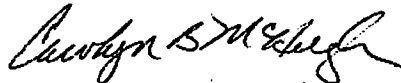
Re: Standing Committee on Technology Membership

Dear Chief Justice Durant:

As you are aware, I serve as the chairperson of the Standing Committee on Court Technology. The Committee develops and then recommends to the Judicial Council, plans, priorities, and strategies that guide and govern technology as applied to Utah's courts and management structure. At present, there is a vacancy on the Committee due to the departure of the member representing the Utah State Bar Association.

The Bar Association has forwarded three names for consideration for this position. The Management Committee has reviewed the list of nominees and has asked that the Council approve the nomination of Bently Tolk to serve on the Technology Committee.

Sincerely,



Carolyn B. McHugh  
Presiding Judge,  
Utah Court of Appeals

cc: Ron Bowmaster



## Administrative Office of the Courts

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

September 4, 2013

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

### MEMORANDUM

**TO: Management Committee  
Utah Judicial Council**

**FROM: Judge Carolyn McHugh, Chair, Standing Committee on Judicial Outreach**

**RE: Committee Appointments**

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Two terms on the Standing Committee on Judicial Outreach expired in June 2013.

1. Justice Court Judge Representative: Judge John Baxter has served as the Justice Court representative for two terms and no longer qualifies to serve. The Justice Court Board submitted four names\* for consideration to fill the vacancy. The Management Committee selected Judge Catherine Roberts, Salt Lake City Justice Court, to fill the vacancy.
2. State Level Administrator Representative: Brent Johnson has served as the state level administrator representative for two terms and is willing to serve another term. According to the rule, members are limited to two terms; a third term is possible but would need to be supported by a showing of exceptional circumstances. Mr. Johnson chairs the Diversity Subcommittee of the Judicial Outreach Committee and his continued representation in that position is essential to lending continuity to the completion of ongoing projects and providing his expertise on the ethical limitations of the judiciary.

#### **Rule 3-114. Judicial Outreach Standing Committee on Judicial Outreach**

Intent of the committee:

- To foster a greater role for judges in service to the community.
- To provide leadership and resources for outreach.
- To improve public trust and confidence in the judiciary.

\*Judge Gus Chin, Holladay Justice Court, Judge Sherlyn Fenstermaker, Springville and Mapleton justice courts, Judge Ivo Peterson, Ephraim, Fairview, Fountain Green, Gunnison, Manti, Mt. Pleasant, Moroni, and Spring City justice courts

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