

JUDICIAL COUNCIL MEETING

AGENDA

Monday, October 27, 2014

Judicial Council Room

Matheson Courthouse

Salt Lake City, Utah

Chief Justice Matthew B. Durrant, Presiding

1. 9:00 a.m. Welcome & Approval of Minutes Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 9:05 a.m. New Member – Oath of Office. Chief Justice Matthew B. Durrant
3. 9:10 a.m. Chair’s Report. Chief Justice Matthew B. Durrant
4. 9:20 a.m. Administrator’s Report. Daniel J. Becker
5. 9:35 a.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant
Liaison Committee. Justice Jill Parrish
Policy and Planning
Bar Commission. John Lund, esq.
(Tab 2 - Information)
6. 9:45 a.m. GAL Oversight Committee Update. Liz Knight
(Tab 3 - Information)
7. 10:05 a.m. Council Committee Appointments. . . . Chief Justice Matthew B. Durrant
(Tab 4 - Action)
8. 10:10 a.m. 2015 Council Calendar Approval. Ray Wahl
(Tab 5 - Action)
9. 10:15 a.m. Legislative Update and Interim Highlights. Rick Schwermer
(Tab 6 - Information)
- 10:30 a.m. Break
10. 10:40 a.m. Open and Public Meeting Law Orientation. Alison Adams-Perlac
(Tab 7 - Information)
11. 10:55 a.m. Rules for Final Action. Alison Adams-Perlac
(Tab 8 - Action)

12. 11:05 a.m. Study Item Charge/Membership. Daniel J. Becker
(Tab 9 - Action)
13. 11:25 a.m. Resources for Self-Represented Parties Committee
Update. Judge Marsha Thomas
(Information) Nancy Sylvester
14. 11:50 a.m. Sunset of Justice Court Standards Committee. Rick Schwermer
(Action)
- Noon Lunch
15. 12:30 p.m. Justice Reinvestment Initiative. Ron Gordon
(Information)
16. 1:00 p.m. Senior Judge Operations Budget. Ray Wahl
(Tab 10 - Action)
17. 1:10 p.m. Executive Session
18. 1:15 p.m. Adjourn

Consent Calendar

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

- | | |
|---|---|
| 1. Committee Appointments
(Tab 11) | Nini Rich
Alison Adams-Perlac
Nancy Sylvester |
| 2. Rules for Public Comment
(Tab 12) | Alison Adams-Perlac |

TAB 1

JUDICIAL COUNCIL MEETING

**Minutes
Tuesday, September 9, 2014
Zermatt Resort
Room
Midway, UT**

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, Vice Chair
Justice Jill Parrish
Hon. James Davis
Hon. Glen Dawson
Hon. George Harmond
Hon. Thomas Higbee
Hon. David Marx
Hon. Paul Maughan
Hon. David Mortensen
Hon. Reed Parkin
Hon. John Sandberg
Hon. Royal Hansen for Hon. Randall Skanchy
John Lund, esq.

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
Dawn Marie Rubio
Debra Moore
Rick Schwermer
Tim Shea
Ron Bowmaster
Nancy Volmer
Nancy Sylvester

GUESTS:

Judge Dennis Fuchs
Judge John Pearce
Judge Reuben Renstrom

EXCUSED:

Judge Randall Skanchy

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

Chief Justice Durrant welcomed everyone to the meeting.

Motion: Judge Parkin moved to approve the minutes from the August 15, 2014 Judicial Council meeting. Judge Davis 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 met with Chief Justice Herb Yazzie, Associate Justice Eleanor Shirley, and other court staff from the Navajo Nation on August 25 during their visit with the Utah courts.

Chief Justice Durrant recognized the outgoing members for their service and contribution to the Council. The outgoing members included: 1) Judge Paul Maughan, and 2) Judge George Harmond.

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

Mr. Becker reported on the following items:

Legislative Meeting. Mr. Becker, Mr. Wahl, Mr. Schwermer and Mr. Byrne met with Mr. Jonathan Ball, Director – Legislative Fiscal Analysts and Mr. Gary Syphus, Legislative Fiscal Analyst. Discussion took place relative to the court's accomplishments, challenges and 2015 budget requests.

Presiding Judges Meeting. A meeting will be held with the presiding judges on September 10 with focus on the following: 1) reviewing budget requests, and 2) court performance measures.

PEW Study Update – Justice Reinvestment Initiative. The three subcommittees – 1) sentencing, 2) release, and 3) supervision and programming reported to the full Commission on Criminal and Juvenile Justice (CCJJ) yesterday with no action taken. The committees will finalize their recommendations and present their findings to CCJJ on October 9, with adoption of the legislative package is expected to take place on November 12.

NCSC Article. Mr. Becker circulated an article published by the National Center for State Courts (NCSC) in the Trends of State Courts publication. The article is entitled *Procedural Fairness Movement Comes of Age*, by Judge Steven Levin, Kansas City Court of Appeals.

O'Connor Judicial Selection Plan. Mr. Becker circulated a press release from the office of former Justice Sandra Day O'Connor relative to her work with the Institute for the Advancement of the American Legal System (IAALS) out of Denver. The O'Connor Judicial Selection Plan – a four-part plan – has been released. Mr. Becker provided an outline of the plan.

Judicial Performance Evaluation Commission (JPEC). Mr. Becker noted that Ms. Slotnik had nothing new to report to the Council today and asked that her update to the Council be rescheduled at a later meeting for a more complete report.

Mr. Schwermer reported on JPEC's September meeting. He highlighted the following from today's JPEC meeting: 1) procedural fairness emphasis; 2) two vacancies existed on the commission – a senate appointment vacancy filled by Gil A. Miller and a governor's appointment – not filled; 3) a professor from UNLV is studying racial, ethnic and gender issues relative to judicial performance evaluation approaches by several states, including Utah; and her submission of GRAMA requests relating to the study; and 4) future public relation efforts of JPEC.

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:

No meeting was held in September.

Policy and Planning Meeting:

Judge Maughan reported on the following items: 1) continued work on performance evaluations of senior judges, 2) finalizing language for the move of the Model Utah Jury Instruction Committees as standing committees under the direction of the Judicial Council, 3) addressing electronic media coverage matters, 4) addressing several rule changes to comply with statute, and 4) several rules to be placed on the October Judicial Council consent calendar.

Bar Commission Report:

Mr. Lund reported on the following items: 1) the Commission held their annual retreat at the end of August; 2) the Commission's list of priorities was developed; 3) Bar operations to include the study of OPC; 4) a look at a new lawyer training program, summer convention and their budget; 5) formation of the Future's Commission; 6) focus on celebrating the Magna Carta; and 7) feature of the Open Legal Services in Utah in the Atlantic Monthly.

The Commission's two priorities included: 1) access to justice with emphasis on growing the pro bono and modest means programs, and 2) advocating for the judiciary.

5. PUBLIC ADDRESS ANNOUNCEMENT: (Nancy Volmer)

Chief Justice Durrant welcomed Ms. Volmer to the meeting.

Ms. Volmer provided background information on the National Association of Women Judges (NAWJ) program entitled *Free and Clear, the Voter's Right to Choose* relative to a video developed by this group to educate voters on the judicial selection/retention process.

A short video entitled *Fair and Free* was shown to members of the Council, which is part of the Informed Voters Project developed by the National Association of Women Judges (NAWJ).

Discussion took place.

Members of the Council agreed that dissemination of the information to the media would be best coming from the Utah State Bar. The information has been forwarded to Judge Robin Reese, chair of the Community Relations Subcommittee, for use in judicial outreach opportunities.

Motion: Judge Higbee moved to refer the program to the Bar to determine the best use of the video entitled *Fair and Free*, with general support in concept by the Judicial Council. Judge Sandberg seconded the motion, and it passed unanimously.

The Council was in agreement to allow the Public Outreach Committee to work directly with the Bar for possible uses of the video in judicial outreach efforts.

6. COMMISSIONER AND SENIOR JUDGE CERTIFICATIONS: (Nancy Sylvester)

Chief Justice Durrant welcomed Ms. Nancy Sylvester to the meeting.

The following court commissioners terms will expire on December 31, 2014; and they have applied for reappointment: 1) Commissioner Anthony Ferdon, and 2) Commissioner Michelle Tack.

Judge Donald Eyre has applied to be appointed as an active senior judge effective with his January 1, 2015 retirement. He meets the minimum performance standards.

Motion: Judge Hornak moved to forward the recommendations, on behalf of the Council, to the Supreme Court to recertify Commissioner Anthony Ferdon and Commissioner Michelle Tack and to certify Judge Donald Eyre as an active senior judge, upon his retirement. Justice Parrish seconded the motion, and it passed unanimously.

7. LEGISLATIVE AND INTERIM HIGHLIGHTS: (Rick Schwermer)

Mr. Schwermer provided a legislative update to the Council. He highlighted the following in his update: 1) legislative interim will be held next week, 2) Judge Toomey's confirmation will be held next week, 3) prison relocation focus of legislative bodies, as well as, CCJJ, PRADA, PEW, 4) reported on meetings being held by the Elected Offices and Judicial Compensation Commission, and 5) judiciary reviewing PEW related sentencing issues.

8. CERTIFICATION OF PROBLEM SOLVING COURTS: (Judge Dennis Fuchs)

Chief Justice Durrant welcomed Judge Fuchs to the meeting.

Judge Fuchs reported that the certification report provided to members of the Council, in a checklist format, is the format that will be used to certify all problem-solving courts in the future. The questions provided on the checklist are based upon NADCP standards.

The following problem-solving courts are being recommended for certification:

Utah County, Provo, Adult Last Chance Drug Court – Judge Brady

Utah County, Provo, Adult Drug Court – Judge Taylor

Weber County, Ogden, Adult Drug Court – Judge DeCaria

Salt Lake County, Salt Lake City, Lower Risk Adult Drug Court – Judge Blanch

Weber County, Ogden, DUI Court – Judge DiReda

Salt Lake County, West Jordan, Adult Drug Court – Judge Kouris

Weber County, Ogden, Ogden Juvenile Drug Court – Judge Noland

Salt Lake County – SLC, Dependency Drug Court – Judge Behrens

Weber County, Ogden, Dependency Drug Court – Judge Sipes

Salt Lake County, SLC, Dependency Drug Court – Judge Hornak

Weber County, Ogden, Dependency Court – Judge Heward

Salt Lake County, SLC, SLC Juvenile Drug Court – Judge Hornak

Salt Lake County, SLC, Dependency Drug Court – Judge Lund

Utah County, Provo, Juvenile Court – Judge Smith

Davis County, Dependency Drug Court – Judge Dillon

Salt Lake County, West Jordan, Dependency Drug Court – Judge Decker

The following drug courts were recommended for conditional certification: 1) Judge Sipes – to allow for additional training, 2) Judge Dillon – to allow for required risk and assessment to be completed, 3) Judge Brady – participant issue, 4) Judge Lund – participant issue, and 5) Judge Blanch – low risk, high needs court – evaluation component to reflect benefits of courts existence.

Discussion took place.

Motion: Judge Parkin moved to approve the certifications of the problem-solving courts in compliance and the five conditionally certified to include the following actions: 1) approve Judge Sipes' and Judge Dillon's problem-solving courts with a six-month provisional certification to allow them to address their courts' organizational and operational issues; 2) approve Judge Brady's and Judge Lund's courts until July 1, 2015 to allow them to increase their participants to the 12-15 standard participant requirement level; and 3) waive the requirement of Judge Blanch's court of a high risk court to a low risk, high needs court during the pilot program phase and evaluation period. Mr. Lund seconded the motion. It passed with Judge Hornak and Mr. Lund recusing themselves from the vote.

9. STANDING COMMITTEE ON TECHNOLOGY UPDATE: (Judge John Pearce and Ron Bowmaster)

Chief Justice Durrant welcomed Judge John Pearce and Mr. Ron Bowmaster to the meeting.

Judge Pearce mentioned that the main focus of the Standing Committee on Technology during 2014 has been to update the committee's strategic plan which hasn't been updated since 2007. To gather information on what should be included in the strategic plan, interviews were conducted with the following groups by Mr. Ron Bowmaster: 1) Board of Juvenile Court

Judges, 2) Board of District Court Judges, 3) Board of Justice Court Judges, 3) AOC staff, 4) Clerks of Court, 5) trial court executives, and 6) members of the Standing Committee on Technology. Several themes emerged during the interview process. Upon reviewing the information gathered during the interview process, the Standing Committee on Technology determined that it was necessary to create four subcommittees to research and refine certain recommendations, to determine what should be included in the updated strategic plan of the Standing Committee on Technology. The four subcommittees created included:

1) Accounting, 2) Scheduling, 3) Electronic Record Retention, and 4) Courtroom Technology.

He mentioned that the strategic plan for the Standing Committee on Technology is in draft form. Judge Pearce provided the following timeline for adopting and gaining approval for the strategic plan: 1) adoption of the plan by the Standing Committee on Technology – October 2014; 2) reviewed and approved by the Management Committee – November 12, 2014; and 3) reviewed and approved by the Judicial Council – December 2014.

Proposed strategic initiatives were presented by each subcommittee. Judge Pearce provided a preview from the four subcommittees.

The strategic initiatives proposed by the Accounting Subcommittee included: 1) create a centralized accounting structure for receipting, deposit, disbursements, and reconciliation; 2) create a centralized juror payment system that is integrated with FINET; and 3) create an electronic interpreters invoice system that is integrated with FINET.

The strategic initiatives proposed by the Scheduling Subcommittee included: 1) create a scheduling system that records completed actions and generates future actions for a case, 2) integrate a court's master calendar with the calendar of individual judges or hearing types, 3) create a single view of court calendars that can be accessed by multiple applications and devices, 4) publish calendar information to minimize scheduling conflicts, and 5) manage case progression by actively monitoring future and overdue actions to take corrective action.

The strategic initiatives proposed by the Electronic Document Retention Subcommittee included: 1) create an automated document management system that permanently retains critical documents and deletes non-critical documents after a certain period of time, and 2) establish a document retention schedule that ensures the availability of documents that are critical to the process of the court.

The strategic initiatives proposed by the Courtroom Technology Subcommittee included: 1) upgrade specified courtrooms with the ability to support remote hearings by video, 2) acquire video conference hardware and software to support HD video conferencing, and 3) establish a procedure to schedule remote video conferences.

Questions were asked relative to a master calendar of hearings including communication between the jail via video conferencing and the poor quality of the system used in the past. Mr. Bowmaster provided clarification on what is being looked at to update the audio visual aspect of the strategic plan of the Standing Committee on Technology.

10. BOARD OF DISTRICT COURT JUDGES UPDATE: (Debra Moore)

Chief Justice Durrant welcomed Ms. Moore to the meeting.

Ms. Moore noted that Judge Allen was unable to attend the meeting.

She highlighted the following in her update, on behalf of the Board of District Court Judges, to include: 1) Judge Allen has enjoyed his time as Board chair, 2) the board's goal to increase judicial outreach efforts among the district bench with the upcoming Constitution Day activities, 2) continuing to work towards progressing in the electronic record transition, especially with the move to e-filing of criminal information effective January 1, 2015; 3) discussion of the Council's future study item—boards consensus to study a pre-trial release item and a second study of mental health, 4) continued updates have been received on the PEW

Justice Reinvestment Initiative, 5) regular updates from AP&P on their efforts to implement evidence-based practices; and 6) reviewed the draft probation incentives and sanctions matrix.

11. COURT COMMISSIONER CONDUCT COMMITTEE UPDATE: (Rick Schwermer)

Mr. Schwermer reported that Judge Christiansen was unable to attend the Council meeting. He highlighted the following in his update: 1) seven complaints were received within the last 12 months, 2) two were dismissed, 3) the types of complaints received were noted, and 4) the commissioner complaint process was noted.

Review of the rule governing court commissioner conduct is taking place.

12. BOARD OF JUSTICE COURT JUDGES UPDATE: (Judge Reuben Renstrom and Rick Schwermer)

Chief Justice Durrant welcomed Judge Renstrom to the meeting.

Judge Renstrom provided an update to the Council on the activities of the Board of Justice Court Judges. He highlighted the following in his update: 1) conversion to recording of proceedings in justice court, 2) in the process of implementing the use of workspace in the justice courts, 3) availability of annual educational opportunities, 4) move to evidence-based sentencing, 5) efforts to meet time to disposition standards is taken seriously, 6) noted the makeup of the newly appointed judges, 7) concern with the salary range and retirement of justice court judges, 8) issues expressed relative to trial de novo matters and justice court closures, and 9) 2013-2014 fiscal year, 496,953 filings in the justice courts.

A question was asked relative to the matter of trial de novo. Judge Renstrom addressed this issue.

Judge Renstrom provided his sense of the view of most justice court judges relative to SB 72 – Justice Court Reform and the matters not addressed with this reform.

13. JPEC UPDATE: (Joanne Slotnik)

The JPEC update was deferred to a future Council meeting.

14. CERTIFICATION OF JUSTICE COURT JUDGES: (Rick Schwermer)

Mr. Schwermer recommended the certification of the following two justice court judges who recently completed justice court judge orientation and passed the orientation exam: 1) Ms. Catherine Hoskins, Syracuse Justice Court; and 2) Mr. Ronald Read, Washington County Justice Court.

Motion: Judge Hornak moved to approve the certification of Ms. Catherine Hoskins and Mr. Ronald Read as justice court judges. Judge Dawson seconded the motion, and it passed unanimously.

15. RECOMMENDED SPENDING PLAN ADJUSTMENT: (Daniel J. Becker)

Mr. Becker reminded that Council of their approval, in April for the FY 2015 operational budget for the courts. He presented recommendations to the Council for use of an additional \$200,000 in carry-forward funding to include: 1) \$57,000 for the court visitor program, 2) \$20,000 for the middle management succession plan program, 3) \$60,000 for IT contract work, 4) \$23,000 for the senior judge budget, and 5) \$40,000 to be placed in reserve. In January, a recommendation will be made for further downsizing as a result of additional e-filing efficiencies.

Motion: Mr. Lund moved to approve the additional \$200,000 in carry-forward funding for the FY 2015 operational budget for the courts, as proposed. Judge Davis seconded the motion, and it passed unanimously.

16. CONDITIONS OF PROBATION AND SUPERVISION: (Debra Moore)

Ms. Moore mentioned that, by statute, the Council should have the opportunity to review probation and supervision standards for the adult system annually. She noted that it hasn't taken place for approximately four years. In the past, the Council requested that the Board of District Court Judges review the probation and supervision standards first and provide recommendations to the Council.

The Board of District Court Judges reviewed proposed recommendations of three probation conditions to existing standards to include: 1) a recommendation to change the current standard condition language as a result of the modified "weapon" statute language in HB 268 – Dangerous Weapons Amendments which would include archery equipment and crossbows to be considered as dangerous weapons, 2) adoption of Sex Offender C group conditions where the condition does not allow any relationship with anyone under the age of 18 without prior written approval of Adult Probation and Parole, and 3) adoption of a standard condition for both probation and parole that requires offenders to provide valid identification.

Discussion took place with clarification on the valid identification condition.

Ms. Moore reported that the Board of District Court judges recommend approval of the recommended changes to items 1 and 2 and did not recommend approval of the condition relative to valid identification. They also recommended approval of the existing conditions as established.

Motion: Judge Dawson moved to accept the recommendations from the Board of District Court judges of the proposed probation and supervision standards conditions. Judge Harmond seconded the motion, and it passed with Judge Higbee voting no on the condition relative to provide valid identification.

17. SELECTION OF 2015 STUDY ITEM: (Daniel J. Becker and Rick Schwermer)

Mr. Becker reported that discussion of the 2015 Council study item took place at the July 16 Council meeting on potential study items. Since that time, he has met with the Board of District Court Judges, the Board of Juvenile Court Judges and the Board of Appellate Judges on the potential study item topics.

It was noted that Judge Dennis Fuchs and Mr. Schwermer would meet with the Board of Juvenile Court Judges to further discuss their concerns with family and juvenile drug courts.

Discussion took place.

Motion: Mr. Lund moved to approve the selection of the 2015 study item with focus on pre-trial release of adult and juvenile issues. The AOC was requested to look at the scope, charge and membership for the study item and present this information to the Council at their October 27 meeting for approval. Judge Davis seconded the motion, and it passed unanimously.

18. EXECUTIVE SESSION

An executive session was not needed at this time.

19. ADJOURN

The meeting was adjourned.

TAB 2

Management Committee Minutes

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE
MINUTES**

**Tuesday, October 14th, 2014
Matheson Courthouse
450 South State Street
Salt Lake City, Utah**

MEMBERS PRESENT:

Chief Justice Matthew B. Durrant, Chair
Hon. Kimberly Hornak
Hon. James Davis
Hon. John Sandberg

EXCUSED:

Hon. Randall Skanchy

GUESTS:

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
Dawn Marie Rubio
Rick Schwermer
Tim Shea
Alison Adams-Perlac
Carol Price
Nini Rich
Nancy Sylvester

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

Chief Justice Durrant welcomed everyone to the meeting. Chief Justice Durrant expressed his condolences to Mr. Dan Becker, on behalf of the Management Committee, on the passing of his brother. After reviewing the minutes, the following motion was made:

Motion: Judge Sandberg moved to approve the August 15 Management Committee meeting minutes. Judge Hornak seconded the motion, and it passed unanimously.

2. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

He reported on the following items:

Justice Reinvestment Initiative. Mr. Becker mentioned that CCJJ met last week, and the three subcommittees made their presentations. The final votes, on the recommendations made by the subcommittees, will be taken by CCJJ on November 12. Recommendations from CCJJ will be discussed at the November Interim Committee meeting. If the recommendations are approved, it is projected the State could avoid \$545 million in additional correction costs over a 20 year period.

Mr. Becker has asked Mr. Ron Gordon, Executive Director of CCJJ, to provide a detailed presentation to the Council at the October 27 Judicial Council meeting regarding the Justice Reinvestment Initiative.

Elected Offices and Judicial Compensation Commission. Mr. Becker and Mr. Schwermer attended their meeting on Thursday, October 9. Information was provided to the Commission relative to judicial compensation. The Commission will take final action on any proposed recommendations at their October 30 meeting. The Commission is considering a target amount rather than a specific percentage increase.

Judicial Performance Evaluation Commission (JPEC).

Mr. Schwermer highlighted the following from today's JPEC meeting: 1) upcoming election, 2) future public relations efforts, 3) \$25,000 received from the Lieutenant Governor to use for public relations efforts this election cycle, 4) use of a few ads, prior to the upcoming election, from Colorado and Georgia, 5) receipt of \$200 for sponsored social media, 6) rule in effect that evaluation reports are to be published three months after the April 15 filing date (by July 15), and 7) no JPEC legislation has been proposed.

3. COMMITTEE APPOINTMENTS: (Nini Rich, Alison Adams-Perlac, and Nancy Sylvester)

The Ad Hoc Committee on Alternative Dispute Resolution is seeking representation from the professional mediation community to fill two vacancies with the resignation of two members and representation from the Executive Branch to fill a vacancy to replace a member who retired.

The following applicants expressed interest in filling the professional mediation community representative vacancies: 1) Mr. Kent Scott, 2) Mr. Douglas Mortensen, 3) Mr. Richard Frandsen, 4) Mr. Mark Hales, 5) Ms. Stacy Roberts, 6) Ms. M'Leah Woodard, 7) Mr. Scott Daniels, 8) Ms. Nancy Hansen, 9) Mr. Aaron Melville, 10) Ms. Natalie Threlkeld, 11) Mr. Pervin Gupta, and 12) Ms. Denise Tate.

Mr. Brent Bateman has expressed interest in filling the vacancy on the Ad Hoc Committee on Alternative Dispute Resolution for an Executive Branch representative.

The Ad Hoc Committee on Alternative Dispute Resolution recommended the appointment of the following applicants to fill the vacancy for two professional mediation community representative vacancies: 1) Mr. Kent Scott, and 2) Mr. Douglas Mortensen.

Mr. Brent Bateman has been recommended, by the Ad Hoc on Alternative Dispute Resolution, for appointment to fill the vacancy for an Executive Branch representative.

Motion: Judge Hornak moved to recommend the appointment of Mr. Kent Scott and Mr. Douglas Mortensen to fill the two professional mediation community representative vacancies and the appointment of Mr. Brent Bateman to fill the Executive Branch representative vacancy on the Ad Hoc Committee on Alternative Dispute Resolution and place it on the October Judicial Council consent calendar. Judge Sandberg seconded the motion, and it passed unanimously.

The Language Access Committee has a vacancy for a certified interpreter representative. The following two applicants have expressed interest in filling the vacancy: 1) Mr. Luther Gaylord, and 2) Ms. Gabriela Grostic.

The Language Access Committee has recommended the appointment of Ms. Gabriela Grostic to fill the vacancy on the committee for a certified interpreter representative.

Motion: Judge Hornak moved to recommend the appointment of Ms. Gabriela Grostic to fill the vacancy for a certified interpreter representative on the Language Access Committee and place it on the October Judicial Council consent calendar. Judge Sandberg seconded the motion, and it passed unanimously.

The Committee on Resources for Self-Represented Parties has a vacancy for a representative from the University of Utah's S.J. Quinney College of Law. The following

applicants have expressed interest in filling the vacancy: 1) Ms. Jaclyn Howell-Powers, 2) Ms. Kay Shelton, and 3) Mr. Jess Hofberger.

The Committee on Resources for Self-Represented Parties recommended the appointment of Ms. Jaclyn Howells-Powers to fill the vacancy on the committee for a representative from the University of Utah's S.J. Quinney College of Law.

Motion: Judge Hornak moved to recommend the appointment of Ms. Jaclyn Howells-Powell to fill the vacancy on the Committee on Resources for Self-Represented Parties for a representative from the University of Utah's S.J. Quinney College of Law and place it on the October Judicial Council consent calendar. Judge Sandberg seconded the motion, and it passed unanimously.

4. COMMITTEE REAUTHORIZATION: (Ray Wahl)

Mr. Wahl reminded members of the Management Committee that Mr. Brent Johnson had requested reauthorization of several Council committees at their August 15 meeting. At that time, the reauthorization was approved. Since that time, it was discovered that the Justice Court Standards Committee reauthorization had expired June 30, 2014 and would need to be reauthorized from July 1, 2014 to June 30, 2020.

Mr. Schwermer provided background information on the origin of the Committee and their original charge. He noted that fewer and fewer issues were brought before the Committee in recent years, and the Committee membership has not changed in the past eight years.

Discussion took place.

Suggested options were considered by the Management Committee on how to deal with future justice court standards issues, if it was recommended to sunset the Justice Court Standards Committee.

Mr. Schwermer mentioned that the county justice courts are up for recertification in January.

Motion: Judge Sandberg moved to sunset the Justice Court Standards Committee, but to develop a plan on how to deal with future justice court standards issues by the October 27 Council meeting. Judge Davis seconded the motion, and it passes unanimously.

5. SECURITY AUDITS: (Carol Price)

Chief Justice Durrant welcomed Ms. Price to the meeting.

Ms. Price provided a summary of the most recent security reviews to include the following locations: 1) Moab, 2) Monticello, 3) Panguitch, and 4) Provo.

She highlighted areas in need of improvement to include: 1) inadequate weapon screening process, 2) no surveillance cameras in the public areas of the courthouse, 3) parking for judges and court staff is neither secured nor controlled, 4) current prisoner transport procedure violates the principle of three circulation paths, 5) in-custody prisoners were not physically restrained when in the courtroom, 6) outdated local security plans, 7) evacuation drills not regularly held, 8) duress alarms are not routinely tested, and 9) prisoner sallyport is too small to allow prisoner transport buses to properly utilize it.

6. 2015 MANAGEMENT COMMITTEE/COUNCIL CALENDARS: (Ray Wahl)

Mr. Wahl reviewed the proposed 2015 Management Committee and Judicial Council meeting dates.

He noted that the 2015 Management Committee meeting dates are straightforward.

He highlighted the following relative to the 2015 Judicial Council meeting dates:

1) March meeting to be held in St. George in conjunction with the Utah State Bar's Spring Conference, 2) change in date for the May meeting due to the Memorial Day holiday, 3) consideration of holding the July meeting in Sun Valley, Idaho in conjunction with the Utah State Bar's Summer Conference, 4) August meeting being held in conjunction with the Council's budget and planning session, and 5) September meeting being held in conjunction with the Annual Judicial Conference.

Mr. Wahl provided lodging room rates in Sun Valley, ID, as well as, other expense details relative to traveling to Sun Valley, ID.

Mr. Shea reported that the Utah State Bar Commission approved the following sites for future State Bar summer conferences: 1) 2016 conference to be held in San Diego, CA; and 2) 2017 conference to be held in Sun Valley, ID.

Discussion took place.

Motion: Judge Hornak moved to recommend to the Council that the July meeting not be held in Sun Valley, ID, in conjunction with the Utah State Bar's 2015 Summer Conference. Judge Sandberg seconded the motion, and it passed unanimously.

7. JUDICIAL OPERATIONS BUDGET FOR SENIOR JUDGES: (Ray Wahl)

Mr. Wahl highlighted the following in his update on the senior judge budget: 1) in FY 2014, \$226,900 was allocated to the senior judge account; 2) in FY 2014, \$338,642.79 was spent from the senior judge account; 3) noted the unique circumstances during FY 2014 that required an unusual spending from the senior judge account; 4) for FY 2015, the Council allocated \$167,000 to the senior judge account, as well as, an additional 23,000 from carry-forward funding; and 5) the miscalculation of the judicial operations budget authorized increase from \$500 to \$900 for the senior judge account.

In April, the Council authorized a one-time spending increase of \$45,600 to increase the judicial operations budget from \$500 to \$900. Judges, senior judges, and commissioners are entitled to use of this funding by policy. The authorized one-time spending increase did not take into account the 27 active senior judges.

It is recommended that the Management Committee authorize an additional \$10,800 in one-time spending to cover potential spending from the judicial operations budget and that it be taken from the reserve authorized by the Council.

Motion: Judge Hornak moved to approve the recommendation for the additional \$10,800 in one-time spending, to be taken from the court's reserve, and to be placed in the judicial operations budget. Judge Davis seconded the motion, and it passed unanimously.

8. 2015 COUNCIL COMMITTEE APPOINTMENTS: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reviewed the proposed 2015 Council committee appointments. He recommended that Judge Marvin Bagley, and Judge Ann Boyden serve as members of the Policy and Planning Committee.

Motion: Judge Davis moved to recommend the 2015 Council committee appointments to the Council, for approval, as proposed by Chief Justice Durrant. Judge Sandberg seconded the motion, and it passed unanimously.

9. STUDY COMMITTEE CHARGE/MEMBERSHIP (Daniel J. Becker)

Mr. Becker reviewed the proposed committee charge, timetable and membership with members of the Management Committee to include the following: 1) committee charge – the committee is charged with conducting a thorough assessment of existing pre-trial release practices used in Utah's courts and determining if there are alternatives which should be considered, 2) the committee should complete their work and report their findings and recommendations to the Judicial Council at their November 2015 meeting, and 3) reviewed the recommended membership.

The proposed names included:

District Court judges (2): Judge Todd Shaughnessy (proposed committee chair), Judge Doug Thomas and Judge James Brady

Juvenile Court judge (1): Judge Janice Frost

Justice Court Judges (2): Judge Brendan McCullagh, Judge John Dow, and Judge Andrea Lockwood

Prosecutor (2): David Brickey, Gary Heward and Sim Gil

Defense Attorney (1): Todd Utzinger, Patrick Anderson and Tom Means

County Sheriff (2): James Tracy, David Edmunds and Frank Park

AOC (2): Brent Johnson and Rick Schwermer

Member of the Senate (1): Senator Lyle Hillyard

Member of the House (1): Eric Hutchings

Commission on Criminal and Juvenile Justice Staff (1): Jennifer Valencia

County Commission (1): TBD

Commercial Bail Agent (1): Gary Walton

Insurance Commission Representative (1): TBD

Discussion took place relative to the makeup of the membership of the committee.

10. URS RETIREMENT ISSUE: (Rick Schwermer)

Mr. Schwermer provided background information relative to several justice court judges serving in the capacity as part-time justice court judges in several justice courts and their concern with how URS has interpreted the statutes relative to part-time justice court judges and their retirement credit. He noted that the Liaison Committee has considered the matter in the past.

It was suggested to the judges affected by the URS interpretation of the statute in question to get a sense of the statute's interpretation from Senator Weiler, the Retirement Committee chair.

Mr. Schwermer reported that a request has been made, by the concerned justice court judges that the Council form a committee to study the rules as applied to justice court judges.

Discussion took place. Judge Sandberg provided his opinion relative to the concern and the request.

Mr. Schwermer highlighted the two issues behind the request: 1) URS exercising appropriate discretion of the interpretation of the statute, and 2) should a substantive change to the statute be made.

The Management Committee agreed that there were not enough substantive issues to warrant formation of a committee. Mr. Schwermer and Judge Sandberg were charged with reporting back to the appropriate justice court judges of the Management Committee's decision regarding their request and how they should proceed.

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

Chief Justice Durrant reviewed the proposed Council agenda for the October 27 Council meeting.

The Management Committee approved the amended agenda for the October 27 Council meeting.

12. EXECUTIVE SESSION:

An executive session was not needed at this time.

13. ADJOURN

The meeting was adjourned.

Policy and Planning Committee Minutes

Minutes of the Policy and Planning Committee

October 3, 2014

Draft

Members Present

Glen R. Dawson, Thomas M. Higbee, John R. Lund, Reed S. Parkin

Staff

Alison Adams-Perlac

Guests

Alan Barnett, Ken Williams, and Glen Fairclough (Utah Office of State Archives)

(1) Approval of minutes.

In the absence of a chair, Judge Dawson conducted the meeting. Mr. Lund moved to approve the minutes of the September 5, 2014 meeting. Judge Parkin seconded the motion and it passed unanimously.

(2) Rule 4-202.02 – Records classification and making certain cases public after 50 years.

Mr. Barnett, Mr. Williams, and Mr. Fairclough of the Office of State Archives attended the meeting to discuss why the Office has proposed that the court adopt a policy making private records such as divorces, guardianship, and conservatorships public after 50 years. Mr. Barnett stated that these cases used to be public and now they are private. The Office proposed 50 years since that is when permanent court records are sent over to the Office.

Mr. Barnett, Mr. Williams, and Mr. Fairclough explained the burden that is placed on the Office's staff when the records are sent over together regardless of the classification, since the private records then have to be segregated from the public records. They stated that the Office respects the classification the court has applied and it applies the same classification.

Judge Parkin questioned whether any sunset provision applies from the 2013 date when these cases were made private, or whether it applies retroactively to the cases that came before. Mr. Lund questioned whether the Court was creating an imposition on the Office, and if so, whether the Court should be doing the work of segregating the records prior to sending them to the Office.

The committee determined that there are two questions it needs to answer: 1) how far back the classification should go; and 2) whether the Court should change the policy of handing them over at 50 years.

The committee agreed to table this issue until December 5, 2014 when Brent Johnson, General Counsel, can be present. Mr. Barnett, Mr. Williams, and Mr. Fairclough plan to attend and will invite Ms. Rosemary Cundiff if she would like to participate in the discussion.

Draft

Minutes of the Policy and Planning Committee

October 3, 2014

Page 2

Mr. Fairclough requested to bring one more item to the committee's attention. He stated that the Utah Public Notice Website is now online. He said that Utah Code section 75-1-401 requires that in some circumstances, the hearing of a petition be posted to the website. He explained that the District Court can go to the website and set up an account to publish the notice. There will be an entity account and that person can add or delete users. The entity user will first have to register with Mr. Fairclough. He requested that we pass this information on to the appropriate people. Ms. Adams-Perlac stated that she would share this information with Debra Moore, District Court Administrator.

(3) Rule 3-111 – Performance evaluation of senior judges and court commissioners.

Ms. Adams-Perlac stated that the amended rule 3-111 proposal incorporates the concerns raised by Judge Fred Voros and the motion that passed at the committee's last meeting regarding the evaluation process for senior judges in the appellate courts. Ms. Adams-Perlac suggested adding "3 year" before "term" on line 19. Mr. Lund moved to approve the proposal and to recommend it for public comment. Judge Higbee seconded the motion and it passed unanimously.

(4) Rule 1-205 – Standing and ad hoc committees.

Rule 3-418 – Model Utah Jury Instructions.

The committee discussed the proposal on rule 1-205. Ms. Adams-Perlac suggested that the committee consider approving rule 1-205 on an expedited basis so that the Model Utah Jury Instructions Committees would have official status as standing committees under the Judicial Council.

Mr. Lund moved to approve the proposal on rule 1-205, as written, and recommended that it be forwarded to the Judicial Council for expedited consideration. Judge Parkin seconded the motion and it passed unanimously.

The committee discussed the amended proposal on rule 3-418. The committee discussed that it would be more comfortable if the rule did not direct judges as to how to use jury instructions, since judges have different procedures and the committee did not want the rule to appear to obligate the judge to use a specific instruction.

Mr. Lund moved to delete paragraphs 2, 3, 4, and 5 from the proposal and to recommend the proposal as amended first to the MUJI Committees for their consideration, and then for public comment. Judge Parkin seconded the motion and it passed unanimously.

(5) Rule 4-510.03 – Qualification of ADR providers.

Ms. Adams-Perlac stated that the proposed amendment to rule 4-510.03 merely corrects an incorrect reference. Judge Higbee moved to approve the proposal and to recommend it to the Judicial Council for final action. Mr. Lund seconded the motion and it passed unanimously.



Draft



Minutes of the Policy and Planning Committee

October 3, 2014

Page 3

(6) Rule 3-201 – Court commissioners.

Ms. Adams-Perlac stated that the proposed amendment to rule 3-201 merely corrects an incorrect reference. Mr. Lund moved to approve the proposal and to recommend it to the Council for final action. Judge Higbee seconded the motion and it passed unanimously.



TAB 3



Utah Office of Guardian ad Litem & CASA

2014 Annual Report

OFFICE OF GUARDIAN AD LITEM

MESSAGE FROM THE DIRECTOR

Dear Friends and Colleagues-

The Office of Guardian ad Litem has celebrated many successes this year. After several years of requesting additional funds for salary parity, the Legislature graciously funded an additional \$300,000 towards attorney salaries. While this was much welcomed, the Legislature also funded salary increases for attorneys employed by the Utah Attorney General's Office. This means that the salary gap between attorneys employed by the Office of Guardian ad Litem and the Office of the Attorney General still exists. As such, the Office of Guardian ad Litem hopes to continue to address issues of turn-over and compensation with the Legislature.

The Legislature also approved legislation that authorized reallocation of resources within the Office of Guardian ad Litem. As a result, we have been able to provide ample support to our Private Guardian ad Litem Program and to reduce Guardian ad Litem caseloads in the juvenile court. Additionally, the Office has added two investigators to our staff who assist with private petitions and protective orders. The Office of Guardian ad Litem is grateful for the support of the Legislature and its dedication to provide quality representation for children in Utah.

The Office of Guardian ad Litem has also been an active partner in improving outcomes and opportunities for youth. Our attorneys have focused on finding connections for older youth who are not returning home and to assist them with transitioning to adulthood. Office of Guardian ad Litem Court Appointed Special Advocates (CASAs) have continued to act as educational advocates for children in foster care and have provided valuable information about the child's school experience. Finally, the Office of Guardian ad Litem has supported legislation that allows foster parents to make more decisions for youth in their care and helps to provide normalcy for our foster care youth.

As the Director of the Office of Guardian ad Litem, I want to express my sincere appreciation to all of the amazing people who work tirelessly for our office. They are truly dedicated to the children we represent and go out of their way, as attorneys, support staff, investigators, CASA Coordinators and CASAs, to act in the best interests of children. Thank you for your hard work. Thanks too for the guidance of the Guardian ad Litem Oversight Committee and their efforts in making sure that we are complying with our statutory obligations. Finally, thanks to the Administrative Office of the Courts for supporting our mission and program.

I care deeply about the work we do on behalf of abused and neglected children and I am committed to doing our part to improve lives of the children we represent. I look forward to the year ahead and working with our community partners and the courts to achieve the best outcomes for these children and their families.



Elizabeth Knight

OFFICE OF GUARDIAN AD LITEM

OFFICE OF GUARDIAN AD LITEM

In FY2013, the Office of Guardian ad Litem was asked to develop performance measures and to report on those measures annually to the Executive Offices and Criminal Justice Subcommittee. In FY2014, the Office of Guardian ad Litem developed these Standards and Performance Measures and they were approved by the Executive Offices and Criminal Justice Subcommittee. The approved Standards and Performance Measures, as well as supporting FY2014 data, are listed below.

STANDARDS & PERFORMANCE MEASURES

STANDARD I: GAL Attorneys shall be competent and knowledgeable attorneys and shall participate in training that addresses issues surrounding abuse and neglect, as well as improving legal skills.

PERFORMANCE MEASURE I: The Office of GAL will measure the participation of GAL attorneys in required trainings, as well as attorney satisfaction in the subject matter of the provided trainings.

PERFORMANCE MEASURE I FY14: In FY14, the Office of GAL provided GAL attorneys access to the following trainings: National Institute of Trial Advocacy, a skills based training; Annual Drug Court Conference; GAL Annual Conference; Joining Forces, Prevent Child Abuse Conference; Annual ICWA Conference; GAL/Parental Defenders Conference; and the Children's Justice Center Annual Symposium. These trainings provided not only valuable information about the recognition and treatment of victims of abuse and neglect, as well as treatment of their families, but also improved the advocacy skills of our attorneys. Our attorneys consistently reported satisfaction from attending these trainings and found the trainings to be beneficial to their practice.

STANDARD II: GAL Attorneys shall have caseloads that allow them to adequately represent their clients.

PERFORMANCE MEASURE II: The Office of GAL will measure the average number of children being represented by GAL attorneys during the fiscal year.

PERFORMANCE MEASURE II FY14: In FY14, GAL Attorneys had on average 142 children on their caseload at any given time. This number is decreasing thanks in part to authorization by the legislature to reallocate resources within the Office of GAL. In Second District, caseloads were particularly high and an additional attorney was hired to address this issue. An additional attorney was also hired in the Basin to reduce caseloads there.

OFFICE OF GUARDIAN AD LITEM

STANDARD III: GAL Attorneys shall ensure that the children they represent are present in court and able to participate when appropriate.

PERFORMANCE MEASURE III: The Office of GAL will measure the number of children attending postadjudication hearings as specified in Utah Code section 78A-6-305; or if not attending, the reason why the child is not in attendance.

PERFORMANCE MEASURE III FY14: In FY14, more than 50% of children attended and participated in their court hearings. The most common reason for children not attending their court hearing is that it is impractical for the child to attend. The Office of GAL is working with the courts and community partners to increase the presence of our clients in court, especially older youth.

STANDARD IV: GAL attorneys shall ensure that there is appellate review for decisions affecting their clients.

PERFORMANCE MEASURE IV: The Office of GAL will measure the number of appeals initiated, as well as participated in, by GAL attorneys.

PERFORMANCE MEASURE IV FY14: In FY14, the Office of GAL participated in 116 appeals on behalf of our clients. We also staffed many other cases to determine the efficacy of an appeal.

STANDARD V: GAL attorneys will complete an independent investigation and communicate regularly with their clients.

PERFORMANCE MEASURE V: The Office of GAL will measure the number of completed independent investigations by GAL attorneys, including non-client contacts; measure the number of client contacts by GAL attorneys, as well as the frequency of those contacts.

PERFORMANCE MEASURE V FY14: In FY14, Office of GAL attorneys engaged in 50,184 activities in order to complete an independent investigation on behalf of the 11,463 children we represented. Our GAL attorneys also met with these children 31,013 times. During these communications with our clients, especially older youth, GAL attorneys explained the court process, obtained the clients wishes and identified services with the clients to assist them with returning home or finding another permanent placement.

OFFICE OF GUARDIAN AD LITEM

STANDARD VI: GAL attorneys shall ensure clients and their families receive appropriate services to keep children safely with their families or reunite them whenever practical by attending court hearings and participating in Family Team Meetings.

PERFORMANCE MEASURE VI: The Office of GAL will measure the number of hearings attended by GAL attorneys and the number of Family Team Meetings in which GAL attorneys participated.

PERFORMANCE MEASURE VI FY14: In FY14, Office of GAL attorneys attended 18,431 hearings on behalf of our clients. During those hearings, our attorneys informed the court about the steps they had taken to prepare for the hearing, their recommendations, including what was in the best interest of the child, as well as the child's wishes, and the basis for their recommendations. Our attorneys also participated in 4,128 family team meetings where we advocated for services for our clients and their families. Finally, in an attempt to resolve the issues before the court, as well as giving families a voice in the legal process, our GAL attorneys attended 909 mediations.

STANDARD VII: GAL attorneys shall be provided with and shall use technology in order to be more efficient, and to move towards a paperless practice.

PERFORMANCE MEASURE VII: The Office of GAL will measure the use of E-filing by GAL attorneys in both juvenile and district court, the use of the VOICE database, as well as a shared document library on Google, by GAL attorneys.

PERFORMANCE MEASURE VII FY14: In FY14, all Office of GAL pleadings in the District Court were E-filed. The projected date for E-filing in the Juvenile Court is June of 2015 and the Office of GAL is prepared to pilot E-filing in the Juvenile Court starting in January of 2015. Our VOICE database already interfaces with the court's database system and as such, we are in a position to transition in a seamless manner. Further, all of our GAL attorneys have appropriate technology and equipment that allows them to access systems wherever they are, to maximize their time and to move towards a paperless practice.

OFFICE OF GUARDIAN AD LITEM

PRIVATE GUARDIAN AD LITEM PROGRAM

In FY2014, the Private Guardian ad Litem program continued to expand. We currently have 130 private attorneys who have accepted over 233 cases this past year. In order to support these private attorneys, Jennifer Spangenberg, our Private Guardian ad Litem Coordinator, responds to questions and provides guidance when necessary. We also have updated our website, which now includes a list of all available Private Guardian ad Litem attorneys and a collection of pleadings that attorneys can use and modify. Finally, in November of this year, we will implement CJA R4-906(8)(G) which requires that Private Guardian ad Litem attorneys obtain an additional 3 hours of training per year in order to stay certified. The Office of Guardian ad Litem has hosted several sessions of Continuing Legal Education to provide additional training to our private attorneys and to assist private attorneys in complying with CJA R4-906.

COURT APPOINTED SPECIAL ADOVATE (CASA) PROGRAM

In FY2014, 770 Court Appointed Special Advocates (CASAs) served 1422 children and donated 34,588 volunteer hours. CASAs assisted Guardian ad Litem attorneys by gathering information from community resources; attending court; visiting with the child on a regular basis; recommending services; and monitoring plans and court orders. CASAs also provided valuable information to the Guardian ad Litem as educational advocates and provided information about the child's progress and attendance in school. Our CASAs are a deeply valued resource for the Office of Guardian ad Litem and we appreciate their valuable contribution to the children we represent.

UTAH'S FRIENDS OF CASA

Utah's Friends of CASA is a 501(c)(3) nonprofit organization that supports the CASA program by providing supplemental funding for volunteer recruitment, training and retention. This past year, the Utah's Friends of CASA Board primarily supported efforts at recruiting new volunteers.



TAB 4

To: Judicial Council Management Committee

From: Chief Justice Matthew B. Durrant

Subject: Council Committee Appointments

There are two new Council members, Judge Ann Boyden and Judge Marvin Bagley, and I recommend that both be assigned to Policy and Planning. If these two appointments are approved by the Council the committee membership will be as follows:

Management Committee

Chief Justice Matthew B. Durrant, Chair
Judge Kimberly Hornak, Vice-chair
Judge James Davis
Judge John Sandberg
Judge Randal Skanchy

Liaison Committee

Judge Thomas Higbee
Judge David Marx
Judge David Mortensen
Justice Jill Parrish

Policy and Planning Committee

Judge Marvin Bagley
Judge Ann Boyden
Judge Glen Dawson
John Lund
Judge Reed Parkin

TAB 5

**JUDICIAL COUNCIL
2015 MEETING DATES**

Meetings are generally scheduled on the fourth Monday of the month beginning at 9:00 a.m. Meetings will be held in the Council Room of the Matheson Courthouse unless otherwise noted.

Monday, January 26, 2015

Monday, February 23, 2015

Friday, March 13, 2015 (in conjunction with the Bar's Spring Convention in St. George)

Monday, April 27, 2015

Monday, May 18, 2015 (NOTE: Date change with May 25 being Memorial Day)

Monday, June 22, 2015

Monday, July 13 at the Ogden Juvenile Court Facility

Friday, August 15, 2015 (Council Budget and Planning Meeting - Matheson Courthouse)

Tuesday, September 15 or 22, 2015 (Held in conjunction with the Annual Judicial Conference)

Monday, October 26, 2015

Monday, November 23, 2015

Monday, December 14, 2015

Bar Conferences:

Spring Convention in St George - March 12-14, 2015

Summer Convention in Sun Valley, ID - July 29-Aug 1, 2015

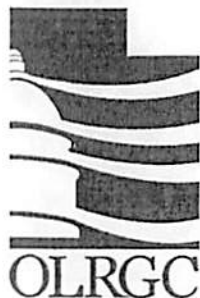
COSCA/CCJ Meetings:

2015 CCJ Midyear Meeting – January 24-28

2015 CCJ/COSCA Annual Meeting – July 25-29

2015 COSCA Midyear Meeting – Dec 3-5

TAB 6



INTERIM HIGHLIGHTS

Office of Legislative Research and General Counsel
House Building, Suite W210 • Salt Lake City, Utah 84114 • (801) 538-1032

LEGISLATIVE INTERIM MEETINGS

Meetings were held September 17, 2014, or as noted.

IN THIS ISSUE:

(Click on the committee you would like to view)

Administrative Rules Review Committee

Business and Labor

Commission for the Stewardship of Public Lands

Commission on Federalism

Economic Development and Workforce Services

Education

Education Task Force

Government Communications Task Force

Government Operations

Health and Human Services

Health Reform Task Force

Judiciary

Law Enforcement and Criminal Justice

Natural Resources, Agriculture, and Environment

Occupational and Professional Licensure Review Committee

Political Subdivisions

Prison Relocation Commission

Public Utilities and Technology

Retirement and Independent Entities

Revenue and Taxation

Senate Judicial Confirmation Committee

State Water Development Commission

Transportation

Veterans' and Military Affairs Commission

Administrative Rules Review Committee

September 9, 2014

Agencies that Enforce, Adjudicate, and Collect Penalties

Discussed the statutory authority, including grants of rulemaking authority, that enables some state entities to enforce state law and employ administrative law judges to adjudicate alleged violations and assess and collect financial penalties.

Chairs: Rep. Curtis Oda / Sen. Howard A. Stephenson

Staff: Art L. Hunsaker (Policy Analyst) / Christine R. Gilbert (Attorney) / Tracey Fredman (Secretary)

Business and Labor

Community Associations

Received comments from a legislator and from the condominium and community association industry regarding potential changes to the Condominium Ownership Act and the Community Association Act. Possible changes include clarifying notice requirements for fines, hearings, and appeals. Other potential topics for legislation include:

- open meeting requirements for association boards;
- board requirements regarding rentals in association communities;
- procedures for maintaining utility services in vacant units; and
- the hierarchy of documents.

New Automobile Franchise Act

Received an overview of the New Automobile Franchise Act from committee staff. Received comments from the new automobile dealers' industry on how the act assures a competitive and stable industry.

Performance Audit of the Utah Fund of Funds

Received an audit report from the Office of the Legislative Auditor General regarding the Utah Fund of Funds (UFOF). The audit findings include:

- the lack of consistent methodology has resulted in the over-reporting of economic impact;
- the portion of investment dollars in Utah attributable to the UFOF is relatively small; and
- the UFOF economic reports are inconsistent and difficult to interpret.

The committee also received the UFOF's response to the audit.

Chairs: Rep. James A. Dunnigan / Sen. Curtis S. Bramble

Staff: Bryant R. Howe (Assistant Director) / Christine R. Gilbert (Attorney) / Patricia Owen (Attorney) / Kristen C. Ricks (Secretary)

Commission for the Stewardship of Public Lands

August 27, 2014

Stakeholder Reports and Updates

Received reports and updates on activities concerning the stewardship of public lands from the Utah attorney general, Utah's congressional delegation, the governor's energy advisor, the Utah Association of Counties, and the Public Lands Policy Coordination Office.

*Chairs: Rep. Keven J. Stratton / Sen. David P. Hinkins
Staff: Leif G. Elder (Policy Analyst) / Tiffany A. Stanley (Policy Analyst) / RuthAnne Frost (Attorney) / Cathy J. Dupont (Attorney) / Timothy J. Barber (Secretary)*

Commission on Federalism

September 9, 2014

Curriculum for Continuing Education on Federalism

Received a presentation by committee staff regarding the status of a request for proposals to develop the curriculum for the continuing education on federalism seminar.

Cross Jurisdictional Issues

Received presentations from the Utah Association of Counties and the county commissioners and sheriffs of Garfield County and San Juan County regarding cross jurisdictional issues between the counties and federal government for federal land that lies within the counties' boundaries.

Issues discussed included:

- responsibility for search and rescue operations;
- land management policies;
- wildfire prevention and coordination;
- the impact of endangered species on private land;
- Public safety; and
- the operation and management of state roads that run through federal land.

Responses from State Agencies

Received a presentation by commission staff regarding the letters that state agencies have provided in response to the request for input on federalism that the commission had sent out. To date, 4 of the 23 agencies that were contacted have responded.

Action: Directed commission staff to follow up with the 19 state agencies that have not yet responded to the request for information sent by the commission.

*Chairs: Speaker Rebecca D. Lockhart / President Wayne L. Niederhauser
Staff: Jerry D. Howe (Managing Policy Analyst) / Nathan W. Brady (Policy Analyst) / Robert H. Rees (Attorney) / Cathy J. Dupont (Attorney) / Sara J. Thomas (Secretary)*

Economic Development and Workforce Services

Affordable Housing

Received presentations from the Utah Housing Coalition, the Housing Authority of Salt Lake, and the Crossroads Urban

(Continued next column)

INTERIM HIGHLIGHTS • September 2014

Center regarding affordable housing. They stated that the supply of affordable housing is not keeping pace with the increasing demand. Options to increase funding may include:

- a real estate transfer tax;
- a document recording fee;
- interest on real estate escrow accounts;
- General Fund appropriations;
- general obligation bonds; and
- redevelopment tax increment financing set-asides.

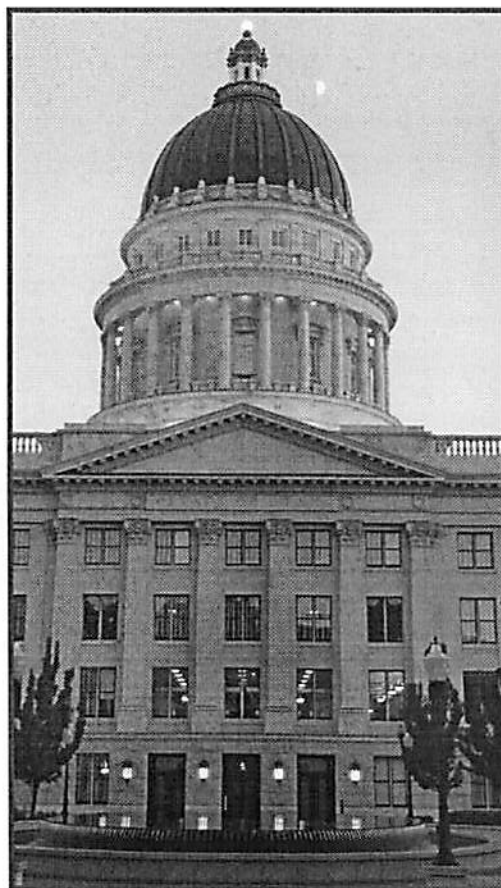
Transit-oriented development that includes low- and moderate-income housing can also help reduce transportation costs, making housing more affordable.

Arts, Libraries, and Museum Grants Program

Received a presentation from the Department of Heritage and Arts on the arts, libraries, and museum grants program. By statute, a competitive process is provided for awarding grants to eligible applicants for capital facility projects in arts, libraries, and museums.

The process requires applicants to submit detailed grant applications, which are then formally reviewed by each of the departments' boards. In practice, however, the statutory process is largely overlooked in favor of individual legislators sponsoring legislation or an

(Continued next page)



appropriation for each specific project. The department sought the committee's input on whether the statutory process should be retained and followed, revised, or repealed.

Temporary Assistance for Needy Families

Received a presentation from the Department of Workforce Services on Temporary Assistance for Needy Families (TANF), also known as the Family Employment Program (FEP). This federal assistance program helps families with children when the parents or other responsible relatives cannot provide for the family's basic needs. FEP also supports women during their third trimester of a pregnancy.

Performance Audit of the Utah Fund of Funds

Received the report on an audit of the Utah Fund of Funds (UFOF) from the Office of the Legislative Auditor General.

The Utah Capital Investment Corporation (UCIC) was initially created in statute in 2003 as an independent quasi-public corporation to make venture capital fund investments through the UFOF to provide access to alternative capital for Utah entrepreneurs. While the obligations of the corporation are not obligations of the state or any of its political subdivisions, investments are backed by Utah tax credits.

The audit, "A Performance Audit of the Utah Fund of Funds," which was released in August 2014, found that the UCIC, which administers the UFOF, overstated its economic impact, including overstating its reported positive effect on income tax revenue. The audit also described substantial inconsistencies in UFOF public reports and criticized the UFOF for not having an economic development plan or metrics that are consistently tracked and reported.

The audit stated that due to \$37.3 million in financing costs, UFOF's portfolio is currently negative, but improving. Between 2005 and 2013, three positions on UCIC staff received \$330,000 in bonuses and severance payments without there being any developed criteria or documentation.

*Chairs: Rep. Rebecca P. Edwards / Sen. Aaron Osmond
Staff: Benjamin N. Christensen (Policy Analyst) / Peter Asplund (Attorney) / Debra Hale (Secretary)*

Education

Computer Programming Instruction for Public Education Students

Received a presentation from a company that teaches professional computer science and engineering skills to public education students.

Students Learning English

Received a report from the Utah State Office of Education (USOE) on the progress in serving students with limited English proficiency. Pursuant to Title III of the federal No Child Left Behind Act, USOE has established three achievement objectives for English learners.

(Continued next column)

INTERIM HIGHLIGHTS • September 2014

USOE reported that over the past three years, all local education agencies (LEAs) met the first two achievement objectives related to making progress in English language acquisition and proficiency. However, some local education agencies failed to meet the third achievement objective related to English learners meeting adequate yearly progress in both language arts and math.

Peer Assistance and Review Pilot Program

Received a report on the Peer Assistance and Review Pilot Program, which was created by 2012 General Session H.B. 115, "Peer Assistance and Review Pilot Program." The Utah State Office of Education and program participants reported on their activities utilizing peer assistance and review in evaluating teachers.

STEM Action Center

Received a report from the Science Technology Engineering and Math Action Center on the progress and effectiveness of the center in delivering services to students and educators.

Utah Futures Evaluation

Received a report from the Utah Futures evaluation panel, which was created by 2014 General Session S.B. 34 "Statewide Data Alliance and Utah Futures," to evaluate Utah Futures and determine whether any or all components of Utah Futures should be outsourced to a private provider. The panel recommended that the state continue its investment in Utah Futures, reevaluate the funding requirements, and partner with stakeholders to assure that the new UtahFutures2.0 receives adequate resources and support to become a fully functional career and college planning tool.

*Chairs: Rep. Francis D. Gibson / Sen. Stuart C. Reid
Staff: Constance C. Steffen (Policy Analyst) / Tiffany A. Stanley (Policy Analyst) / Angela Oakes Stallings (Attorney) / Debra Hale (Secretary)*

Education Task Force

July 22, 2014

Education Modernization Initiative

Received demonstrations on how educational technology can be used in classrooms to personalize learning.

Higher Education Funding

Introduced a revised formula for funding higher education, including:

- providing a certain level of performance-based funding while ensuring adequate baseline funding;
- requiring higher education to maintain an even balance between tuition revenues and state revenues; and
- dedicating a certain percentage of baseline funding for research purposes.

State Government Finance

Received briefings from the Office of the Legislative Fiscal Analyst on the fiscal impact of making incremental changes to various taxes and historical trends in state funding of higher education.

(Continued next page)

August 26, 2014

Utah College of Applied Technology

Received a presentation from the Utah College of Applied Technology (UCAT) Board of Trustees on equity funding for regional college campuses.

Received presentations from UCAT and public education interests on their respective organizations' roles and responsibilities for delivering career and technical education to high school students.

Career and Technical Education

Reviewed a letter to the Legislative Audit Subcommittee requesting a performance audit of career and technical education.

Education Technology Implementation

Received presentations from the School Improvement Network, Park City School District, and iSchool Campus on the importance of training teachers on the use of technology before the technology is provided to students.

Finnish Education System

Received a presentation from the Center for the Study of Europe at Brigham Young University regarding a study of the Finnish public education system, particularly its teacher training system. The center provided for a group of Utah teachers to travel to Finland to visit Finnish schools and meet with Finnish teachers and administrators.

Higher Education Completion Incentives

Discussed a proposal to provide incentives to improve college completion rates, including offering tuition incentives to a student for following an educational plan to complete a bachelor's degree in eight semesters.

School Principals and School Leadership

Received a presentation from the State Board of Education on recent board initiatives to improve the effectiveness of school leaders, including performance standards, an administrative licensing exam, and an evaluation tool for school administrators.

Action: Voted to request the Utah State Office of Education to prepare a briefing paper for the Legislature on State Board of Education initiatives to improve the effectiveness of school principals.

State Government Finance

Received a briefing from the Office of the Legislative Fiscal Analyst on revenue generated from incremental tax changes, which shows the estimated revenue generated by making certain changes to income, property, sales, or gas taxes.

*Chairs: Speaker Rebecca D. Lockhart / President Wayne L. Niederhauser
Staff: Constance C. Steffen (Policy Analyst) / Tiffany A. Stanley (Policy Analyst) / Angela Oakes Stallings (Attorney) / Debra Hale (Secretary)*

INTERIM HIGHLIGHTS • September 2014**Government Communications Task Force**

August 14, 2014

Potential Funding Sources

Considered potential state and local funding sources for the update of the public safety radio system.

Radio Tower Sites

Discussed information about Utah Communications Authority (UCA) radio tower sites, including where the sites are located and when new sites might be necessary. The task force discussed issues related to tower sites, including:

- co-location of TV;
- ownership of the site;
- compatibility of various transmissions;
- providers of services to and from the site; and
- third party vendors.

Status of Consultant Report

Received an update from the consultant retained by the UCA who was charged with analyzing and reporting on the logistics of building a statewide emergency radio system. The consultant reviewed the status of the report and key elements of the updated system, as well as how the information obtained from the public hearings in Richfield and Vernal affected the content of the report.

September 11, 2014

Utah Communications Authority

Received a report from the UCA, which was established on July 1, 2014. The Utah Communications Agency Network was merged with the radio communications part of the Department of Technology Services to form the UCA. The UCA board held its first meeting on July 15, 2014. UCA reported to the committee on the merger and its first meeting.

911 Fees in Other States Compared with Utah's Fees

Received a presentation from Weber Area Dispatch 911 & Emergency Services District regarding 911 fees in other states compared with Utah's 911 fees.

First Responder Network Authority

Received a presentation from the UCA on the First Responder Network Authority (FirstNet). In 2012, Congress created the First Responder Network Authority as an independent authority within the National Telecommunications and Information Administration to provide emergency responders with the first nationwide, high-speed, broadband network dedicated to public safety.

Public Safety Communications Funding

Received a report from the Office of the Legislative Fiscal Analyst regarding Utah state funding for public safety communications both prior to and upon full implementation of 2014 General Session H.B. 155, "Utah Communication Agency Network and Utah 911 Committee Amendments."

(Continued next page)



Potential Funding Sources

Explored potential state and local funding sources for the update of the public safety radio system.

Public Safety Radio System Funding in Other States

Received a presentation regarding the sources and amounts of funding for public radio systems in other states.

*Chairs: Rep. Brad L. Dee / Sen. Wayne A. Harper
Staff: Joseph T. Wade (Policy Analyst) / Victoria Ashby (Attorney) / Timothy J. Barber (Secretary)*

Government Operations

Campaign Contribution Amendments

Considered draft legislation "Campaign Contribution Amendments," which amends campaign finance provisions related to anonymous contributions of cash or a negotiable instrument and the aggregate reporting of those contributions.

Campaign Finance Amendments

Considered draft legislation "Campaign Finance Amendments," which amends Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, by establishing and enforcing contribution limits.

Action: Voted to direct staff to make certain changes to

(Continued next column)

INTERIM HIGHLIGHTS • September 2014

draft legislation "Campaign Finance Amendments" and to place the revised legislation on the committee's November agenda.

Election Day Voter Registration Pilot Project

Received a statutorily required report from the Office of the Lieutenant Governor on the implementation of the election day voter registration pilot project.

Initiative and Referendum Petitions

Followed up on discussions from the committee's July interim meeting about statutory challenges regarding initiative and referendum petitions. Received a presentation from committee staff on potential alternative policies that could address those challenges.

Report from the State Records Ombudsman

Received a statutorily required report from the state records ombudsman on the work the ombudsman performed during the previous year.

Voting by Mail

Received a statutorily required report from the Office of the Lieutenant Governor on administering an election in which each registered voter receives a ballot by mail. Discussed administrative considerations of conducting an election by mail, the public's opinion on voting by mail, and the effects voting by mail has on voter turnout.

*Chairs: Rep. Jack R. Draxler / Sen. Margaret Dayton
Staff: Brian J. Bean (Policy Analyst) / Shannon C. Halverson (Attorney) / Thomas R. Vaughn (Attorney) / Victoria Ashby (Attorney) / Anna M. Allen (Secretary)*

Health and Human Services

Care for Aging Utah Population

Received presentations from:

- a legislator;
- the Utah Foundation;
- Mountainland Aging and Family Services;
- AARP Utah;
- the Division of Aging and Adult Services;
- Adult Protective Services;
- Utah's Medicaid Program; and
- the Utah Commission on Aging.

The presentations addressed the aging of Utah's population, the settings in which seniors typically receive health care and other services, challenges associated with each of those settings, and potential public policy responses, which include:

- the potential policy responses include expanding in-home services for seniors;
- increasing support for caregivers;
- facilitating "aging in place";
- increasing protection of vulnerable adults; and
- improving the delivery of skilled nursing and palliative care.

(Continued next page)

Alzheimer's Disease

Considered a proposal by AARP Utah to make the Utah Department of Health primarily responsible for implementing the Utah State Plan for Alzheimer's Disease and Related Dementias by requiring the department to:

- incorporate the state plan into its strategic planning process; and
- coordinate its implementation with other departments of state government.

In 2012, the Legislature expressed its support for implementation of the state plan, which includes providing individuals who have the disease, and their families, with needed resources.

Chairs: Rep. Paul Ray / Sen. Evan J. Vickers

Staff: Mark D. Andrews (Policy Analyst) / Samuel C. Johnston (Attorney) / Cathy J. Dupont (Attorney) / Lee A. Killian (Attorney) / Lori Rammell (Secretarial Supervisor)

Health Reform Task Force

August 28, 2014

Medicaid Expansion — Update on Healthy Utah Plan

Received a report from the Utah Department of Health on Governor Gary R. Herbert's Healthy Utah Plan. Approval of the "work effort" requirement is the last hurdle to be cleared for the plan to receive approval from the US Department of Health and Human Services, although implementation of the plan will still require the approval of the Legislature.

The department expressed its belief that the state could also receive approval from the US Department of Health and Human Services for plans that expand Medicaid eligibility to only a portion of Utahns with household incomes at or below 138% of the federal poverty guidelines, if the expansion is funded at the ordinary 70/30 federal/state contribution rates.

Received a report on the economic impacts of the governor's Healthy Utah plan from a local economist hired by a local group promoting the expansion of Medicaid eligibility under the federal Affordable Care Act. The group said the governor's plan will promote economic and individual well-being.

Optional Medicaid Eligibility Expansion

Received recommendations from the Salt Lake Chamber of Commerce Health Reform Task Force that the state should pursue the use of all available federal funds to develop a flexible, Utah-specific Medicaid expansion that:

- promotes a competitive private insurance market;
- creates an environment where health care providers compete on the basis of keeping people healthy;
- promotes the accountability of those receiving assistance; and
- protects the state, should the federal government become unwilling or unable to be a funding partner.

Received comments from individuals who have been unable to obtain needed health care because they are unable to obtain public or private health insurance.

(Continued next column)

State Innovations Model Grant

Received a report from the Utah Department of Health on the department's July 21, 2014, application for a \$66 million State Innovations Model Round 2 grant under the federal Affordable Care Act. The application includes a request for \$13.4 million to integrate physical and behavioral health care services.

September 18, 2014

Health Reform and the Criminal Justice Population

Received reports from the Commission on Criminal and Juvenile Justice, the Administrative Office of the Courts, the Department of Corrections, the Utah Association of Counties, and the Division of Substance Abuse and Mental Health that an expansion of Medicaid eligibility under Governor Gary R. Herbert's Healthy Utah plan would increase the availability of substance abuse and mental health treatment and potentially reduce the number of individuals entering and returning to Utah's jails and prisons.

Medicaid Expansion — Update on Healthy Utah Plan

Received a report from the Department of Health that the US Centers for Medicare and Medicaid Services has agreed to all key provisions of the governor's Healthy Utah proposal to expand health care coverage using Medicaid funding available under the federal Affordable Care Act. The department reported that the US Centers for Medicare and Medicaid Services has agreed to a "work effort" requirement that would offer enrollees training and support to obtain or improve employment.

Health Insurance Plan Rates — 2015

Received a briefing by the Utah Insurance Department on how health insurance premiums in 2015 are likely to change for plans sold inside or outside the two health insurance exchanges that were established in Utah under the federal Affordable Care Act. Premium rates should be available by the beginning of November of this year.

Chairs: Rep. James A. Dunnigan / Sen. Allen M. Christensen

Staff: Mark D. Andrews (Policy Analyst) / Cathy J. Dupont (Attorney) / Lori Rammell (Secretarial Supervisor)

Judiciary

Domestic Asset Protection Trusts

Received a presentation from committee staff on the background of domestic asset protection trusts related to the provisions in 2014 General Session H.B. 162, "Asset Protection Trust Amendments."

Also received input and remarks from a legislator and an estate planning attorney on this study item.

Expungement of Administrative Records

Continued discussion on the issue of administrative actions related to orders of expungement. Focused on current federal statutes and practices that may hinder the complete

(Continued next page)

expungement of some administrative or criminal records on the state level and discussed possible interpretations for the current statutory language found in Utah Code Section 77-40-108.

Sentencing Discussion

Continued the discussion from the July interim meeting related to the current sentencing structure in Utah, prison commitments, and prison population drivers. Introduced an additional topic, mandatory minimum sentencing.

*Chairs: Rep. Kay L. McElff / Sen. Mark B. Madsen
Staff: Esther Chelsea-McCarty (Attorney) / Melinda Boulter (Research Assistant) / Kristen C. Ricks (Secretary)*

Law Enforcement and Criminal Justice

Federal 1033 Program

Received presentations from the State Surplus Property Program, the American Civil Liberties Union of Utah, and the Department of Public Safety regarding equipment received by law enforcement agencies in Utah through the federal government's 1033 program. The 1033 program distributes surplus military equipment to local law enforcement agencies. Items received by local law enforcement agencies in Utah through the 1033 program include rifles, grenade launchers, armored personnel carriers, Humvees, and mine resistant ambush protected vehicles.

Forfeited Property Report

Received a report from the Commission on Criminal and Juvenile Justice regarding the equitable sharing of funds and the property reported by Utah law enforcement agencies on federal asset forfeiture cases. State agencies in Utah received just over \$848,000 in FY 2014, which is lower than the \$1.1 million that state agencies reported in FY 2013. Over the past nine years, Utah has received an average of \$1.3 million each year from this program.

Multi-Agency Strike Force Report

Received a report from the Office of the Attorney General regarding the activities and accomplishments of the Multi-agency Strike Force.

The strike force is authorized in statute to combat violent crimes and other major felonies associated with illegal immigration and human trafficking. In FY 2014, the strike force opened 294 investigations and arrested 103 suspects.

Penalty for Traffic Violation Causing a Death

Discussed draft legislation "Penalty for Traffic Violations Causing a Death," which provides that a violation of the Traffic Code, otherwise punishable as an infraction or a class C misdemeanor, is a class B misdemeanor if, as a result of the violation, the operator of the vehicle causes the death of another person.

Action: Voted to amend the language of the draft

(Continued next column)

legislation to apply to all vehicles, not only motor vehicles.

*Chairs: Rep. Curtis Oda / Sen. Todd Weller
Staff: Nathan W. Brady (Policy Analyst) / Susan Creager Allred (Attorney) / Lori Rammell (Secretarial Supervisor)*

Natural Resources, Agriculture, and Environment

Clean Fuel Amendments and Rebates

Discussed draft legislation "Clean Fuel Amendments and Rebates," which authorizes the Department of Environmental Quality to make grants from the Clean Fuels and Vehicle Technology Fund to a person who installs conversion equipment on a motor vehicle.

Energy Producer States' Agreement

Received a report on Utah's involvement in the Energy Producer States' Coalition and the efforts of the coalition to establish an energy production agreement.

Impact of Federal Land Ownership

Discussed ways that federal land ownership and federal agency actions affect the state and its citizens. The discussion focused on:

- management of lands adjacent to federal lands;
- economic development;
- threatened and endangered species;
- wild horse and burro damage; and
- livestock transportation and branding.

Outdoor Recreation Office

Received a report from the Outdoor Recreation Office on the activities of the office.

Water Application Revisions

Discussed proposed changes to water right change application procedures and how existing water rights could be protected from impairment.

*Chairs: Rep. Michael E. Noel / Sen. Scott K. Jenkins
Staff: J Brian Allred (Policy Analyst) / RuthAnne Frost (Attorney) / Anna M. Allen (Secretary)*

Occupational and Professional Licensure Review Committee

September 16, 2014

Request for Licensure of Interior Designers

Received a presentation from a group of professional interior designer organizations requesting state licensure for interior designers.

Received comments from representatives of the profession regarding the benefits to the public from licensure.

Action: Opened a committee bill file to authorize an interior designer who holds a national certification to submit

(Continued next page)

certain interior design plans to a building code official for approval, as an alternative to state licensure.

*Chairs: Rep. Brian M. Greene / Sen. John L. Valentine
Staff: Bryant R. Howe (Assistant Director) / Peter Asplund (Attorney) / Tracey Fredman (Secretary)*

Political Subdivisions

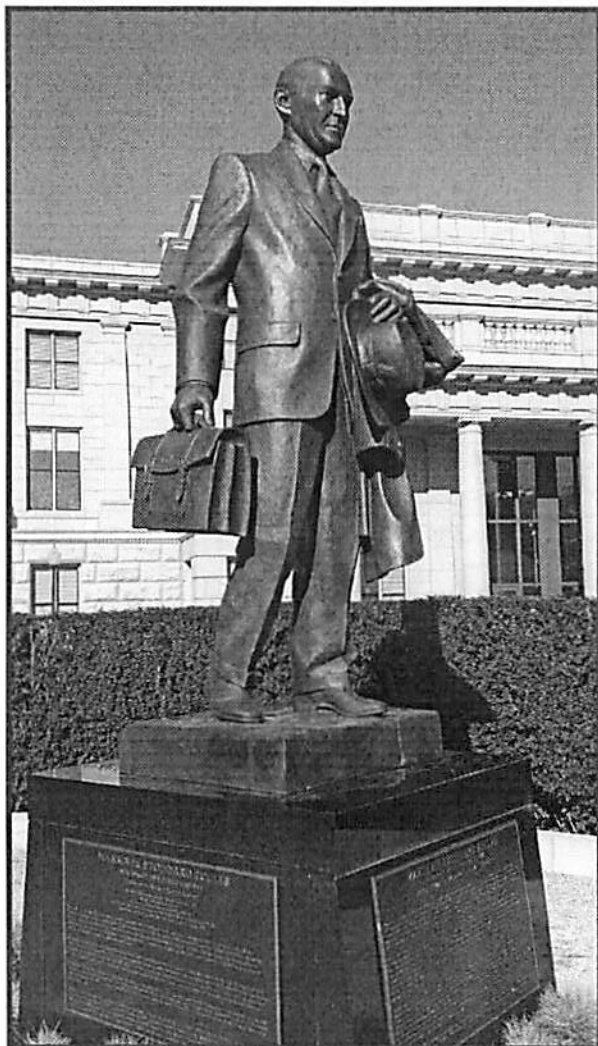
Assessment Areas

Received a progress report from a legislator regarding an informal workgroup that has been discussing concerns with Utah Code Title 11, Chapter 42, Assessment Area Act. Distributed draft legislation "Assessment Area Act Modifications" for informational purposes. The legislator distributed and discussed a summary of the main concepts of the legislation.

Military Installation Development Authority

Received a presentation from the Military Installation Development Authority (MIDA) created in Utah Code Title

(Continued next column)



Statue of Marriner S. Eccles.

See the Salt Lake Tribune article "Statue of Marriner S. Eccles unveiled at Utah Capitol"

INTERIM HIGHLIGHTS • September 2014

63H, Chapter 1, Military Installation Development Authority Act.

The presentation addressed the following:

- when and why was MIDA created;
- the statutory history of MIDA;
- the statutory powers and limitations of MIDA;
- how is MIDA governed;
- MIDA's goals and objectives;
- projects MIDA is working on;
- projects anticipated for MIDA;
- MIDA's revenue sources and amounts; and
- how is MIDA's revenue spent.

Mobile Home Parks

Received a progress report from the committee chairs regarding an informal workgroup that has been discussing concerns with the current law found in Utah Code Title 57, Chapter 16, Mobile Home Park Residency Act. The discussion focused on potentially creating an ombudsman to mediate disputes between an owner of a mobile home park and the owner of the mobile home who rents space within the mobile home park.

*Chairs: Rep. R. Curt Webb / Sen. Daniel W. Thatcher
Staff: Joseph T. Wade (Policy Analyst) / Victoria Ashby (Attorney) / Sara J. Thomas (Secretary)*

Prison Relocation Commission

September 3, 2014

Consultant Updates

Received a presentation from commission consultants who:

- reviewed the siting and development process;
- summarized current efforts to identify land parcels;
- summarized current efforts to screen land parcels that have been identified; and
- reported on the operational and architectural programming of new prison facilities.

Site Selection Criteria

Received a presentation from committee staff on potential site selection criteria by which to evaluate parcels of land under consideration for the relocation of the Draper prison.

Action: Amended proposed criteria and adopted final weighted criteria by which to evaluate parcels of land under consideration for the relocation of the Draper Prison.

Workgroup Updates

Received progress reports from each of the commission's three workgroups:

- Site Selection;

(Continued next page)

- Criminal Justice Reform and Programming; and
- Plan of Financing.

As a part of the Criminal Justice and Programming work group's report, received a presentation from the Pew Charitable Trusts.

*Chairs: Rep. Brad R. Wilson / Sen. Jerry W. Stevenson
Staff: Brian J. Bean (Policy Analyst) / Bryant R. Howe (Assistant Director) / Robert H. Rees (Attorney) / Sara J. Thomas (Secretary)*

Public Utilities and Technology

Federal Land Management — High Voltage Transmission Lines

Received a presentation from the deputy forest supervisor of the Uinta Wasatch Cache National Forest about the process that the approximately 38 different government entities involved in transmission line considerations must follow in approving or disapproving applications.

Nuclear Power Electricity Generation

Received a presentation from Blue Castle Project about the demand, supply, and cost of current electricity generation and for projected electricity generation in Utah. The presentation also addressed regulatory proposals and the advantages of a balanced energy portfolio, including nuclear power.

Utah Department of Technology Services

Received a presentation from the Department of Technology Services about the department's provision of information technology to 22 state agencies and numerous local governments. The presentation included information about data applications, networks, security, and reduction in staff due to consolidation.

Utah Office of Energy Development

Received a presentation from the Governor's Office of Energy Development about the office's initiatives to implement the governor's proposals for developing all of Utah's energy resources, including oil, gas, oil shale and sands, renewables, and unconventional energy sources.

Utah Public Service Commission

Received a presentation from the Utah Public Service Commission about the statutory role of the commission in regulating telecommunication, energy, and water. The presentation included information about the energy generation utility integrated resource planning and specifically the approval of 450 MW of new renewable electrical generation facilities.

*Chairs: Rep. Roger E. Barrus / Sen. David P. Hinkins
Staff: Richard C. North (Policy Analyst) / Samuel C. Johnston (Attorney) / Tracey Fredman (Secretary)*

Retirement and Independent Entities

September 10, 2014

Utah's Independent Entities

Received a report from committee staff on the updated "A Guide to Utah's Independent Entities," which was first released in August 2012. Like the 2012 guide, the July 2014 version inventories and explains the purpose of existing independent entities and adds information describing the process to create and dissolve an independent entity.

2-1-1 Information and Referral Network Funding

Received an update from the United Way of Salt Lake, the designated service provider for the 2-1-1 Information and Referral Network. During the 2013 General Session, the Legislature passed S.B. 56, "Utah 211 Referral Information Network," which authorizes the 2-1-1 service as a dial up helpline that connects with information about:

- emergency food pantries;
- utilities assistance;
- low-to-no-cost health and dental resources;
- child care and youth resources;
- government services;
- tax assistance;
- legal aid; and
- behavioral and substance abuse treatment.

Postretirement Employment Restrictions

Received presentations from committee staff and the Utah Retirement Systems regarding the 2010 retirement reforms, which implemented stricter postretirement reemployment restrictions, including:

- a one-year employment separation requirement after retirement; and
- a prohibition on collecting a retirement allowance while receiving any employer retirement contribution or while earning additional service credit.

Utah Retirement System Legislation — Updates

Received an update from the Utah Retirement Systems regarding recommended statutory changes to update the Utah State Retirement and Insurance Benefit Act. In addition, the Utah Retirement Systems is suggesting separate legislation to address Tier II retirement systems and benefit claim limitations.

Public Employees Health Program (PEHP) Cost Updates

Received a report from the Public Employees Health Program on its current efforts to control costs and

increase effectiveness of the program in order to:

- avoid an increase in administrative costs;
- bring reserves to an equivalent of 80 days of average expenditures; and
- keep the increase in premiums to 4.9% for the next fiscal year.

Total Compensation Analysis for State Employees

Received briefings from committee staff, the Department of Human Resource Management, and the Office of Management and Budget on compensation for state employees. Currently there are 18,517 permanent state employees, excluding elected officials, board members, judges, and temporary employees, with an average annual salary of \$47,773. This average salary amounts to 58% of total compensation. Total compensation of an employee earning the average annual salary is:

- 58% salary;
- 36% benefits; and
- 5% taxes.

The Department of Human Resource Management reported that its statutes need to be revised and that help is needed to fill some positions where skills and experience are critical. In addition, some outdated statutory provisions limit what data the department can use while addressing compensation.

The Office of Management and Budget suggested converting the current termination pool into a trust fund and obtaining an actuarial assessment of risks related to leave liabilities.

Performance Audit of the Utah Fund of Funds

Received an audit report and an overview of the Utah Capital Investment Corporation (UCIC) from the Legislative Auditor General. The audit, "A Performance Audit of the Utah Fund of Funds" (UFOF), which was released in August 2014, found that UFOF overstated its economic impact, including overstating its reported positive effect on income tax revenue. The audit also described substantial inconsistencies in UFOF public reports and criticized the UFOF for not having an economic development plan or metrics that are consistently tracked and reported.

The audit stated that due to financing costs of \$37.3 million, UFOF's portfolio is currently negative, but improving. Between 2005 and 2013, three positions on UCIC staff received \$330,000 in bonuses and severance payments without any developed criteria or documentation.

The UCIC was initially created in statute in 2003 as an independent quasi-public corporation to make venture capital fund investments through the Utah Fund of Funds to provide access to alternative capital by Utah

(Continued next column)

entrepreneurs. While the obligations of the corporation are not obligations of the state or any of its political subdivisions, investments are backed by Utah tax credits.

The committee asked for follow-up by the UCIC on each of the audit recommendations.

Utah Housing Corporation

Received a presentation from the Utah Housing Corporation, which was created in statute as an independent public corporation in 1975 to raise funds and create opportunities to assist low- and moderate-income individuals in obtaining safe and sanitary housing. The corporation does not receive any state funds. The corporation purchases and services mortgage loans made by private lenders to low- and moderate-income buyers and packages the loans into various securities that are sold to investors seeking highly rated, secure, fixed rate investments.

*Chairs: Rep. Craig Powell / Sen. Todd Weiler
Staff: Benjamin N. Christensen (Policy Analyst) / Peter Asplund (Attorney) / Shannon C. Halverson (Attorney) / Timothy J. Barber (Secretary)*

Revenue and Taxation

Income Tax Credits and Contribution Accounts

Reviewed draft legislation "Income Tax Amendments," which repeals provisions related to corporate and individual income tax credits and individual income tax contributions.

Special Service District Issues

Action: Directed committee staff to write a letter to the Legislative Management Committee asking permission to study issues related to special service districts.

Tax Review Commission Study Request

Action: Directed committee staff to write a letter to the Legislative Management Committee requesting authorization for the Tax Review Commission to study sales tax earmarks, particularly the earmarks related to water and transportation purposes.

Taxation of Molten Magnesium

Action: Directed committee staff to open a committee bill file to address issues related to the taxation of molten magnesium.

Centrally Assessed Property Valuation

Action: Directed committee staff to open a committee bill file to address issues related to valuation appeals for centrally assessed property.

*Chairs: Rep. Daniel McCoy / Sen. Deidre M. Henderson
Staff: Bryant R. Howe (Assistant Director) / Leif G. Elder (Policy Analyst) / Rebecca L. Rockwell (Attorney) / Sara J. Thomas (Secretary)*

(Continued next page)

Senate Judicial Confirmation Committee

September 9, 2014

Confirmation of Kate A. Toomey

The committee met on September 9, 2014, and recommended that the Senate confirm Ms. Kate A. Toomey as a judge on the Utah Court of Appeals.

The Senate met in extraordinary session on September 17, 2014, and approved the recommendations of the Senate Judicial Confirmation Committee.

Chair: Sen. Scott K. Jenkins
Staff: Michael E. Christensen (Director) / Susan Creager Allred (Attorney) / Kristen C. Ricks (Secretary)

State Water Development Commission

September 16, 2014

Filing of Change Applications

Discussed the right of an owner of a water contract interest to file a change application on another person's water right.

Groundwater Resource Management

Discussed the commission's response to the proposed US Forest Service directive for groundwater resource management.

State Water Strategy Advisory Team

Received a report from the governor's environmental adviser on the efforts and activities of the State Water Strategy Advisory Team.

Utah Water Issues

Received a report from the Department of Natural Resources and the Department of Environmental Quality on providing clean and abundant water to meet Utah's needs.

Chairs: Rep. Keith Grover / Sen. Margaret Dayton
Staff: J Brian Allred (Policy Analyst) / RuthAnne Frost (Attorney) / Anna M. Allen (Secretary)

Transportation

Driver License Record Amendments

Action: Approved draft legislation, "Amendments to Driver License Records," which authorizes the Driver License Division to disclose portions of a driving record to an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of their employment.

The bill also requires that the authorized disclosure of a driving record be limited to the driving record of a current employee of the employer and amends

(Continued next column)

provisions regarding the content of and requirements for disclosing a commercial driver license motor vehicle record.

General Aviation Facilities at the Salt Lake International Airport

Received a presentation from a private aviation company that addressed concerns the company has regarding general aviation facilities at the Salt Lake International Airport, and received a response from the Salt Lake City Department of Airports.

Additional information related to the private company's concerns was also distributed.

Performance Audit of the Utah Transit Authority

Received a performance audit of the Utah Transit Authority, as summarized in a presentation by the Office of the Legislative Auditor General, and received a response to the audit findings from the Utah Transit Authority.

Reimbursement to the State for Damage to Highways

Received a presentation from the Utah Department of Transportation regarding the funds collected by the department from persons held responsible for damage to Utah's highways during the past three years.

Sales Tax Earmarks

Received a report from the Office of the Legislative Fiscal Analyst addressing the various sales tax earmarks and historical sales tax earmarking levels.

Chairs: Rep. Johnny Anderson / Sen. Kevin T. Van Tassell
Staff: Art L. Hunsaker (Policy Analyst) / Shannon C. Halverson (Attorney) / Timothy J. Barber (Secretary)

Veterans' and Military Affairs Commission

July 30, 2014

Protection of Veteran Benefit Claimants

Received presentations from commission members about proposed draft legislation regulating people who provide assistance to veterans who are claiming benefits. The discussion included the importance of an enforcement mechanism to ensure that those providing assistance are accredited and are following both state and federal laws.

Action: Voted unanimously to incorporate 2014 General Session H.B. 428, "Veteran Benefit Assistance Disclosure," language into the draft proposal, "Protection of Veteran Benefit Claimants."

Utah Code Definition of a Veteran

Discussed draft legislation about developing a consistent definition of a veteran, including broadening the definition from members of the armed forces to members of the uniformed services.

(Continued next page)

Additional discussion addressed ensuring that certain veterans who were separated under less than honorable conditions are not eligible for benefits.

Action: Voted to direct staff to include the commission recommendations in draft legislation for the next commission meeting.

Utah Veterans Court

Received a report from the Utah Office of the Court Administrator about the creation of a pilot veterans' court in Utah. The report included information about the organizational process the courts are using to develop the pilot program.

Commission discussion also included the possibility of creating a veterans' court in northern Utah.

(Continued next column)

Veterans' Military Retirement Benefit Tax Exemption

Discussed exempting part or all of a military member's retirement pay from state income tax. Presentations included nationwide information about how other states treat military retirement pay.

Action: Voted to direct commission staff to draft options regarding who should receive an exemption and how much the exemption should be, and to provide a dynamic fiscal note reflecting the different options.

*Chairs: Rep. Paul Ray / Sen. Peter C. Knudson
Staff: Richard C. North (Policy Analyst) / Esther Chelsea-McCarty (Attorney) / Tracey Fredman (Secretary)*

Awards

National Conference of State Legislatures — Minneapolis

Utah Legislature's Website Receives the **ONLINE DEMOCRACY AWARD** at NCSL

The Utah Legislature's website (le.utah.gov) received the 2014 Online Democracy Award in August during the National Conference of State Legislatures' (NCSL) 2014 Legislative Summit in Minneapolis for producing a superior legislative website. NCSL's Online Democracy Award is given each year to a legislature, legislative chamber, or caucus whose website makes democracy user-friendly in an exceptional way. The winning website is chosen by a committee of legislative staffers who evaluate each site's design, content, and use of technology.

This is the second time Utah has won the award—the Legislature's website also won in 2005, when NCSL initiated the program. This year, the panel of judges was impressed with the website's simple interface and intuitive navigation that facilitates the public's access to the Legislature.

According to the judges, the Utah site is "an information powerhouse." Its most notable features include:

- the sophisticated layout and functionality of the legislative calendar;
- straightforward search capabilities and options;
- fully integrated audio and video;
- a mobile-friendly version;
- special attention to accessibility and a comprehensive ADA Web page;
- features that draw interest, such as the Taxpayer Receipt; and
- a "How can we improve this page?" element on every page that encourages public feedback.

The legislative website team that manages the site was created in 2012 and consists of staff from each of Utah's legislative offices: Senate, House, Office of Legislative Research and General Counsel, Office of the Legislative Fiscal Analyst, and Office of the Legislative Auditor General.

Accepting the award at the 2014 NCSL Summit on behalf of the Utah Legislature were Senate President Wayne Niederhauser and House Speaker Rebecca Lockhart.

The Online Democracy Award is sponsored by two of NCSL's legislative staff organizations: the National Association of Legislative Information Technology (NALIT) and the Legislative Information and Communications Staff (LINCS).

(Awards continued on next page)

Constance C. Steffen is Awarded the *LEGISLATIVE EDUCATION STAFF OF THE YEAR AWARD*

Constance C. Steffen is the 2014 recipient of the Legislative Education Staff Network Recognition Award. This esteemed award recognizes Connie's 29-year career in the Office of Legislative Research and General Counsel, where she has provided outstanding service to the legislative process.

Connie has worked the past 14 years staffing the House and Senate Education Standing Committees, the Education Interim Committee, and numerous other task forces that have reviewed policies on numerous issues, including education finance, charter schools, testing, and school vouchers. Before working in Education, Connie worked in Natural Resources. Over her career, Connie has not only researched hundreds, if not thousands, of different public policies, but she is also a prolific bill drafter. Connie sets the standard of what it means to be a policy analyst and we are honored that she is being recognized by NCSL as the Legislative Education Staff of the Year.

Office of Legislative Research and General Counsel Receives *NOTABLE DOCUMENTS AWARD*

Mark Andrews, OLRGC analyst for health policy and issues, produced three documents that garnered the NCSL Notable Documents Award in two categories:

Innovative Presentation:

Medicaid Expansion: The Debate Continues ([Video](#))

Public Policy — Health:

Implementation of the Affordable Care Act: Medicaid Expansion Options and Their Impacts

Implementation of the Affordable Care Act: The Utah Model for Implementing Exchanges

Next Interim Day— October 15, 2014



OFFICE OF LEGISLATIVE RESEARCH
AND GENERAL COUNSEL
HOUSE BUILDING, SUITE 210
PO BOX 145210

For more information about legislative activities, visit the
Utah State Legislature's website at: le.utah.gov

Staff: Susan Creager Allred, Nathan W. Brady, Leif G. Elder, and Anna M. Allen

Photo Credits: Susan Creager Allred and Nathan W. Brady

TAB 7

Rule 2-103. Open and closed meetings.

Intent:

To establish the Council's responsibility for providing public notice of its meetings and to ensure the opportunity for public attendance at Council meetings.

To establish procedures consistent with the philosophy of the Utah Open and Public Meetings Act.

To provide the Council with sufficient flexibility to close meetings when discussing matters of a sensitive nature.

Applicability:

This rule shall apply to all meetings of the Council.

Statement of the Rule:

(1) Definitions. As used in this rule "meeting" means the gathering of a quorum of the Council, whether in person or by means of electronic communication, for the purpose of discussing or acting upon any matter over which the Council has jurisdiction, but does not include a chance or social meeting of Council members.

(2) Public notice of meetings.

(2)(A) After the Council has set its annual meeting schedule, the administrative office of the courts shall publish on the court's website and on the Utah Public Notice Website the date, time and place of the meetings. At least 24 hours before each meeting, the administrative office of the courts shall post on the websites the meeting agenda and notify at least one newspaper of general circulation within the state of the postings. The administrative office of the courts shall notify a media agency of the postings by email upon request for routine notice. The Council may address a matter not on the meeting agenda but will take no final action on the matter.

(2)(B) When, due to unforeseen circumstances, it is necessary for the Council to consider matters of an urgent nature, the requirement of public notice may be suspended and the best notice practicable given. No such meeting of the Council shall be held unless:

(2)(B)(i) an attempt has been made to notify all members;

(2)(B)(ii) at least a quorum is present; and

(2)(B)(iii) a majority of those present vote to hold the meeting.

(3) Open meetings. Meetings of the Council are open to the public unless closed as provided in this rule.

(4) Reasons for closed meetings.

A closed meeting of the Council may be held for discussions regarding any of the following:

(4)(A) the character, professional competence, or physical or mental health of an individual;

(4)(B) collective bargaining or litigation;

(4)(C) the purchase, exchange or lease of real property if public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the Council from completing the transaction on the best possible terms;

(4)(D) the sale of real property if:

(4)(D)(i) public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the Council from completing the transaction on the best possible terms;

(4)(D)(ii) the Council has previously given public notice that the property would be offered for sale; and

(4)(D)(iii) the terms of the sale are publicly disclosed before the Council approves the sale;

(4)(E) deployment of security personnel or devices;

(4)(F) allegations of criminal misconduct; or

(4)(G) consideration of a private, protected, sealed, juvenile court social or juvenile court legal record as defined in Rule 4-202.02.

(5) Procedure for closing a meeting.

(5)(A) A closed meeting may be held only upon the affirmative vote of two-thirds of the members present at an open meeting for which public notice is given, provided a quorum is present.

(5)(B) The recording and minutes otherwise required by Rule 2-104 shall not be made if a meeting is closed to discuss the character, competence, or physical or mental health of an individual or to discuss the deployment of security personnel or devices. The presiding officer shall sign a sworn statement, which is a public record, affirming that the sole purpose for closing the meeting is to discuss the character, competence, or physical or mental

health of an individual or the deployment of security personnel, devices, or systems.

(6) Limit on actions at a closed meeting. No contract, appointment, rule or resolution may be approved at a closed meeting. A contract, appointment, rule or resolution approved at an open meeting may be based upon discussions had at a closed meeting.

(7) Limit on discussions outside of closed meeting. No one who attends a closed meeting may disclose information discussed or materials distributed outside of the closed meeting except with

(A) others who participated in the closed meeting, and

(B) a member of the Judicial Council.

(8) Right of removal. All or any part of an open meeting may be recorded by any person in attendance, provided the recording does not interfere with the conduct of the meeting. The Council may order the removal of any person who disrupts a meeting.

(9) The administrative office of the courts shall annually train the members of the Council on the requirements of this rule and of Rule 2-104.

Rule 2-104. Recording meetings.

Intent:

To provide a formal method for memorializing Council meetings.

To regulate public access to such records.

Applicability:

This rule shall apply to all meetings of the Council.

Statement of the Rule:

(1) Except as provided in Rule 2-103(5)(B), the administrative office of the courts shall make an audio recording of all open and closed Council meetings, and the administrative office of the courts shall prepare minutes of all open Council meetings. The recording is a verbatim record of what is said during the meeting. The minutes shall include:

(1)(A) the date, time, and place of the meeting;

(1)(B) the names of members present, in person or by electronic communication, the names of members absent and the names of staff and guests who testify to the Council;

(1)(C) the substance of all matters proposed, discussed, or decided;

(1)(D) the substance of the testimony of guests and the reports of staff or a summary reference to such testimony or report if a copy thereof is filed with the minutes;

(1)(E) a record of the vote taken on any question, and, if the vote is a roll call vote, a record of the vote of individual members by name;

(1)(F) the reason for holding a closed meeting; and

(1)(G) any other information that any member requests be entered in the minutes.

(2)(A) The audio recording of a closed meeting is a protected record. The audio recording of an open meeting is a public record. Minutes of an open meeting awaiting approval by the Council are a public record. The approved minutes of an open meeting are a public record.

(2)(B) Minutes awaiting approval by the Council shall be clearly identified as "unapproved" and made available within 30 days after the meeting to which they pertain. The approved minutes of an open meeting are a permanent record. The audio recording of a public meeting may be destroyed 90 days after the Council approves the minutes. The audio recording of a closed meeting may be destroyed 90 days after the matter to which it pertains is moot.

(3) The administrative office of the courts shall post on the Utah Public Notice Website:

(3)(A) the audio recording of a public meeting within three days after the meeting;

(3)(B) public records distributed at a public meeting, including public records distributed to Council members before the meeting, within three days after the meeting; and

(3)(C) the approved minutes of a meeting within three days after approval.

TAB 8



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: Alison Adams-Perlac *Handwritten signature*
Date: October 17, 2014
Re: Rules for Final Action

1. Expedited Rule

The Policy and Planning Committee has approved the following rule and has recommended that the Council approve it on an expedited basis so that the Model Utah Jury Instructions Committees have official status as standing committees of the Council as soon as possible.

CJA 1-205. Standing and ad hoc committees. Amend. Makes the Committee on Model Utah Civil Jury Instructions and the Committee on Model Utah Criminal Jury Instructions standing committees of the Judicial Council. Outlines the membership makeup of each committee. Makes technical corrections.

If the Council approves the rule on an expedited basis, it will be effective immediately, but will be subject to change following the comment period.

2. Rules with Public Comment Period Closed

The public comment periods for the following rules have closed and the rules are now ready for final action by the Judicial Council.

CJA 4-405. Juror and witness fees and expenses. Amend. Makes an attorney issuing the subpoena responsible for reimbursing a civil witness for necessary and reasonable parking expenses as required by statute.

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 / 801-578-3821 / Fax: 801-578-3843 / email: alisonap@utcourts.gov

The proposal received no comments and the Policy and Planning Committee voted to recommend it, as written, to the Council.

CJA 4-907. Divorce education and divorce orientation courses. Amend.
Provides an option to take the divorce orientation course online, and reflects changes to the fees for the course as required by statute.

The proposal received no comments and the Policy and Planning Committee voted to recommend it, as written, to the Council.

3. Rule with Non-substantive Changes (No Comment Period Required)

The Policy and Planning Committee has approved the following rule with a minor, non-substantive change and has recommended it to the Council.

CJA 4-510.03. Qualification of ADR providers. Amend. Corrects an incorrect reference to another rule.

Because no comment period is required for non-substantive changes, if the Council approves the rule, it will be effective November 1, 2014.

Encl.	CJA 1-205
	CJA 4-405
	CJA 4-907
	CJA 4-510.03

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) Language Access Committee; and

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

(1)(A)(xii) Committee on Model Utah Civil Jury Instructions; and

(1)(A)(xiii) Committee on Model Utah Criminal Jury Instructions.

(1)(B) Composition.

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

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

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

42 (1)(B)(iv) The Justice Court Standards Committee shall consist of one
43 municipal justice court judge from a rural area, one municipal justice court
44 judge from an urban area, one county justice court judge from a rural area,
45 and one county justice court judge from an urban area, all appointed by the
46 Board of Justice Court Judges; one mayor from either Utah, Davis, Weber or
47 Salt Lake Counties, and one mayor from the remaining counties, both
48 appointed by the Utah League of Cities and Towns; one county commissioner
49 from either Utah, Davis, Weber or Salt Lake Counties, and one county
50 commissioner from the remaining counties, both appointed by the Utah
51 Association of Counties; a member of the Bar from Utah, Davis, Weber or Salt
52 Lake Counties, and a member of the Bar from the remaining counties, both
53 appointed by the Bar Commission; and a judge of a court of record appointed
54 by the Presiding Officer of the Council. All Committee members shall be
55 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

83 serve as co-chairs to the committee. In its discretion the committee may
84 appoint non-members to serve on its subcommittees.

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

93 (1)(B)(ix) The Committee on Resources for Self-represented Parties shall
94 consist of two district court judges, one juvenile court judge, one justice court
95 judge, three clerks of court – one from an appellate court, one from an urban
96 district and one from a rural district – one member of the Online Court
97 Assistance Committee, one representative from the Utah State Bar, two
98 representatives from legal service organizations that serve low-income clients,
99 one private attorney experienced in providing services to self-represented
100 parties, two law school representatives, the state law librarian, and two
101 community representatives.

102 (1)(B)(x) The Language Access Committee shall consist of one district
103 court judge, one juvenile court judge, one justice court judge, one trial court
104 executive, one court clerk, one interpreter coordinator, one probation officer,
105 one prosecuting attorney, one defense attorney, two certified interpreters, one
106 approved interpreter, one expert in the field of linguistics, and one American
107 Sign Language representative.

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

111 (1)(B)(xii) The Committee on Model Utah Civil Jury Instructions shall
112 consist of two district court judges, four lawyers who primarily represent
113 plaintiffs, four lawyers who primarily represent defendants, and one person
114 skilled in linguistics or communication.

115 (1)(B)(xiii) The Committee on Model Utah Criminal Jury Instructions shall
116 consist of two district court judges, one justice court judge, four prosecutors,
117 four defense counsel, and one person skilled in linguistics or communication.

118 (1)(C) The Judicial Council shall designate the chair of standing
119 committees. Standing committees shall meet as necessary to accomplish their
120 work but a minimum of once every six months. Standing committees shall
121 report to the Council as necessary but a minimum of once every six months.
122 Council members may not serve, participate or vote on standing committees.
123 Standing committees may invite participation by others as they deem
124 advisable, but only members designated by this rule may make motions and
125 vote. All members designated by this rule may make motions and vote unless
126 otherwise specified. Standing committees may form subcommittees as they
127 deem advisable.

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

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

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

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

137 (1)(D)(iv) The Justice Court Standards Committee shall terminate on June
138 30, 2008.

139 (1)(D)(v) The Judicial Branch Education Committee shall terminate on June
140 30, 2008.

141 (1)(D)(vi) The Court Facility Planning Committee shall terminate on June
142 30, 2009.

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

145 (1)(D)(viii) The Committee on Judicial Outreach shall terminate on June 30,
146 2010.

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

149 (1)(D)(x) The ~~Court Interpreter Committee~~ Language Access Committee
150 shall terminate on June 30, 2014~~7~~.

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

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

163 (3) General provisions.

164 (3)(A) Appointment process.

165 (3)(A)(i) Administrator's responsibilities. The state court administrator shall
166 select a member of the administrative staff to serve as the administrator for

167 committee appointments. Except as otherwise provided in this rule, the
168 administrator shall:

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

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

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

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

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

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

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

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

Rule 4-405. Juror and witness fees and expenses.

Intent:

To develop a uniform procedure for payment of juror and witness expenses.

Applicability:

This rule shall apply to all trial courts of record.

Statement of the Rule:

(1) Fees.

(1)(A) The courts shall pay the fee established by statute for all jurors of the courts of record. The courts shall pay the fee established by statute for witnesses subpoenaed by the prosecutor or by an indigent defendant in criminal cases in the courts of record and in actions in the juvenile court. The courts shall pay no fee to a witness appearing for a hearing that was canceled or postponed with at least 24 hours' notice to the parties, excluding Saturdays, Sundays, and holidays. The parties shall notify witnesses when a hearing is canceled or postponed. Upon request, a civil witness's necessary and reasonable parking expenses shall be reimbursed by the attorney who issued the subpoena.

(1)(B) A subsequent day of attendance shall be:

(1)(B)(i) for a witness, attendance on a subsequent day of the hearing regardless of whether the hearing is continued to a contiguous business day, but only if the hearing was actually called on the first day; and

(1)(B)(ii) for a juror, attendance on a subsequent day during the juror's term of availability, as defined in Rule 4-404(3)(B), regardless of whether attendance is for the same trial.

(1)(C) A witness requesting payment shall present a subpoena on which appears the certification of the attorney general, county attorney, district

28 attorney or legal defender of the number of days the witness attended court,
29 as defined in subsection (1)(B).

30 (2) Mileage. The courts shall reimburse the cost of travel at the rate
31 established by statute for those jurors and witnesses to whom the court pays
32 a fee. A witness in a criminal case or juvenile court case traveling from out of
33 state to whom the court pays a witness fee shall be reimbursed the cost of
34 round trip airfare or round trip travel at \$.20 per mile, as determined by the
35 court.

36 (3) Meals and refreshments.

37 (3)(A) Meals for jurors shall be provided if the case has been submitted to
38 the jury and the jury is in the process of deliberating the verdict or if the jury is
39 sequestered. A lunch meal may be provided to jurors impaneled to try a case
40 if it is anticipated that the matter will not be concluded by 2:00 p.m. on the final
41 day of trial and the trial judge finds that provision of a lunch meal will assist in
42 expediting the conclusion of the trial.

43 (3)(B) A witness in a criminal case or a juvenile court case traveling from
44 outside the county to whom the court pays a witness fee may be reimbursed
45 for meals.

46 (3)(C) Payment for meals for jurors and eligible in-state witnesses shall not
47 exceed the rates adopted by the Department of Administrative Services.

48 (3)(D) Refreshments may be provided to a jury during the course of trial,
49 upon order of the judge. Payment for refreshments shall not exceed \$3.00 per
50 person per day.

51 (4) Lodging. Lodging for jurors shall be paid if the judge orders the jury
52 sequestered, if the juror must travel more than 100 miles one-way from the
53 juror's residence to the courthouse and the judge orders that lodging be paid,
54 or if the judge orders that lodging be paid due to inclement weather. A witness

55 in a criminal case or juvenile court case to whom the court pays a witness fee
56 traveling from outside the county shall be provided lodging only upon a
57 determination by the court executive that returning to the point of origin on the
58 date in question places a hardship upon the witness or that the
59 reimbursement for travel for repeat appearances is greater than the cost of
60 lodging. Unless unavailable, lodging costs shall not exceed the rates adopted
61 by the Department of Administrative Services.

62 (5) Method and record of payment.

63 (5)(A) The payment of juror and witness fees and mileage shall be by
64 check made payable to the individual, or the court may reimburse the county
65 or municipal government for the payment of the fee or mileage allowance.

66 (5)(B) The court shall pay eligible expenses of jurors directly to the vendor.
67 Jurors shall not be required to incur the expense and seek reimbursement.
68 The court may pay the eligible expenses of witnesses directly to the vendor or
69 may reimburse the witness or the county or municipal government for the
70 expense.

71 (5)(C) Jurors. Jurors must present a summons for payment for the first day
72 of service. If a juror does not present a summons, the clerk may certify that
73 the juror was summoned. The clerk shall file the summons and shall record
74 the attendance of jurors for payment, including subsequent days of service.

75 (5)(D) Witnesses in criminal cases and juvenile court cases. Witnesses in
76 criminal cases and juvenile court cases must present a subpoena for
77 payment. If the subpoena is issued on behalf of an indigent defendant, it shall
78 bear the certificate of defense counsel that the witness has appeared on
79 behalf of the defendant at state expense, regardless of the number of days for
80 which the witness is eligible for payment. If the subpoena is issued on behalf
81 of the prosecution, the prosecutor shall certify the number of days and the

82 number of miles for which the witness is eligible for payment. The clerk shall
83 file the subpoena and record of attendance. If a witness does not present a
84 subpoena, the clerk may record the witness' attendance and mailing address
85 that is certified by the prosecutor or defense counsel.

86 (5)(E) The clerk of the court shall enter the payment due the juror or
87 witness in the State Accounting System (FINET) within 10 calendar days after
88 receipt of certification. The state will mail the payment to the juror or witness
89 within 3 days. The clerk of court shall maintain both a list of undeliverable juror
90 and witness checks and the checks. A payment is considered abandoned one
91 year after it became payable and will be sent to the Division of Unclaimed
92 Property pursuant to the Utah Code.

93 (6) Audit of records. At least once per month, the clerk of the court or a
94 designee shall compare the jurors summoned and the witnesses subpoenaed
95 with the FINET log of payments. Any unauthorized payment or other
96 irregularity shall be reported to the court executive and the audit department
97 of the Administrative Office of the Courts. The Administrative Office of the
98 Courts shall include the audit of juror and witness payments within the scope
99 of their regularly scheduled audits.

Rule 4-907. Divorce education and divorce orientation courses.

Intent:

To establish policies for the implementation of the divorce education course required by Utah Code Section 30-3-11.3 and the divorce orientation course required by Utah Code Section 30-3-11.4.

Applicability:

This rule shall apply to all proceedings in which Utah Code Section 30-3-11.3, Utah Code Section 30-3-11.4 or a court order require attendance at one or both courses.

Statement of the Rule:

(1) The education department within the Administrative Office of the Courts shall:

(1)(A) establish uniform specifications and standards for the courses;

(1)(B) issue a request for proposals setting forth the uniform specifications and standards;

(1)(C) award contracts for live courses; and

(1)(D) produce the courses by video and other effective formats.

(2)(A) Each party required to attend one or both courses shall attend the live course at any location at which it is offered.

(2)(B) A party required to attend one or both courses may watch a video of the course if:

(2)(B)(i) the party lives out of state or more than 60 miles from the nearest live class;

(2)(B)(ii) the party is in prison, jail or other detention facility;

(2)(B)(iii) the party is an in-patient at a medical facility; or

(2)(B)(iv) the party's request to watch the video is approved by the divorce education administrator.

28 (2)(C) The party may purchase the video or watch it at any district court
29 courthouse.

30 (3) The course provider or the custodian of the video shall provide the party
31 with a certificate of completion.

32 (4) When the petition is filed, the clerk shall notify the petitioner of the
33 course requirement. The petitioner shall notify the respondent of the
34 requirement and file a certificate of service of the notice.

35 (5) Any person attending a course shall present a valid form of photo
36 identification, and pay the course fee or present a copy of an order waiving
37 the fee or a motion to waive fees that has been filed with the court. If the court
38 determines that the party is not impecunious, the court may enter judgment for
39 the amount of the course fee.

40 (6) The fee for attending the education course or watching the video is
41 \$35.00, which includes \$8.00 for deposit in the Children's Legal Defense
42 Fund. The fee for attending the orientation course is \$15.00 for petitioners
43 who attend the course within 30 days of filing and for respondents who attend
44 the course within 30 days of service. Otherwise, ~~the~~ the fee for attending the
45 orientation course, taking the course online, or watching the video is \$230.00,
46 which includes \$5.00 for deposit in the Children's Legal Defense Fund.

47 (7) The course provider shall, within 72 hours of each course, provide the
48 court with an alphabetized list of each party who completed the course.

Rule 4-510.03. Qualification of ADR providers.

Intent:

To establish eligibility and qualification requirements for inclusion on the Utah Court Approved ADR Roster including additional requirements for designation as a Divorce Roster Mediator, Master Mediator and Domestic Mentor.

Applicability:

This rule applies in the district court.

Statement of the Rule:

(1) To be eligible for the roster, an applicant must:

(1)(A) submit a written application to the Director setting forth:

(1)(A)(i) a description of how the applicant meets, or will meet within a reasonable time, the requirements specified in paragraph ~~(3)(B)(i)~~ (2)(A), if applicable;

(1)(A)(ii) the major areas of specialization and experience of the applicant, such as real estate, estates, trusts and probate, family law, personal injury or property damage, securities, taxation, civil rights and discrimination, consumer claims, construction and building contracts, corporate and business organizations, environmental law, labor law, natural resources, business transactions/commercial law, administrative law and financial institutions law;

(1)(A)(iii) the maximum fees the applicant will charge for service as a provider under the ADR program; and

(1)(A)(iv) the judicial districts in which the applicant is offering to provide services and the location and a description of the facilities in which the applicant intends to conduct the ADR proceedings;

(1)(B) agree to complete and annually complete up to six hours of ADR training as required by the Judicial Council;

28 (1)(C) submit an annual report to the Director indicating the number of
29 mediations and arbitrations the ADR provider has conducted that year; and

30 (1)(D) be re-qualified annually.

31 (2) To be included on the roster as a mediator:

32 (2)(A) all new applicants to the court roster must also have successfully
33 completed at least 40 hours of court-approved basic formal mediation training
34 in the last three years. This training shall be under a single training course
35 from a single, court-approved training provider. The applicant must also
36 complete 10 hours of experience in observing a court qualified mediator
37 conduct mediation, and 10 hours in either conducting mediations singly or co-
38 mediating with a court qualified mediator, or meet such other education,
39 training and experience requirements as the Council finds will promote the
40 effective administration of the ADR program;

41 (2)(B) successfully pass an examination on the Code of Ethics for ADR
42 providers;

43 (2)(C) agree to conduct at least three pro bono mediations each year as
44 referred by the Director; and

45 (2)(D) be of good moral character in that the provider has not been
46 convicted of a felony, a misdemeanor involving moral turpitude, or any other
47 serious crime, and has not received professional sanctions that, when
48 considered in light of the duties and responsibilities of an ADR provider, are
49 determined by the Director to indicate that the best interests of the public are
50 not served by including the provider on the roster.

51 (3) To be included on the court roster for qualified divorce mediators:

52 (3)(A) All new applicants to the roster of divorce mediators must also have
53 an additional 32 hours of court-approved training specific to the skills, Utah

54 laws, and information needed to conduct divorce mediation. This training shall
55 be under a single training course from a single, court-approved provider.

56 (3)(B) All applicants must have a minimum of 6 hours of training specific to
57 domestic violence and screening for domestic violence which may be included
58 in the court approved 32 hour training referred to above.

59 (3)(C) New applicants to the court roster of divorce mediators are required
60 to have acquired experience specific to divorce mediation. This is in addition
61 to the 20 hours of experience required for the court roster of basic mediators.
62 The additional experience includes having observed a minimum of two divorce
63 mediations, co-mediating two divorce mediations and having been observed
64 conducting two divorce mediations. Each of these includes debriefing and
65 analysis afterward with a mediator who has Domestic Mentor status. The
66 Domestic Mentor may charge a fee for this service.

67 (3)(D) The Director will maintain and make available a list of those
68 mediators who have Domestic Mentor status.

69 (4) To be included on the roster as a Master Mediator, the provider must
70 also have completed 300 hours in conducting mediation sessions.

71 (5) To be included on the roster as a Domestic Mentor, the provider must
72 also have completed 300 hours in conducting mediation in domestic cases
73 and completed a domestic mentor orientation.

74 (6) To be included on the roster as an arbitrator, the provider must also:

75 (6)(A) have been a member in good standing of the Utah State Bar for at
76 least ten years, or meet such other education, training and experience
77 requirements as the Council finds will promote the effective administration of
78 the ADR program;

79 (6)(B) be of good moral character in that the provider has not been
80 convicted of a felony, a misdemeanor involving moral turpitude, or any other

81 serious crime, and has not received professional sanctions that, when
82 considered with the duties and responsibilities of an ADR provider are
83 determined by the Director to indicate that the best interests of the public are
84 not served by including the provider on the roster; and

85 (6)(C) agree to conduct at least one pro bono arbitration each year as
86 referred by the Director.

87 (7) To be re-qualified as a mediator, the provider must, unless waived by
88 the Director for good cause, demonstrate that the provider has conducted at
89 least six mediation sessions or conducted 24 hours of mediation during the
90 previous year.

91 (8) To be re-qualified as an arbitrator, the provider must, unless waived by
92 the Director for good cause, demonstrate that the provider has conducted at
93 least three arbitration sessions or conducted 12 hours of arbitration during the
94 previous year.

95 (9) A provider may be sanctioned for failure to comply with the code of
96 ethics for ADR providers as adopted by the Supreme Court or for failure to
97 meet the requirements of this rule or state statute. The committee shall inform
98 the public of public sanctions against a provider promptly after imposing the
99 sanction.

100 (9)(A) Public sanctions may include singly or with other sanctions:
101 a written warning and requirement to attend additional training;

102 (9)(A)(i) require the mediator to allow the Director or designee to observe a
103 set number of mediation sessions conducted by the mediator;

104 (9)(A)(ii) suspension for a period of time from the court roster; and

105 (9)(A)(iii) removal from the court roster.

106 (9)(B) Private sanctions may include singly or with other sanctions:

107 (9)(B)(i) admonition;

108 (9)(B)(ii) re-take and successfully pass the ADR ethical exam.

109 (10) The committee shall approve and publish procedures consistent with
110 this rule to be used in imposing the sanction. The complainant shall file a
111 written and signed complaint with the director. The director shall notify the
112 provider in writing of the complaint and provide an opportunity to respond. The
113 director may interview the complainant, the provider and any parties involved.
114 Upon consideration of all factors, the director may impose a sanction and
115 notify the complainant and the provider. If the provider seeks to challenge the
116 sanction, the provider must notify the director within 10 days of receipt of the
117 notification. The provider may request reconsideration by the director or a
118 hearing by the Judicial Council's ad hoc committee on ADR. The decision of
119 the committee is final.

TAB 9

Judicial Council 2015 Study Item: Pretrial Release Practices and Alternatives

Committee Charge:

The committee is charged with conducting a thorough assessment of existing pretrial release practices used in Utah's courts and determining if there are alternatives which should be considered. Specifically, the committee should:

- Determine what constitutes "best practices" in the field of pretrial release
- Conduct an inventory of current practices and assess both their effectiveness and the extent to which they are consistent with the best practices in this field
- Determine how best to improve the information needed by judges when making release decisions, including an assessment of evidenced based assessment tools and instruments
- Review the statutory history of release and bail legislation
- Evaluate alternatives in terms of public protection, the integrity of the court process, and the ability to guard against punishment prior to conviction, as well as, both resource/cost implications and savings potential

The committee is encouraged to seek the advice and assistance of national organizations who specialize in field of pretrial release.

Timetable

The committee should complete it's work and report it's findings and recommendations to the Judicial Council at the November 2015 Judicial Council meeting. This will allow the Judicial Council time to decide what, if any, legislation should be advanced to the 2106 Legislature.

Membership

District Court Judges (2)	County Sheriff (1)
Juvenile Court Judge (1)	Member of the Senate (1)
Justice Court Judges (2)	Member of the House (1)
Prosecutor (1)	Commission on Criminal and Juvenile Justice Staff(1)
Defense Attorney (1)	County Government (1)
AOC (2)	Commercial Bail Agent (1)
	Insurance Commission Representative (1)

The committee is encouraged to make use of other resources as needed, such as: trial court executives, clerks of court, AOC Information Services, and Salt Lake County Pretrial Release Services. The committee will be staffed by the AOC Legal Office.

TAB 10

Memorandum

TO: Management Committee

FROM: Ray Wahl, Deputy State Court Administrator

RE: Update on Senior Judge Budget

DATE: September 23, 2014

There are two issues I wanted to provide an update on to the Management Committee; the spending of the senior judge account last fiscal year, and the increase in the judicial operation budget for senior judges.

Last fiscal year, there was \$226,900 allocated to the senior judge account. The court spent \$338,642.79. This means the budget was overspent by \$111,742.79. Over 90% of the spending was on senior judge pay. As I mentioned to the Council, there were some very unique circumstances last year that required an unusual spending in this account. They included the untimely death of Judge Quinn, many judicial vacancies that created gaps in coverage, and the continued use of senior judges to reduce the time to disposition of case types. Prior to the beginning of the fiscal year, a memorandum was sent to the Presiding Judges, Senior Judges, and management that informed those people we would be returning to the authorized uses of senior judges under Rule 3-108. This fiscal year, the Council allocated \$167,000 to the senior judge account. After projections of carry forward money were finalized, the Council authorized an additional \$23,000 to this account. The account now had \$190,000 to spend on senior judge assistance. I will continue to update the committee and the Council on spending patterns.

The second matter I wanted to discuss with the Management Committee is the judicial operations budget. As you will recall, the Council authorized an increase in this account from \$500 to \$900 for this fiscal year, using one time funding. Judges, Senior Judges, and Commissioners are entitled to use this money by policy. The total amount authorized in one time spending as an increase by the Council was \$45,600. This calculation did not include the existing 27 senior judges. I would recommend that the Management Committee authorize an additional \$10,800 in one time spending to cover



Page Two

Senior Judges

potential spending in the Judicial Operations budget and that the money be taken from the Reserve that the Council authorized.

Please feel free to contact me should you have questions about this update or request.

Cc: Chief Justice Matthew Durrant

Dan Becker

Derek Byrne



TAB 11



Administrative Office of the Courts

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

October 22, 2014

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

MEMORANDUM

TO: Judicial Council

FROM: Nini Rich 

RE: ADR Committee Appointments

The Ad Hoc Committee on Alternative Dispute Resolution advises the Judicial Council on policies, plans and priorities relating to Alternative Dispute Resolution and works with the Court's ADR Programs Director to inform ADR policy as it relates to the Utah State Courts. Judge Royal I. Hansen chairs the Committee.

The ADR Committee is seeking representation from the professional mediation community to replace two members who have resigned as well as representation from the executive branch of Utah State Government to replace the representative who has retired.

Judge Hansen, as the Committee chair, recommends Kent B. Scott and Douglas G. Mortensen be appointed to the ADR Committee as representatives of the professional mediation community and Brent N. Bateman as representative of the executive branch.

The Management Committee has approved the appointment of Kent B. Scott, Douglas Mortensen and Brent N. Bateman.

Submitted materials are attached.

List of Applicants

Professional Mediators:

Kent B. Scott
Douglas G. Mortensen
Richard B. Frandsen
Mark R. Hales
Stacy M. Roberts
M'Leah Woodard

Scott Daniels
Nancy Hansen
Aaron Melville
Natalie Threlkeld
Pervin Gupta
Denise Tate

Executive Branch Rep.
Brent N. Bateman

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



Professional Mediator Applicants for the ADR Committee





Kent B. Scott, Esq.
Babcock Scott & Babcock

Current Employer-Title Babcock Scott & Babcock, P.C. - Shareholder

Mediation Profession Attorney - Commercial Litigation and Construction Law

Work History Shareholder, Babcock Scott & Babcock, P.C., 1987-present; Shareholder, Nielsen and Senior P.C., 1973-87.

Experience As a trial attorney, 40 years' experience, primarily engaged in the prevention and resolution of commercial and construction project disputes. Represents surety bond companies, owners, design professionals, contractors, subcontractors, and suppliers. Disputes involved with contract drafting and performance issues, interpretation of plans and specifications, bidding practices, scheduling claims, construction and design defect matters, warranties, safety, hazardous waste claim, insurance coverage, change orders, differing site conditions, suspension, termination, delay, disruption, acceleration, line claims, payment, and performance bond claims. Projects include industrial plants and utilities, public works, mining, hotels and casinos, retail shopping centers, commercial buildings, warehouses, highway, home owner association claims, custom high-rise condominiums, public unit development, infrastructure claims on real estate developments, recreational developments, real property disputes, and residential cases.

Experience as a Mediator Mediated cases include:

- Over three hundred disputes involving defective construction between owners and contractors and between contractors and subcontractors.
- Subject of the disputes involved structural steel, roof systems, concrete, asphalt and base materials, offsite utilities, rock and masonry, soils; flooding, site development; business dissolutions; delay and schedule claims; differing site conditions; bidding practices; contract interpretation; change orders and constructive change directives; delay, suspensions, terminations; performance and payment bonds; warranties; insurance coverage; and project close out.
- Two cases involving the enforcement of restrictive covenants and hazardous waste clean-up of residential projects; mediated ten cases involving differing site conditions. Claims include site grading, water, rock and hazardous waste matters (\$1million);
- Two cases involving the enforcement of restrictive covenants by home owner associations of a pud and condominium developments (\$500,00);
- One case involving claims by a successor homeowner association against a prior homeowner's association for fraud, negligence and breach of fiduciary duty (\$750,000);
- Five cases involving claims between managing partners in LLC operations and

family businesses \$100,000 - \$1 million);

-One case involving patent and trademark infringement; and

-One case involving rights to genealogy records and family history documents.

Projects mediated include public works, industrial, mining, retail, shopping centers, hotels and casinos, commercial buildings, highway, utility, infrastructure and offsite improvements, warehouses, custom high rise condominiums, homeowner associations, environmental, recreational developments, real estate disputes, public unit development, custom homes, and residential developments.

**Representative Issues
Handled as a Mediator**

- Mediated a differing site condition claim on a water and sewer project (\$1.2 million in dispute);

- Claim between homeowner and contractor involving construction defects, delay, design defects and payment issues (\$2.3 million in dispute);

- Claim involving flooding due to improper grading and compaction among a homeowners association of a PUD, county government, prime contractor and subcontractors (\$500,000 in dispute);

- Claim for differing site conditions (\$1.2 million);

- Two claims for flood damages (\$1.3 Million and \$750,000);

- Numerous claims for fraud and misrepresentation re zoning restrictions (\$1.5 Million);

- Four claims for soils subsidence (ranging from \$500,000 to \$1.4 million);

- Mechanical equipment and pipe installation.

-Collapsible soils claims against soils engineer.

- Collapsible soils claims against developer and contractor in Southern Utah.

-Claims for defective design (\$100,000 to \$500,000);

- Claims for dissolution, LLC, partnership and of joint venture (\$600,000 - \$750,000);

- Claim for defective construction and delay between condominium development owner, contractor and surety (\$450,000 in dispute);

- Claim involving trademark infringement (\$375,000 in dispute);

- Claims involving defect delay, and payment issues among owners, contractors and their sureties (\$50,000 - \$500,000 in dispute);

- Claim involving rights to genealogy records between family and research service.

Years of Practice as a Mediator

18

Total Number of Cases Mediated

370

Mediation Experience as an Advocate or Party

Represented parties in the following mediations which have resulted in a settlement:

- Multi-use project in Utah County, condominium, commercial and retail space involving claims over 30 million.
- Large resort in Teton Village Wyoming. Masonry wall defective construction.
- Nano fabrication project at the University of Utah (USTAR) re mechanical and engineering problems.
- Hazardous waste clean-up of a canal used by Chevron, British Petroleum and Salt Lake City. Dredging and disposal of hydro-carbon impacted materials.
- Highway contractor on DOT road rehabilitation project.
- Excavation contractor on a Federal Public Works project.
- Highway and Bridge contractor involving construction of freeway and Nevada's largest expansion bridge
- Steel fabricator on a natural gas project owned by Exxon Mobile, (\$2 million);
- Claims involving collapsible clay material in subdivision.
- Represented a contractor in a claim against joint venture involving Salt Lake City, Chevron and British Petroleum in a canal clean-up project (\$2 million);
- Represented owner in a claim against design professionals for defective plans and specifications involving the construction of a resort hotel and spa in Teton Village, Wyoming (\$2.5 million);
- Represented a design professional in a claim by contractor and owner school district on the renovation of a historic building in Wasatch County, Utah (\$750,000);
- Represented a structural steel manufacturer and subcontractor in a claim involving owner, general contractor and several subcontractors on the Flamingo Hilton Hotel and Casino in Las Vegas, Nevada (\$6 million).
- Represented a surety and contractor in a claim by the owner of a Steel Mill in Florida involving the disposal of low level radioactive wastes (\$2.2 Million).

Mediation Philosophy

As a Mediator, I strive to assist the parties to find a better solution to their dispute than what they could achieve through the litigation process.

Mediation References

Honorable Dee V. Benson, (801) 524-6160; Honorable Royal I. Hansen, (801) 233-9739; William B. Bohling, (801) 363-4550; additional references available upon request.

Alternative Dispute Resolution Training

AAA Webinar, Innovative Testimony Techniques for the Arbitration Hearing, 2014; AAA Guided Choice: Innovations in Mediation to Get Better Settlements at Less Cost 2014; AAA, Dealing With the Pro Se Party, 2014; AAA Managing the Arbitration Process for Efficiency & Economy Following the Preliminary Hearing, 2012; AAA Webinar, RESULTS - Effective Construction Arbitration on a Budget, 2012; AAA/ICDR Neutrals Conference, 2012; AAA Controlling Discovery for a More Effective & Efficient Arbitration, 2011; AAA Spring Construction Conference, Mediation: It's Not New, So What's Next?, 2011; AAA Chairing an Arbitration Panel: Managing Procedures, Process & Dynamics (ACE005), 2010; ABA Dispute Resolution Section Annual Conference, 2010; AAA Webinar, Five Steps to Fast-Track the Large, Complex Construction Case, 2010; AAA Webinar, Electronic Discovery in Arbitration: What You Need to Know, 2010; AAA Advanced Mediator Training, 2009; AAA Webinar, How to Prevent Arbitrations from Transforming into Litigations, 2009; AAA Construction Conference: ADR Works, 2008; Utah Council on Conflict Resolution - Coming Together, 2008; Utah State Bar, ADR Academy, 2007; Utah Council on Conflict Resolution, Opening Doors to Different Perspectives, 2007; AAA Neutrals Conference, 2006, 2005, 2004, 2000, 1998; Utah District Court, Court Annexed ADR Training, 1996-06; AAA Arbitration Awards: Safeguarding, Deciding & Writing Awards (ACE001), 2005, 2003; AAA Construction Arbitrator II Training: Advanced Case Management Issues, 2002; AAA Arbitrator Update 2006, 2002, 2001; AAA Mediator Retreat, 2000; AAA LCCP Retreat and Panel Chair Workshop, 1999.

Professional Licenses

Admitted to the Bar: Utah, 1973; U.S. District Court, District of Utah, 1973; U.S. Court of Appeals, Tenth (1977) and Federal (1994) Circuits; U.S. Court of Federal Claims, 1992; U.S. Supreme Court, 2006.

Professional Associations

American Bar Association (Dispute Resolution Section; Forum Committee on the Construction Industry; Torts and Insurance Practice Section, Fidelity and Surety Committee; Litigation Section, ADR Committee); Utah Bar Association (Dispute Resolution Section, Founding Member and Past Chair; Delivery of Legal Services Committee, Past Chair; Construction Law Section, Founding Member and Past Chair; Litigation Section, Past Chair); Utah Council on Conflict Resolution (Past Board of Directors).

Education

University of Utah (BS, magna cum laude-1971); University of Utah College of Law (JD-1973).

Awards and Honors

- Legal Elite Among Construction Lawyers, 2006, 2007, 2008 and 2009;
- SuperLawyers award 2007, 2008 2009;
- ADR Section - Utah Bar Section of the Year, 2005;
- Utah Bar Association: Distinguished Service Award, 2003.

Publications and Speaking Engagements

Authored several publications and articles including:

Kent B. Scott, Esq.
Neutral ID : 99595

- Creating and Economical and Efficient Arbitration Process is Everyone's Business, "DISPUTE RESOLUTION JOURNAL August/October 2012;

- "Questions Clients Have about Whether (and How) to Mediate and How Counsel Should Answer Them," DISPUTE RESOLUTION JOURNAL, May/July 2008;

- "Arbitration - In Trouble Again?" UTAH STATE BAR JOURNAL, Vol. 20 No. 4, 2008;

- "Maneuvering Through Mediation," UTAH STATE BAR JOURNAL, September/October 2005;

- "The Construction Attorney's Toolbox - Building Solutions," UTAH STATE BAR JOURNAL, vol. 17, no. 9;

- "Utah's Revised Uniform Arbitration Act, A Makeover for the Face of Arbitration," UTAH STATE BAR JOURNAL, vol. 16, no. 9;

- "Preparing the Client for Mediation," UTAH COUNCIL ON CONFLICT RESOLUTION, vol. 17;

-Regular contributor of articles for UTAH CONSTRUCTION NEWS, INTERMOUNTAIN CONTRACTOR and various trade association journals.

Speaker at several programs for the American Bar Association, Utah Bar Association, Association of General Contractors of America, American Builders and Contractors of America, Lorman Education Services, Inc., and National Business Institute.

Testified before various legislative committees on proposed construction related legislation, the Revised Utah Uniform Arbitration Act and the Utah Uniform Mediation Act.

**Citizenship
Locale**

United States of America
Salt Lake City, Utah, United States of America

Compensation

Hearing:	\$300.00/Hr
Study:	\$300.00/Hr
Travel:	\$0.00/Hr
Cancellation:	\$0.00/Hr
Cancellation Period:	0 Days
Comment:	

ninir@utcourts.gov

Re: Opening on the ADR Committee

dmort@dgmattorneys.com <**dmort@dgmattorneys.com**>

Tue, Apr 15, 2014 at 9:47 AM

To: Nini Rich <ninir@utcourts.gov>

Nini,

I am interested in serving on the Alternative Dispute Resolution Committee of the Utah Judicial Council. As you know, I am a very recently certified mediator. Whether that would enhance my qualification to serve or diminish it would be for you or Judge Hansen to say. I have attached a C.V. which I prepared yesterday for people at Westminster College. It may focus more on my credentials to teach than on my credentials to serve on this committee but it does provide a fairly comprehensive summary of my experience at the Bar.

Thank you for considering my application to serve on this committee.

Doug Mortensen
801 349-8597

On 2014-04-11 12:21, Nini Rich wrote:

Dear Court Roster Member,

The Alternative Dispute Resolution Committee of the Utah Judicial Council is seeking an additional member from the professional mediation community.

The ADR Committee advises the Judicial Council on policies, plans and priorities relating to Alternative Dispute Resolution and works with the Court's ADR Director to inform ADR policy as it relates to the Utah State Courts. Judge Royal Hansen chairs the Committee.

To apply, please send me a brief description of your interest and experience by April 23, 2014. The names of all applicants will be reviewed by the ADR Committee for recommendations and the Judicial Council for appointment.

This is a volunteer position.

Thank you for your consideration,

Nini Rich

—

Nini Rich, Director
ADR Programs
Administrative Office of the Courts
P.O. Box 140241
Salt Lake City, UT 84114-0241

2014 resume.docx

DOUGLAS G. MORTENSEN
2174 Melinda Lane, SLC, UT. 84109
Telephone: (801) 349-8597
dmort@dgmattorneys.com

PERSONAL BACKGROUND:

Born: January 25, 1950
Married: to the former Victoria Allen; 4 children
Admitted: Utah State Bar (1977); Arizona State Bar (1978)

EDUCATION:

B.S. Degree, Magna Cum Laude, University of Utah, 1974
(Political Science); Phi Beta Kappa, Phi Kappa Phi
J.D. Degree, University of Utah College of Law, 1977
Society of Bar & Gavel

POST-DEGREE TRAINING AND PRACTICE:

- Law Clerk to Chief Justice, Arizona Supreme Court, Honorable James Duke Cameron (September 1977 - September 1978)
- Energy Law Fellow, University of Utah (October 1980 - September 1981)
- Shareholder, Matheson, Mortensen, Olsen & Jeppson, P.C. (1984-2011)
- Expert witness in two legal malpractice cases
- Arbitrator in medical malpractice and automobile collision cases

PROFESSIONAL SERVICE, AFFILIATIONS, HONORS:

- Chairman, Utah Supreme Court Board of Continuing Legal Education (current)
- Commissioner, Third District Court Judicial Nominating Commission ('03 - '07)
- President, Utah Trial Lawyers Association (nka Utah Association for Justice; 2003 -2004); Governing Board Member ('97 - '08); Legislative Affairs Committee Chair ('03)
- Honorary Life Member, Utah Association for Justice
- Participant, task force of government and private lawyers who rewrote Utah's Governmental Immunity Act ('03)

- Holder, Martindale-Hubbell "A V" rating¹ (1991-)
- Co-Founder, Trustee and Legal Counsel, Utah Head Injury Association ('86 - '91)
- Master, A. Sherman Christensen American Inn of Court I
- Recipient, "Legal Elite" recognition by *Utah Business* magazine ('05-'09)
- Winner, \$820,000 jury verdict against hospital for negligently credentialing impaired surgeon (only successful case of its kind in Utah history)

TEACHING CREDENTIALS:

- Visiting Professor of Law, Masaryk University, Brno, Czech Republic (Spring '12)
- Certified Mediator, Utah Dispute Resolution (2014)
- Frequent presenter at legal seminars (27 presentations and publications)
- Adjunct Instructor, business law & ethics, ethics for paralegals, LDSBC ('12-'14)
- Adjunct Instructor, University of Utah Institute of Religion ('08-'09)
- Scoutmaster, Troop 377 ('93 - '00)
- Boy Scout Roundtable Commissioner, Evergreen District, Great Salt Lake Council, BSA('97 to '00) (Teacher of adult Boy Scout leaders)
- Tutor, Bryant Junior High and Franklin Elementary (through Rotary Club; 08 -)
- English tutor for adult students, Guadalupe School in SLC ('10-)

OTHER ACTIVITIES

- Spent four months in Bolivia doing volunteer work with Ascend Alliance (2010)
- Serve on International Service Committee of Rotary Club 24 (and formerly served as chair of its Environment/Ecology Committee)
- Played saxophone in Stratford Street Big Band (2006-2012)
- Won 5 Gold medals at International Masters Swim Meet in Cocha Bomba, Bolivia (April 2010)
- Served as volunteer assistant swim coach, Olympus High School (2011, 2012)

¹ "Very High to Preeminent" Legal Ability Rating - "Very High" General Recommendation Rating, based on confidential judge and peer evaluations.

PUBLICATIONS AND PRESENTATIONS:

"Dissing Voters: Favorites See No Need to Show Up," *The Salt Lake Tribune*, October 17, 2010 and "We Deserve to Question Candidates," *The Deseret News*, October 15, 2010 (op ed piece published in both of Salt Lake City's daily newspapers).

"Exaggeration & Grandiloquence" and "Using Apostrophes Appropriately," A Short Legal Writing Course sponsored by Utah State Bar (April 27, 2007).

"Successful Strategies for Medical Malpractice Cases in Utah," N.B.I., Seminar, co-presenter with David B. Erickson of Intermountain Health Care (December 22, 2004).

"Responding to the Obstreperous Lawyer in a Civil Manner: Ethical and Practical Quandaries," *Avoiding Dirty Tricks III*. UTLA Seminar (December 2, 2004).

"Utah Has a Crying Need for Political Party Parity," *The Salt Lake Tribune*, October 28, 2004.

"An Idea Whose Time Apparently Has Not Yet Come," *Utah Trial Journal*, Vol 27, No. 3 (Summer, 2004).

"It's Not Kryptonite: It's Silly Putty," *Utah Trial Journal*, Vol 22, No. 2 (Spring, 2004).

"A Deal is a Deal and Here's What Ours Was and Wasn't," *Utah Trial Journal*, Vol 27, No. 1 (Winter 2003-2004).

"President's Message ("Learning from What We Like and Hate about Our Daily Toil as Trial Lawyers,"), *Utah Trial Journal*, Vol 26, No. 4 (Fall 2003).

"Dealing Ethically With Difficult Clients," presented with 2 other panel members at CLE Seminar Practical Practice Pointers, September 17, 1999.

"Lessons Learned The Hard Way," moderator of panel discussion featuring Jan Schlichtmann (central character is best-selling book, A Civil Action), Honorable Michael D. Murphy, Harold G. Christensen and Richard Burbidge, April 24, 1998.

"What Is Wrong and What Is Right with Our Civil Justice System," Luncheon Address to Sugarhouse Rotary Club, July 30, 1998.

"The View From This Side," luncheon address to Utah Chapter of International Association of Special Investigation Units, April 1, 1997

"Recording Statements and Events Surreptitiously: Ethical Considerations," presented at CLE Seminar Straight Talk on Tough Issues, September 19, 1997.

"Selecting a Case: When to Say No," Presented at CLE Seminar Effective Case Development, September 20, 1996.

"Avoiding Neck and Gluteal Pain in Handling the Brain Injury Case Ethically (Or How to Prevent Your Case From Becoming a Royal Pain . . .)," presented at CLE Seminar The Mild Head Injury Case - What the Attorney Needs to Know, January 26, 1994.

"Recognizing a Good Case and Screening Clients," presented at CLE Seminar Litigating The Head Injury Case In The 90's, November 13, 1992.

"Product Liability: Realities, Pitfalls and Opportunities (or Have You Got Trouble in River City?)," presented to Intermountain Biomedical Association, May 29, 1991.

"Gray Areas for Trial Advocates in Gray Matter Cases," presented at CLE Seminar The Head Injury Case: What the Attorney Needs to Know, November 2, 1990.

"Building and Proving a Case on Damages; and " Addressing Damages in Opening Statements and Closing Arguments," N.B.I. Seminar on Damages in Utah, November 17, 1989.

"No 'Robin Hood' Justice Here," Deseret News, June 13, 1990, p. A-11.

"Surreptitious Recording of Conversations," Salt Lake County Bar & Bench Bulletin", October 1987 issue.

"The Benzene Decision: Legal and Scientific Uncertainties Compounded," Legal and Ethical Dilemmas in Occupational Health, Ann Arbor Science, 1982 (Co-authored with Frederick R. Anderson).

"Job Discrimination and the Sensitive Worker (or Should Henry Cooper Have Been Allowed to Fight Cassius Clay?," American Conference of Governmental Industrial Hygienists, presented at Protection of the Sensitive Worker Symposium, Tucson, Arizona, November 11, 1981.

"Recording Statements and Events Surreptitiously: Ethical Considerations," presented at CLE Seminar Straight Talk on Tough Issues, September 19, 1997.

"Selecting a Case: When to Say No," Presented at CLE Seminar Effective Case Development, September 20, 1996.

"Avoiding Neck and Gluteal Pain in Handling the Brain Injury Case Ethically (Or How to Prevent Your Case From Becoming a Royal Pain . . .)," presented at CLE Seminar The Mild Head Injury Case - What the Attorney Needs to Know, January 26, 1994.

"Recognizing a Good Case and Screening Clients," presented at CLE Seminar Litigating The Head Injury Case In The 90's, November 13, 1992.

"Product Liability: Realities, Pitfalls and Opportunities (or Have You Got Trouble in River City?)," presented to Intermountain Biomedical Association, May 29, 1991.

"Gray Areas for Trial Advocates in Gray Matter Cases," presented at CLE Seminar The Head Injury Case: What the Attorney Needs to Know, November 2, 1990.

"Building and Proving a Case on Damages and Addressing Damages in Opening Statements and Closing Arguments," N.B.I. Seminar on Damages in Utah, November 17, 1989.

"No 'Robin Hood' Justice Here," Deseret News, June 13, 1990, p. A-11.

"Surreptitious Recording of Conversations," Salt Lake County Bar & Bench Bulletin, October 1987 issue.

"The Benzene Decision: Legal and Scientific Uncertainties Compounded," Legal and Ethical Dilemmas in Occupational Health, Ann Arbor Science, 1982 (Co-authored with Frederick R. Anderson).

"Job Discrimination and the Sensitive Worker (or Should Henry Cooper Have Been Allowed to Fight Cassus Clay?," American Conference of Governmental Industrial Hygienists, presented at Protection of the Sensitive Worker Symposium, Tucson, Arizona, November 1, 1981.

Richard B. Frandsen

Attorney At Law
A Professional Corporation
Brighton Plaza, Suite 202
7109 South Highland Drive
Salt Lake City, Utah 84121-7301

Telephone (801) 944-5677
Fax (801) 944-5550

April 11, 2014

Nini Rich, Director
ADR Programs
Administrative Office of the Courts
P.O. Box 140241
Salt Lake City, Utah 84114-0241

Re: Alternative Dispute Resolution Committee

Dear Nini,

I would like to voice my interest in joining the Alternative Dispute Resolution Committee.

I have been a practicing litigation attorney for nearly 35 years. When Judge Royal Hansen initiated the court mediation program in Sandy several years ago, I admit I was a skeptic. However, I soon learned that the most cost-effective method in bringing a dispute to an end was not through litigation. I have since served as counsel on dozens of mediated court disputes. I calculate that approximately 85% were settled through the benefit of mediation.

In September 2013, I completed the Utah Dispute Resolution mediation training and have since completed all other requirements. Earlier this year I became a court qualified mediator and was added to the Court Roster. I plan on expanding my practice to include a greater focus on mediation and ADR.

I believe ADR is underutilized in the court system and is ripe for expansion. I am eager to exchange and probe ideas to affect that potential. Thank you for your consideration.

Very truly yours,


Richard B. Frandsen

RBF/cl

Mark

Hales <mark@jolleyandjolley.com>

Apr 14 (4 days ago)

to me

I have been on the court roster for 2 years. I participated in 100s of mediations prior to that as an attorney for my clients. I negotiated settlements as a prosecutor in American Samoa, where I had to balance their unique law and culture.

Mark R. Hales
Jolley and Jolley
37 West 9000 South
Sandy, UT 84065
801-495-1442 (Phone)
801-495-1444 (Fax)

This email is confidential and may be legally privileged; it is for the use of the named recipient(s) only. If you have received it in error, please notify us immediately; please do not copy, forward, print, distribute or disclose its contents to any person or anybody and immediately delete it from your computer systems.

LONG OKURA
ATTORNEYS AT LAW

1981 Murray Holladay Road
Salt Lake City, Utah 84117

Ph: 801.746.6000
Fax: 800.568.7083
www.longokura.com

April 16, 2014

Nini Rich
ADR Programs
Administrative Office of the Courts
P.O. Box 140241
Salt Lake City, UT 84114-0241
nini@utcourts.gov
Via email and regular mail

Re: Opening on ADR Committee

Dear Nini,

I am responding to your email regarding an opening on the ADR Committee of the Utah Judicial Council, and I would be very interested in joining the committee. I am currently working as a mediator with the law firm Long Okura, P.C., and previously I was an associate attorney at the firm working with mostly family law cases.

In the past year I have received all of the training to be a mediator while thoroughly enjoying the process of transitioning my work to mediation. The ADR process continues to fascinate me as I see it growing and evolving so quickly in Utah and elsewhere. I have years of experience as an advocate in mediation, in addition to my time as a mediator. I believe this gives me a unique insight as I am aware there is a clear distinction between the two roles. This gives me "two hats," both with advantages and disadvantages, that I continually work to identify and understand in my mediation practice. In addition to the mediation training, I have been fortunate enough to observe, learn from, and talk to other mediators about the growth and changes in the field. We have discussed the mediation process, drafting pleadings with pro se clients, mediation styles, attorney preferences for mediators, mediators practicing outside the court roster, and so much more. I have also enjoyed networking with mediation practitioners outside of Utah, which has informed me of the work and requirements in other states.

I make every attempt to stay involved in the community through attending CLEs and volunteering with the family law clinic at the Matheson court house. I would definitely like to be more involved in the ADR community knowing this would be a great opportunity. My growth as a mediator will continue for a long time, and I would absolutely enjoy being a part of the conversations regarding the policies, plans, and priorities relating to the alternative dispute resolution community in Utah.

Respectfully,



Stacy M. Roberts

STACY ROBERTS

P.O. Box 581036, SLC, UT 84158

stacy@longokura.com

Mobile: 407.716.2298

LEGAL EMPLOYMENT**Long Okura, P.C., Salt Lake City, UT**

January 2014 - Present

Attorney Mediator

- Providing mediation services throughout the Salt Lake City area. Using experience as a litigator in family law related cases, as well as a history of work for human rights organizations and the public defender, to mediate various civil cases. Also, providing pro se clients with assistance and filing of domestic pleadings as an attorney mediator pursuant to the Utah Rules of Professional Conduct.

Associate Attorney

August 2011 – April 2013

- Responsible for case load of family law related clients, including divorce, adoption, paternity, guardianship, and modifications. Drafting pleadings and attending court proceedings to establish or enforce orders. Collaborating with other associates on strategy, case control plans, and new developments in the law. Managing support staff in the office including paralegals, office manager, and administrative assistant.

Roberts Resolutions, Salt Lake City, UT

May 2013 – January 2014

Attorney, Mediator & Consultant

- Providing mediation and consultant services throughout the Salt Lake City area. Using experience as a litigator in family law related cases, as well as a history of work for human rights organizations and the public defender, to mediate various civil cases.

Rodriguez-Poston & Poston, PC, Park City, UT

March 2011 – Aug. 2011

Part-Time Legal Assistant

- Assisting attorneys mostly in criminal, immigration, and family law. Drafting of legal memorandum for various family law, civil and criminal cases including motions, responses, affidavits, subpoenas, and orders. Court appearances for attorneys in justice court, immigration court, and district court. Meeting with clients to discuss current status and new developments in their case. Making sure all files are updated and organized.

Stephen Beem, Attorney at Law, Park City, UT

Oct. 2010 – Aug. 2011

Part-Time Research Assistant

- Research on various cases with issues involving mechanics' liens, interference with prospective economic relations, bankruptcy and more. Drafting of legal memorandum, including a petition for pretrial depositions, objections to a claim in bankruptcy, and personal injury settlement brochures.

LEGAL EMPLOYMENT (DURING LAW SCHOOL)**LaVigne, Coton & Associates, Orlando, FL**

January 2010 – May 2010

Clinical Intern for Spring Semester

- Research for attorneys in immigration, asylum, and other international law. Drafting of research memorandum and parts of legal memorandum to be filed in court.

Inter-American Center for Human Rights, Ft. Lauderdale, FL

May 2009 – May 2010

Legal Director

- Volunteer for CARE, meeting with regional directors and State Senators to review current legislation on poverty and women. Research and collaboration for four day symposium on the crisis in Darfur, including panels, film screenings, and an educational outreach program for high school students and community members (www.nova.edu/darfur).

9th Judicial Circuit of Florida, Office of the Public Defender, Orlando, FL

May 2008 – July 2008

Summer Legal Intern

- Helped assistant public defenders in the courtroom during arraignments, hearings, and trials. Researched case law related to juvenile cases. Attended office conferences, staffing meetings to review client sentences, and depositions. Met with clients at detention centers to update them regarding the status of their cases.

EDUCATION

Nova Southeastern University, Shepard Broad Law Center, Ft. Lauderdale, FL

Juris Doctorate, Magna Cum Laude, May 2010

GPA: 3.57

Top: 6.75%

Honors:

Paul Joseph Achievement Award for civil service
International and Comparative Law Concentration Certificate
ILSA Journal of International & Comparative Law, Lead Articles Editor, 2009-10
Highest Grade Award – Legal Research & Writing (II); Florida Constitutional Law
Dean's List – Spring 2008, Fall 2008, Spring 2009, Fall 2009, Spring 2010

Activities:

American and Caribbean Law Initiative (ACLI), Nassau, Bahamas, March 2009
Int'l Law Students Association, Member
Phi Alpha Delta, Member
National Security and Law Society, Member

Rollins College, Hamilton Holt School, Winter Park, FL

Bachelor of Arts in International Affairs, Cum Laude, December 2006

GPA: 3.48

Honors:

National Society of Collegiate Scholars, Member
Presidential Scholarship

Activities:

Rollins Varsity Waterski Team, Member
Worked during school to finance education

Study Abroad:

Rollins College, *Tanzania, Africa*, Summer 2005, Environmental Sustainable Development

BAR MEMBERSHIP and TRAINING

Utah State Bar, Active Member since 2011.

Florida State Bar, Active Member since 2010.

Listed on Utah Court Mediation Roster.

Basic Mediation Training and Experience Hours, 100 hours.

Domestic Mediation Training, 40 hours.

OTHER INTERESTS AND ACTIVITIES

Cooking and reading at home. Water skiing, snow skiing, bike riding, and hiking. Traveling to Africa to visit family. Road trips to visit family, National parks, and for water ski tournaments during the summer season.



Nini Rich <ninir@utcourts.gov>

Re: Opening on the ADR Committee

M'Leah Woodard <mleah.woodard@gmail.com>

Wed, Apr 16, 2014 at 6:18 PM

To: Nini Rich <ninir@utcourts.gov>

Greetings Nini,

Please find my attached letter of interest and experience for a volunteer position on the ADR Committee.

Thank you for your work on my behalf,

M'Leah Woodard
(801) 883-9829

On Fri, Apr 11, 2014 at 12:21 PM, Nini Rich <ninir@utcourts.gov> wrote:

Dear Court Roster Member,

The Alternative Dispute Resolution Committee of the Utah Judicial Council is seeking an additional member from the professional mediation community.

The ADR Committee advises the Judicial Council on policies, plans and priorities relating to Alternative Dispute Resolution and works with the Court's ADR Director to inform ADR policy as it relates to the Utah State Courts. Judge Royal Hansen chairs the Committee.

To apply, please send me a brief description of your interest and experience by April 23, 2014. The names of all applicants will be reviewed by the ADR Committee for recommendations and the Judicial Council for appointment.

This is a volunteer position.

Thank you for your consideration,

Nini Rich

--
Nini Rich, Director
ADR Programs
Administrative Office of the Courts

4/18/2014

Utah State Courts Mail - Re: Opening on the ADR Committee

P.O. Box 140241
Salt Lake City, UT 84114-0241

 **ADR Committee.docx**
16K

M'LEAH WOODARD

1740 S. 1400 E. • Salt Lake City, UT 84105 • (801) 883-9829 • mleah.woodard@gmail.com

Nini Rich, Director
ADR Programs
Administrative Office of the Courts
P.O. Box 140241
Salt Lake City, UT 84114-0241

April 15, 2014

Greetings Ms. Rich:

I am writing to express my interest in appointment as a member of the Alternative Dispute Resolution Committee. My interest stems from professional training and commitment to mediation and large group facilitation. To the Committee, I offer the experience and passion of a young lawyer.

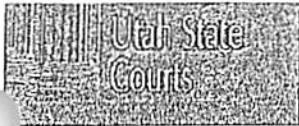
I hold a J.D. from the University of Utah College of Law. During law school, I worked with Professor Jim Holbrook both in coursework and on a team as a representative of the school in a mediation competition hosted by the American Bar Association. I have experience as a mediator in the small claims court context as well as in District Court cases. I am a member in good standing of the Utah Bar Association as well as the Mediation Court Roster. Finally, I had the good fortune to work under Mary Jane Ciccarello at the Utah State Courts Self-Help Center for several months. There, I gained a thorough understanding of procedure and of the extent of the court's ADR program.

I have strong skills in oral and written communication, active listening, creative and analytic thinking, and collaborative interpersonal interactions. I welcome the opportunity to partake in the ADR Committee process to advice the Judicial Council on policies, plans and priorities relating to Alternative Dispute Resolution.

I appreciate your consideration and I look forward to hearing from you.

Regards,

M'Leah Woodard
1740 S. 1400 E.
Salt Lake City, UT 84105



Nini Rich <ninir@utcourts.gov>

Re: Opening on the ADR Committee

Sctdaniels@aol.com <Sctdaniels@aol.com>

Tue, Apr 22, 2014 at 10:09 AM

To: ninir@utcourts.gov

Nini, I would like to volunteer for the ADR Committee. I have served on the Professionalism Committee for a number of years, but it appears that Committee's activity is winding down. I would like to stay involved in service to the legal system. I'm attaching a resume. Thank You for your consideration.

In a message dated 4/11/2014 12:21:28 P.M. Mountain Daylight Time, ninir@utcourts.gov writes:

Dear Court Roster Member,

The Alternative Dispute Resolution Committee of the Utah Judicial Council is seeking an additional member from the professional mediation community.

The ADR Committee advises the Judicial Council on policies, plans and priorities relating to Alternative Dispute Resolution and works with the Court's ADR Director to inform ADR policy as it relates to the Utah State Courts. Judge Royal Hansen chairs the Committee.

To apply, please send me a brief description of your interest and experience by April 23, 2014. The names of all applicants will be reviewed by the ADR Committee for recommendations and the Judicial Council for appointment.

This is a volunteer position.

Thank you for your consideration,

Nini Rich

—
Nini Rich, Director
ADR Programs
Administrative Office of the Courts
P.O. Box 140241
Salt Lake City, UT 84114-0241

 RESUMEall2.doc

SCOTT DANIELS
1171 Laird Avenue
Salt Lake City, UT 84105
Phone: 801-583-0801
Fax: 801-583-0802
E-Mail: sctdaniels@aol.com

PERSONAL: Born: August 12, 1948
Married to Chrissy Daniels
Four children

LAW PRACTICE:

1975 - 1982: Trial attorney with the firm of Snow, Christensen & Martineau. My practice was predominantly litigation in the areas of personal injury, property damage, medical malpractice (hospital liability), civil rights, and construction

1982: Appointed to the Utah State District Court.

1992 - 1996 Returned to the firm of Snow, Christensen and Martineau, doing a combination of litigation and Alternative Dispute Resolution.

1996 - Present: Private practice exclusively in the areas of mediation, arbitration and other dispute resolution.

JUDICIAL EXPERIENCE:

Judge of the Third Judicial District from October of 1982 to April of 1992, when I left the bench to seek the Democratic nomination for the office of Utah Attorney General.

Presiding Judge for the Third Judicial District from 1986 to 1990. The Third District comprises Salt Lake, Summit, and Tooele Counties and about one-half of Utah's population. At the time, it was served by 14 District Judges who elect a Presiding Judge for two-year terms.

Utah State Bar Association District Court Judge of the Year, 1989.

ACTIVITIES ON BEHALF OF CRIME VICTIMS

Utah Council on Victims, 1986 to 1998. (Co-Chair from 1988-1991).

Two national awards from the Department of Justice, Office for Victims of Crime for

outstanding advocacy for victims of crime, 1990 and 1993.

Chair, Task Force on the Collection of Victims Restitution.

OTHER LEGALLY RELATED ACTIVITIES:

President of the Utah State Bar, 2001-2002.

Utah Bar Commission, 1994 - 2000

Utah Judicial Council. 1998 – 2000. This is the governing board of the Utah Judiciary. All of the voting members, except one, are sitting judges. The council has one non-judge member, appointed by the Utah State Bar.

Instructor for Utah State Bar Litigation Section, Trial Academy.

Adjunct Professor, University of Utah. (Political Science 622, Constitutional Law - MPA).

Master of the Bench, Sherman A. Christensen American Inn of Court I (president, 1988-89).

Commission on Criminal and Juvenile Justice, 1984-1992.

Commission on Justice in the Twenty-First Century.

Constitutional Revision Commission

Utah Sentencing Commission

Utah Substance Abuse and Anti-Violence Coordinating Council. 2003 - Present

EDUCATION

University of Utah College of Law; Juris Doctor, 1975.

Order of the Coif

Bar and Gavel Society (One of four students in class of 130 to receive membership in both the Order of the Coif, which is the top 10% of the class academically, and the Bar and Gavel Society, which is 10% of the class based upon service to the law school and the community).

Associate Editor, Utah Law Review, 1974-75.

Brigham Young University; B.S. 1972.

POLITICAL ACTIVITY

Candidate for Utah Attorney General, 1992.

Legal Counsel for the Utah Democratic Party, 1981-82.

Legal Advisor for Utah, Carter-Mondale campaign, 1980.

Chair of the Committee for a Democratic Legislature, 1978-1980.

Full time campaign manager, Firmage for Congress campaign, February to July, 1978.

Member of State and County Central Committees many times; Delegate to State and County conventions, and chair of each; voting district and legislative district officer; many convention committees; several campaign steering committees and fundraising committees; and other full political involvement from 1972 to my appointment to the bench in 1982, and after leaving the bench in 1992 to campaign for Attorney General.

Member of the Utah House of Representatives, 2000- 2004.

OTHER CIVIC ACTIVITIES:

Founder of the Day-After-Thanksgiving Annual Paper Airplane Contest, an activity to promote peer leadership teams. This is a program to encourage a drug-free lifestyle among high school students.

Trustee of The San Juan Project, an organization dedicated to improving living conditions, education, and fair political representation of Native American Indians in San Juan County, Utah.

Odyssey House Human Services Award, 1992.

Salt Lake City Land Use Appeal Board. 1994 - 1998

Governor's Department of Corrections Advisory Board. 1999-2001

State Records Committee 2009 - Present

Baseball Coach, Diamondbacks (8 year olds) Emigration Coach Pitch League. 2007 - Present

NAACP, Salt Lake Branch, Board of Directors, 2008 – Present



Sierra Club Utah Chapter Executive Committee, 2004-2008

MILITARY SERVICE

U.S. Army, 1968-1970.

OTHER EMPLOYMENT (prior to law school):

Steelworker (member United Steelworkers of America, local 2701), custodian, deliveryman, painter, waiter, and electrician's helper. With the help of the G.I. Bill, self-supporting through college and law school.



RE: Opening on the ADR Committee

Nancy Hansen <sjutah@hotmail.com>
To: Nini Rich <ninir@utcourts.gov>

Tue, Apr 22, 2014 at 10:11 PM

April 22, 2014

Nini,

I am interested in the volunteer position for the Alternative Dispute Resolution Committee of the Utah Judicial Council.

For the past few years, I have worked in the field of mediation, and am on the Court Roster of Mediators. For Utah Dispute Resolution, I coordinate the mediation program at the West Valley City Justice Court, where I oversee mediators in training as they help litigants form their own agreement as an alternative to seeking a judgment.

Also, at Utah Dispute Resolution, I am the Youth Mediation Program Coordinator, and teach conflict resolution and mediation skills to at-risk youth in collaboration with Horizonte Instruction and Training Center.

My background and BS degree is in Marriage and Family Life, and I have been working as a family and divorce mediator for the past few years. I am a Certified Family Life Educator through the National Council on Family Relations. I am just a few hours shy of reaching the Master Mediator designation.

Working as a mediator has reaffirmed for me the rewarding world of Conflict Resolution. I am energized by this work, and have a desire to channel some of that energy into helping to improve and contribute where possible. I see this position as an opportunity to participate in an area I am passionate about.

I have attached my resume. Thank you for your consideration.

Best Regards,

Nancy Hansen, CFLE

Court-Rostered Mediator

(801) 573-2222

From: ninir@utcourts.gov
Date: Fri, 11 Apr 2014 12:21:06 -0600
Subject: Opening on the ADR Committee
To: ninir@utcourts.gov

Dear Court Roster Member,

The Alternative Dispute Resolution Committee of the Utah Judicial Council is seeking an additional member from the professional mediation community.

The ADR Committee advises the Judicial Council on policies, plans and priorities relating to Alternative Dispute Resolution and works with the Court's ADR Director to inform ADR policy as it relates to the Utah State Courts. Judge Royal Hansen chairs the Committee.

To apply, please send me a brief description of your interest and experience by April 23, 2014. The names of all applicants will be reviewed by the ADR Committee for recommendations and the Judicial Council for appointment.

This is a volunteer position.

Thank you for your consideration,

Nini Rich

—
Nini Rich, Director
ADR Programs
Administrative Office of the Courts
P.O. Box 140241
Salt Lake City, UT 84114-0241

(801) 573-2222
sjutah@hotmail.com

Nancy I. Hansen

9644 S. Countess Way
South Jordan, UT 84095

- Education:**
- ☐ Brigham Young University - Bachelor of Science, August 2011
Marriage and Family Life, Music Minor
 - ☐ Salt Lake Community College 2007 - 2008
 - ☐ Utah State University - 1 ½ years

Certifications:

- ☐ CFLE (Certified Family Life Educator) [Pro] from National Council on Family Relations
- ☐ Basic Mediation Certificate - completed September 2011
- ☐ Domestic Mediation Certificate - completed November 2011

Professional Experience:

- ☐ Mediator: Court Rostered Domestic Mediator - 2012 to Present
Specializing in Divorce and Family Mediation. Hundreds of hours experience assisting and empowering parties within a collaborative framework as they create their own agreement.
- ☐ Utah Dispute Resolution: Youth Program Coordinator - September 2013 to Present
Teach daily conflict resolution and peer mediation class for at-risk youth at Horizonte Instruction and Training Center. Oversee and coach peer mediations. Present conflict resolution training during advisory sessions daily.
- ☐ UDR Court Mediation Coordinator, West Valley City Justice Court - January 2014 to Present
Manage and coordinate mediations at West Valley City Small Claims Court. Observe and coach volunteer mediators.
- ☐ Utah Dispute Resolution: Intern and Case Manager - April 2011 to August 2011
Performed mediation case management from start to close. Sent disposition notices to the court, and client closing letters. Scheduled mediations with both parties. Conducted telephone mediations including landlord/tenant cases.
- ☐ Jordan School District: Substitute Teacher - 2007 to 2009, 2010 to present
Preferred and frequently requested teacher. Exhibited leadership, creativity, flexibility, and knowledge. Extended respect, kindness, enthusiasm and patience toward diverse students.
- ☐ Valley Journals: Journalist and Reporter/Writer - 2004 to 2006
Reporter and Writer for the *South Valley Journal*. Responsible for writing 8 to 10 published articles monthly (circulation 35,000 monthly). Attended bi-weekly City Council meetings. Established rapport by regularly interviewing community leaders and citizens and reporting fairly and accurately.
- ☐ First Security Bank Central Operations: Administrative Assistant - 2 Years
Secretary to Vice President of Central Operations, Assistant to Chief VP (over 850 employees). Responsible for correspondence, logging major bank deposits, dictation proficiency.
- ☐ First Security Bank, Logan, Utah: Mortgage Secretary/Loan Processor 2 Years
Secretary to Vice President, Mortgage Loan Department. Proficient in mortgage insurance tracking, escrow, automatic deductions, payment processing, correspondence.

Skills: Microsoft Office (Word, Excel, PowerPoint and Outlook) Type 100 WPM, Shorthand

Aaron R. Melville
436 N. Colonial Ave • Layton, Utah 84041
(Cell): 802.745.7268 • melvillelaw@gmail.com

PROFILE

Accomplished attorney, educator and entrepreneur. Possesses strong international trade and export compliance background including the ITAR, EAR, and OFAC regulations. Proven litigator and negotiator. Able to handle multiple complex transactions and matters simultaneously. Skilled teacher and public speaker. Licensed to practice law before Vermont State and Federal Courts.

LEGAL EXPERIENCE

Ray Quinney & Nebeker, Contract Attorney, 2013-present (Salt Lake City)

- Provide electronic discovery and litigation support services on various major civil litigation cases using a variety of discovery tools.
- Perform research, analysis and corrective actions for major real estate and banking transactions.
- Provide compliance reviews for clients in the banking and securities industries.
- Provide services to RQN clients in the Banking, Medical, Securities, Direct Marketing (MLM) and Real Estate industries.

Aaron Melville, Attorney at Law, Owner, 2009-Present (St. Johnsbury, VT & Salt Lake City, UT)

- Vermont Business Magazine Rising Star Award, Fall 2010.
- Successfully trained small businesses in the manufacturing, aerospace, and defense industries on U.S. export control laws and regulations. Guided the creation of company policies and procedures, and assisted with international contracting. Drafted and obtained approval of technical assistance agreements (TAAs) and manufacturing license agreements (MLAs) under the International Traffic in Arms Regulations (ITAR). Assisted clients in commodity jurisdiction determinations. Provided client guidance on Foreign Corrupt Practices Act (FCPA) issues. Successfully assisted companies with voluntary self disclosures to federal agencies of export violations.
- On behalf of clients worked with governmental entities, real estate brokers, appraisers, and surveyors to see that the proper permits and applications are filed and processed, in conjunction with the acquisition, sale, or exchange of property.
- Negotiated with private landowners and their agents, for the purchase, sale, or exchange of property and facilitated those purchases by conducting closings and issuing title insurance policies.
- Conducted title searches to verify property descriptions, easements and other encumbrances on property. Drafted and issued title opinions and title insurance policies. Worked with subject matter experts to prepare maps, plats, or other exhibits for planning and presentation purposes. Prepared legal descriptions based on surveys drawings.
- Prepared, coordinated and drafted legal forms, documentation, and other notices involved in the acquisition, sale, or exchange of property.
- Frequent presenter at business industry meetings and conferences.
- Successfully litigated hundreds of civil, criminal and child welfare cases before Vermont courts. Was contracted with the Vermont Defender General's office to provide representation for indigent clients in juvenile, criminal and family proceedings in 4 counties. Litigated all aspects of criminal defense.
- Adept at research and crafting civil complaints, motions and other court pleadings.
- Skilled negotiator who is able to maintain effective working relationships with opposing counsel.
- Significant mediation and alternative dispute resolution experience. Completed a 40 hour training course through Utah Dispute resolution with follow-up observation and hands-on mediator experience. Currently approved mediator on the court roster in the State of Utah.
- Practice areas include U.S. Export Controls, complex real estate, civil, civil rights, employment, estate planning, criminal, international, corporate, and education law.

Deborah Bucknam and Associates, Associate, 2007-2009 (St. Johnsbury, VT)

- Successfully trained small businesses in the manufacturing, aerospace, and defense industries on U.S. export control laws and regulations. Guided the creation of company policies and procedures, and assisted with international contracting. Drafted and obtained approval of technical assistance agreements (TAAs) and manufacturing license agreements (MLAs) under the International Traffic in Arms Regulations (ITAR). Assisted clients in commodity jurisdiction determinations. Provided client guidance on Foreign Corrupt Practices Act (FCPA) issues.
- Successfully investigated export violations, recommended and reviewed corrective actions, and made successful voluntary disclosure of violations to U.S. State department.
- Provided compliance and acquisition review for publically traded aerospace and engineering firm prior to a proposed merger to identify potential export compliance violations and liabilities in the company to be acquired.
- Prepare simple estate planning documents for clients including wills and trusts.
- Conducted real estate transactions including title inspections, reports, and closing document preparation.

Concepts NREC, Senior Contracts Specialist, 10/2006-7/2007 (Wilder, VT)

- Revised company export compliance policy and provide training to company officials, ensured compliance with any federal ITAR and EAR requirements. Maintain constant contact with outside counsel and consultants to ensure compliance with government regulations and contractual obligations.
- Assisted marketing team and senior management to negotiate and draft all contract terms and conditions including Federally mandated FAR, DFARS, NASA FAR clauses. Prepare, Coordinate and submit Small Business Innovative Research (SBIR) grant proposals.
- Work to identify ways to improve the quality and consistency of corporate procedures.
- Provided guidance on Foreign Corrupt Practices Act (FCPA) issues.

Timken Aerospace, *Prin. Contracts Admin. Analyst*, 8/2005-10/2006 (Lebanon, NH)

- Assisted marketing team and senior management to negotiate and draft all contract terms and conditions including federally mandated FAR, DFARS, NASA FAR clauses. Coordinated business contract review and compliance of contract terms and conditions with internal stakeholders such as quality, shipping, and purchasing.
- Served as "Empowered Official" for a \$200 million a year business under the ITAR. Managed and ensured compliance with the ITAR, EAR, Customs and OFAC regulations. Obtained necessary export licenses when appropriate. The first Timken associate ever to request a State Department approved Warehousing and Distribution Agreement (WDA), Commodity Jurisdiction (CJ), and Technical Assistance Agreements (TAA) with Timken customers and government officials.
- Provided guidance on Foreign Corrupt Practices Act (FCPA) issues.

Tyco Fire and Security, *Legal Intern*, 9/2004-12/2004 (Boca Raton, FL)

- Conducted in-depth research on the Buy American Act and Trade Agreements Act as they apply to government procurement.
- Managed a team in creating a database of Tyco intellectual property that would be used for licensing and other purposes.
- Drafted documents and participated in negotiation of service and real estate transactions valued up to \$10 million.
- Conducted a state by state survey of statutes of repose.
- Participated in creation of company-wide document retention policy.

Vermont Department of Labor and Industry, *Law Clerk*, 5/2004-8/2004 (Montpelier, VT)

- Drafted opinions and legal decisions on difficult and unprecedented workers' compensation issues. Performed legislative study on apportionment. Conducted research on areas of Landlord/Tenant, Federal OSHA and VOSHA.

OTHER WORK EXPERIENCE

Champlain College, *Adjunct Professor*, 1/2007-12/2012 (Burlington, VT and Montreal, QC)

- Taught the following undergraduate courses: Import Export

Lyndon State College, *Adjunct Professor*, 9/2010-12/2011

- Taught the following undergraduate courses: Introduction to Business, Microeconomics, Macroeconomics, and Business Law 2.

Kent's Soda, LLC, *Co-founder*, 6/2011-12/2012

- Managed all aspects of food start-up company, including product development, marketing materials, and sales.
- Handled public relations with local, state, national and international media companies.
- Company honored with Vermont Business Magazine Rising Star Award in fall of 2011 awarded to Co-Founder.

EDUCATION

Westminster College (Salt Lake City, UT) *Master of Business Administration*, 2005; *Bachelor of Arts, International Business*, 2002

Vermont Law School (South Royalton, VT) *Juris Doctor* 2005

AWARDS, PUBLICATIONS, PRESENTATIONS, AND OTHER COMMUNITY ACTIVITIES

Awards

- Vermont Business Magazine Rising Star Award, Fall 2010.

Professional Service and Economic Development Activities

- Export Legal Assistance Network- Vermont Coordinator
- Vermont International Trade Alliance- Group Member
- State of Vermont Natural Gas and Oil Resources Board- Member

Community Service and Activities

- Board Member: Integrative Therapy Institute, AVA Gallery and Art Center, Northeast Kingdom Youth Services
- Upper Valley United Way- Board Member, Executive and Campaign Committees, Chair of Grant Review and Allocations Committee
- Saint Johnsbury Rotary Club

Political Activities

- Vermont Republican Party- Former State Young Republicans Chair, Caledonia County Chair, Windsor County Vice-Chair, State Platform Committee.
- Jack McMullen for U.S. Senate- Opposition research, 2004
- Occasional Guest on True North Radio

Presentations

- "Working with the Family Representation Project": Office of the Defender General 2012 Green Mountain Juvenile and Criminal Defense Institute, June 4, 2012.
- "Licensing Exemptions for the Export of Defense Articles Controlled by the ITAR to Canada": Vermont Aerospace and Aviation Association, October 6, 2011
- "ITAR 101": Vermont Aerospace and Aviation Association, June 15, 2011
- "Seven Keys to Exporting Success" Vermont Chamber of Commerce Webinar, November 18, 2009
- Green Mountain Boys State- Presenter in 2009 and 2010.

Publications

- "The Trade Plague" Strictly Business: Central Vermont's Business Monthly, April 2008.
- "Pay Attention to Global Business Trends" Strictly Business: Central Vermont's Business Monthly, October 2007.
- "Seven Keys to Exporting Success" Strictly Business: Central Vermont's Business Monthly, April 2007.

SKILLS AND INTERESTS

Spanish Fluency, MS Office (Word, PowerPoint, Excel, and Outlook), database searches, research, international trade, gardening, fishing, writing, business development, economic development, teaching, start-ups, public service, politics.

Statement of Interest Regarding Opening On the ADR Committee

April 23, 2014

Natalie Threlkeld

1398 N. Hill Field Rd.
Suite #2
Layton, UT 84041
801-814-7121

As an active member of the professional mediation community, I wish to submit my name for consideration for an opening on the ADR Committee.

I offer the following unique perspectives and benefits to the ADR Committee:

- Non-Attorney Mediator in current private practice
- Former Domestic Mediation Program Coordinator – AOC (4 Years)
- Court Approved Master Mediator
- Court Approved Primary Trainer
- Court Approved Domestic/Divorce Mediator
- Court Approved Domestic Mentor
- Court Approved Domestic Violence Expertise
- Past Board Member of Utah Council on Conflict Resolution (7 Years)
(Founding Member & Chair of the Family Section)
(Founding Member & Chair of the Workplace Section)

I have been actively involved in the mediation community for the past 10 years both within the court system and outside. I designed and implemented the mandatory divorce mediation program for the Utah State Courts in 2005 and went into private practice in 2009.

I am familiar with the statutes, rules, and processes that govern ADR providers in Utah. I have previously helped draft and provide feedback on policies that were under consideration.

As a court approved primary trainer, I often teach classes on ethics in ADR. I have contacted the ADR Director several times to request informed opinions regarding ethical issues within the ADR community.

As a mediator in private practice that is approved on the court roster, I am required to provide at least three pro bono mediations each year. In the past two years, I have donated over 25% of my mediation hours and income to low income clients.



Nini Rich <ninir@utcourts.gov>

RE: Opening on the ADR Committee

PERVIN GUPTA <pervin8@msn.com>

Fri, Apr 11, 2014 at 2:02 PM

To: Nini Rich <ninir@utcourts.gov>

Dear Nini: I would be very much interested in this volunteer position. My experience so far has been : I took mediation classes from UDR. Did divorce mentoring course, and this is my first year to do the mediations on my own. I do not have much experience but very fast learner. Please let me know where I stand.

Thanks
Pervin Gupta

From: ninir@utcourts.gov
Date: Fri, 11 Apr 2014 12:21:06 -0600
Subject: Opening on the ADR Committee
To: ninir@utcourts.gov

Dear Court Roster Member,

The Alternative Dispute Resolution Committee of the Utah Judicial Council is seeking an additional member from the professional mediation community.

The ADR Committee advises the Judicial Council on policies, plans and priorities relating to Alternative Dispute Resolution and works with the Court's ADR Director to inform ADR policy as it relates to the Utah State Courts. Judge Royal Hansen chairs the Committee.

To apply, please send me a brief description of your interest and experience by April 23, 2014. The names of all applicants will be reviewed by the ADR Committee for recommendations and the Judicial Council for appointment.

This is a volunteer position.

Thank you for your consideration,

Nini Rich

—
Nini Rich, Director

April 23, 2014

Denese Tate
818 S 600 East
Salt Lake City Ut 84102

ADR Committee

I would like to be considered for your opening as an ADR committee member. I am willing to volunteer my time to help the organization extend its service and education in the community

I have been on the court roster for 8 years. I have a Graduate Certificate of Conflict Resolution from the University of Utah. I currently work in business part-time. I work in the community as a volunteer mediator in tenant landlord, debt collection, and personal disputes.

I value Mediation for the benefits to the individual and community and look forward to doing more to increase the use of mediation in private and commercial settings.

Please consider me for the volunteer position currently open.

I look forward to hearing from you.

**Executive Branch Representative Applicant
for the ADR Committee**



Fwd: Bio

Rick Schwermer <ricks@utcourts.gov>

Tue, Aug 26, 2014 at 9:32 AM

To: Nini Rich <ninir@utcourts.gov>

Here's the person the executive branch would like to be on the ADR committee.

----- Forwarded message -----

From: Jacey Skinner <jskinner@utah.gov>

Date: Mon, Aug 25, 2014 at 6:32 PM

Subject: Fwd: Bio

To: "Schwermer, Rick" <ricks@utcourts.gov>

I'm sorry that this is so long coming. Here is our suggestion for the alternative dispute resolution committee. Please let me know if you need any additional information.

Jacey

----- Forwarded message -----

From: Francine Giani <fgiani@utah.gov>

Date: Mon, Aug 25, 2014 at 5:34 PM

Subject: Fwd: Bio

To: Jacey Skinner <jskinner@utah.gov>

Jacey,

I talked to Brent and he would be happy to participate. Attached is his bio.

Best,

Francine

Sent from my iPad

Begin forwarded message:

From: Brent Bateman <bbateman@utah.gov>

Date: August 25, 2014 at 4:59:54 PM MDT

To: Francine Giani <fgiani@utah.gov>

Subject: Bio

Brent N. Bateman is the Division Director in the Office of the Property Rights Ombudsman. The OPRO is a neutral office established by the Utah Legislature to assist private citizens and government agencies to understand and protect the constitutional property rights of Utah citizens. The OPRO's objectives include helping parties resolve their disputes through education, mediation, arbitration, and providing legal opinions.

Brent received his B.A. degree from Brigham Young University and his J.D. degree from Wayne State University in Detroit, Michigan, where he was Managing Editor of the Wayne Law Review. Prior to joining the OPRO, Brent practiced real estate and land use law in Utah, representing land developers, private citizens, and government entities.

Since his appointment as Property Rights Ombudsman in 2007, Brent has conducted hundreds of mediations between private citizens and local and state governments. Brent has also overseen the preparation of nearly 150 formal Advisory Opinions, acted as arbitrator in multiple cases, and advised countless citizens and government agents regarding eminent domain, land use, and other property rights issues. Every year, Brent presents at numerous continuing education seminars and workshops on topics such as land use law, eminent domain law, dispute resolution, avoiding lawsuits, and dealing with difficult people. Brent has been voted by his peers as one of "Utah's Legal Elite" in the category of Government Law.

Brent and his staff at the OPRO have a passion for helping people, and consider themselves fortunate to assist others in the resolution of conflicts.

—

Brent N. Bateman
Office of the Property Rights Ombudsman
P.O. Box 146702
Salt Lake City, UT 84114
Tel. 801-530-6391
Fax. 801-530-6338

The information contained in this e-mail may be privileged and confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify sender by telephone or reply e-mail and delete the message from your computer, system, and/or network.

—

Jacey Skinner
General Counsel
Office of the Governor
State of Utah

—

Richard Schwermer
Assistant State Court Administrator
ricks@utcourts.gov
801-578-3816 (Matheson Office)
801-538-1751 (Capitol Office)
801-231-8979 (cell phone)

**LANGUAGE ACCESS
COMMITTEE**



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: Alison Adams-Perlac *Alison Adams-Perlac*
Date: October 18, 2014
Re: Language Access Committee Appointment

There is a vacancy of the certified interpreter position on the Language Access Committee. Two certified interpreters, Luther Gaylord and Gabriela Grostic, applied to fill the position. I have attached both Mr. Gaylord's letter of intent, and Ms. Grostic's resume, which show that both are extremely qualified to fill this position.

However, the Management Committee recommended that Ms. Grostic be appointed to fill the position as Mr. Gaylord previously served on the committee from 2006 until 2012, and Ms. Grostic has never served on the committee.

Encl. Luther Gaylor Letter of Intent
 Gabriela Grostic Resume

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 / 801-578-3821 / Fax: 801-578-3843 / email: alisonap@utcourts.gov

**Luther M. Gaylord
PO Box 6052
Ogden, UT 84402**

15 August 2014

Members of the Utah Judicial Council:

Please accept my application to fill the vacancy on the Language Access Committee.

I have been interpreting in the Utah State Courts as a self-employed independent contractor since 1990. I have been a certified court interpreter since 2003. I have traveled throughout the state and have interpreted in every judicial district except the Fifth and the Sixth District Courts.

I graduated from Weber State University with a B.A. in political science and Spanish in 1993. I attended law school at the University of Utah from 1995 to 1998. I ultimately decided that the practice of law was not a good fit for me, and I returned to my real area of expertise -- judicial interpreting.

I have interpreted from Spanish to English and back for hearings and depositions in all manner of civil and criminal cases over the past 24 years -- from traffic violations to homicides, from divorces, adoptions, and personal injury cases to complicated contract disputes.

I previously served on the Language Access Committee from 2006 to 2012. During that time I gained the respect and admiration of my interpreter colleagues by keeping them informed of important rule amendments and policy changes under consideration by the committee, soliciting their feedback, and advocating from our perspective as contract interpreters.

If I am selected to serve on the committee again, I will bring valuable institutional knowledge to the decision-making process. I believe that I have important professional experience and helpful input to bring to the table.

Thank you for your consideration.

Sincerely,

Luther M. Gaylord

Luther Gaylord
Certified Court Interpreter
www.luthergaylord.net

GABRIELA GROSTIC

11679 S. Auburn Fields Way

Draper Utah, 84088

E-mail Grostick@msn.com

Experience August 6, 2006 to present U.S. Department of Justice Executive Office for Immigration Review Immigration Court

Court Interpreter. I serve as an Interpreter in Immigration proceedings. I perform consecutive, simultaneous and sight translations. I provide daily oversight and management of contract interpreters, scheduling and dispatching services and ensure that the services meet all expectations of our courtroom language needs and ensure cost-effective use of our resources of contract interpreters. I Use my vast networking experience to allocate our local resources of interpreters within our state to provide services in our courtroom for cost efficiency avoiding unnecessary travel expenses, cancellation fees, and paying premiums for interpreters flying from other states. I ensure that interpreter's services are provided in accordance with the interpreter code of ethics and standards of professional conduct. I constantly demonstrate support to our court to ensure that Due Process is never compromised by an interpreter who does not meet the standards of a Court Interpreter. Act as direct liaison to work directly with our contract liaison to improve the veracity of our changing vocabulary needed to provide the most accurate interpretation while in the court room.

Job Responsibilities:

- Continuous Supervision of court interpreters.
- Prepare reports of Non-compliance of contract interpreters.
- Evaluate Interpreters.
- Trainer for Language Service Unit for Immigration Court. Designed presentations and taught them to all Interpreters and Judges across the nation.

Administrative Offices of the court

Trainer: Teach the Approved Interpreters Workshop Non-language specific in the State of Utah. My extreme passion for the interpreters' profession is demonstrated in every workshop I teach. My knowledge and experience has paved the way for many students who end up in our courtrooms after taking the first step in taking this training.

July 2001 to August 6, 2006 - Free Lance Interpreter for Third district Court and Intermountain Medical Center.

Free Lance Interpreter

Provided Simultaneous and Consecutive and Sight translation for all court proceedings in Third District Court in the following proceedings:

Detained dockets in the court room and in the Jail.

Video conferencing in the courtroom and in Jail.

Juvenile Court and Juvenile Detention Center.

Children's Justice Center for child abuse assessments.

Evaluations for Probation officers, Mediation.

Interpretation in the administration of lie detector.

Mental competency hearings at the hospital.

Language Program Coordinator for IHC Intermountain Health Center

Worked within the overall scope of the Urban Central Region Language Services and developed. Coordinated and delivered both verbal and written language interpretations and related services to meet the multicultural educational needs of the hospital, patients and their families.

Job responsibilities included:

-Accurate Interpretation

-Responsible to respond to pagers within 120 seconds when actively interpreting for staff and physicians.

-Give staff an accurate estimated time of arrival for interpreting assignments and arrived on time to such assignments.

Referred staff and physicians to phone interpreting.

June 1991 to July 1993 Sistemas de Baterias de México S.A. Energizer

Responsible for the implementation of the Quality and administration of ISO 9000 Procedure for all the departments in the company. Detailed work in the administration and translation from English into Spanish and Spanish to English. During the duration of my employment my assignment was to assist in the training and preparation of guidelines documenting all of the procedures of every job performed in the company to comply with the prestigious ISO 9000 certification sought by every company. Once the documents were written and documented my job was to translate every single document to complete our goal of being certified.

Education

Bachelor's Degree: Communications with Minor in Translation and Interpretation

University of Texas at El Paso

El Paso Texas Graduated in May 1997

Utah State Certification for Court Interpreters

Salt Lake City Utah, Administrative Offices of the Court

Certificate of Award of completion for 112 hrs.

Agnese Haury Institute for Court Interpretation University of Arizona

Certificate of Award of Completion

Professional Medical Interpreter Training

Bridging the Gap Medical Interpreter Training

**Languages
Abilities**

English and Spanish proficient in writing, speaking, interpreting and translating.

- MICROSOFT OFFICE

- EXCEL

- POWER POINT: executive presentations

ECOIS (Internal program for ordering Interpreters)

CASE (Internal program for case management)

DAR (Digital Audio Recording)

**SELF-REPRESENTED
PARTIES COMMITTEE**



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: Nancy Sylvester
Date: October 14, 2014
Re: Nominee for the Committee on Resources for Self-represented Parties

We have one vacancy to fill on the Committee on Resources for Self-represented Parties: a representative from the University of Utah's S.J. Quinney College of Law. This vacancy was created by the expiration of Professor Emily Chiang's term. Judge Marsha Thomas, our chair, asked Dean Robert Adler to submit the names of several faculty or staff members who would be interested in serving, and he sent us four names. Three of the four people sent us their resumes and letters of interest. They were Jaclyn Howell-Powers, Kay Shelton, and Jess Hofberger. On October 14, 2014, the Management Committee selected **Jaclyn Howell-Powers** to fill the vacancy. Her letter of interest and resume are attached and a synopsis of her qualifications is below.

Jaclyn Howell-Powers:

- Career Counselor at S.J. Quinney College of Law.
- Counsels students on career paths in public interest.
- Volunteer staff member at pro bono clinics; has observed the frustration of attorney and student volunteers there who are limited in ability to help self-represented litigants.
- Former deputy clerk in Second District Court who saw firsthand the frustrations faced by self-represented litigants.
- M.S., European History, U of U / American Public University.

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 / P.O. Box 140241 / Salt Lake City, Utah 84114-0241 / Tel: 801-578-3808 / Fax: 801-578-3843 / email: nancyjs@utcourts.gov

Jaclyn Howell-Powers
Career Counselor, Professional Development Office
S.J. Quinney College of Law, University of Utah
332 S. 1400 E. Room 195, Salt Lake City, UT 84112

Management Committee of the Judicial Council
c/o Nancy Sylvester
Administrative Office of the Courts
450 S. State, Salt Lake City, UT 84114

Dear Committee Members;

I am writing to express my sincere interest in joining the Standing Committee on Resources for Self-Represented Parties. I am honored to have been referred to the Administrative Office of the Courts by Dean Robert Adler and Ms. Jolynn Spruance, Director of the Pro Bono Initiative.

I have been with the S.J. Quinney College of Law for over six years, and have spent the past four as a Career Counselor in the Professional Development Office. One important aspect of my job is to explore career paths with our law students, many of whom have developed a passion for public interest issues. These students, through externships/internships, summer employment and volunteer opportunities, have learned all-too-well the problems that members of the community encounter with respect to access to justice and judicial forums. I have also witnessed this issue first-hand as a volunteer staff member at several of our pro bono clinics, and have observed the frustration of our attorney and student volunteers who want to do more but who are limited in their ability to assist outside of the free advice clinics. It has become very clear to me that many of our students care deeply about this issue; however, many are uncertain as to what they can do to help. I have also experienced this issue while as a Deputy Clerk with the Second District of Utah. Many individuals who visited the court had no idea what paperwork to file and where; were unaware of the fees associated in filing legal paperwork; and who desired legal representation but could simply not afford it. They were doing everything on their own.

I understand that the Committee exists specifically to examine the issues of access to the courts for self-represented parties. This is a forum in which I would be very interested in taking part, specifically to further understand the difficulties of self-representation, and the ways in which Utah Courts are addressing these issues. Also, I look forward to supporting the Self-Help Center in any way that I can, which has employed many of our alumni over the years, and believe that the Center provides critical services such as information and advice, which is an important first step for those who choose self-representation, that they may not otherwise have access to.

I feel that the work of this committee is significant in its scope and importance, and would love the opportunity to represent the S.J. Quinney College of Law. I appreciate your consideration of my materials and look forward to hearing from you soon.

Sincerely,
Jaclyn Howell-Powers

Jaclyn Howell-Powers

7577 S. Summit Peak Dr. B105, Midvale, UT 84047, (801) 867-4153, howellj@law.utah.edu

EDUCATION

American Public University, Maryland

M.S., European History, August 2012 (to finish thesis)

Thesis: "The Edgeware Road Murder Trial of 1837 and the Role of the Public and Press in High-Profile Homicide Cases in Victorian Britain."

University of Utah, Salt Lake City, UT

M.S., European History, 2009-2011

President, History Graduate Student Association, 2009-2011

- Committee Member, Rocky Mountain European Scholars Consortium, 2010

Brigham Young University-Idaho, Rexburg, ID

B.S., History, 2003-2006

- Areas of Concentration: European Intellectual History, Victorian Britain
- Minor: Political Science
- Academic Scholarship, 2006; Leadership Scholarship 2005
- Vice-President, Phi Alpha Theta (Honor's Association), 2004-2006
- Teacher's Assistant, Professor Shawn Johannsen, 2005-2006

EXPERIENCE

University of Utah S.J. Quinney College of Law, Salt Lake City, UT

Career Counselor, 2010-Present

- Provide individual career counseling, including resume and cover letter review and job search resources for students & alumni
- Manage all aspects of on-campus interviewing program during Fall & Spring semesters
- Coordinate and execute all areas of internal & external PDO programming
- Maintain internal purchasing records and internal correspondence

Programming Manager, 2010-Present

- Coordinated academic events for Professional Development Office
- Assisted with on-campus & off-campus event scheduling
- Maintained student files, legal job board, reciprocity requests and purchasing records
- Provided support to law students and alumni

Deseret News, Salt Lake City, UT

Newspapers in Education (NIE) Coordinator & Writer, 2007-2008

- Provided NIE support, including developmental and copy editing of printed documentation; wrote stories several times a week for section C3; assisted with circulation and sponsorships (publications available upon request).

State of Utah, Farmington District

Deputy Clerk, 2007

Deseret Book, Salt Lake City, UT

Supervisor/Bookseller, 2002-2005

TAB 12



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: Alison Adams-Perlac *Alison Adams-Perlac*
Date: October 18, 2014
Re: Rule Ready for Public Comment

The Policy and Planning Committee recommends the following amendment to the Utah Code of Judicial Administration.

CJA 3-111. Performance evaluation of senior judges and court commissioners. Amend. Requires senior judges in the district, juvenile or justice courts to undergo a performance evaluation every 18 months after the first term and a commissioner to undergo a performance evaluation annually. Requires senior judges in the appellate court to undergo a performance evaluation every 3 years. Changes the evaluation criteria to more closely match the JPEC criteria.

If no concerns are raised, the proposed amendment will be opened for public comment. The amendment is subject to change following the public comment period.

Encl. CJA 3-111

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 / 801-578-3821 / Fax: 801-578-3843 / email: alisonap@utcourts.gov

Rule 3-111 Performance evaluation of senior judges and court commissioners.

Intent:

To establish a performance evaluation, including the criteria upon which senior judges and court commissioners will be evaluated, the standards against which performance will be measured and the methods for fairly, accurately and reliably measuring performance.

To generate and to provide to senior judges and court commissioners information about their performance.

To establish the procedures by which the Judicial Council will evaluate and certify senior judges and court commissioners for reappointment.

Applicability:

This rule shall apply to presiding judges, the Board of Justice Court Judges and the Judicial Council, and to the active senior judges and court commissioners of the appellate courts, courts of record and courts not of record.

Statement of the Rule:

(1) Performance evaluations.

(1)(A) On forms provided by the administrative office, the presiding judge of the appellate courts shall complete an evaluation of the appellate senior judge's performance at the end of each term.

(1)(B) On forms provided by the administrative office, the presiding judge of the district a court commissioner primarily serves shall complete an annual evaluation of the court commissioner's performance.

(1)(B) On forms provided by the administrative office, the presiding judge of the district an active senior judge primarily serves shall complete an evaluation of the senior judge's performance every eighteen months starting after the senior judge's initial term.

(1)(C) On forms provided by the administrative office, the chair of the Board of Justice Court Judges shall complete an evaluation of the active senior justice court judge's performance every eighteen months starting after the senior judge's initial term.

(1)(D) The presiding judge shall provide a copy of each commissioner evaluation to the Judicial Council.

(1)(E) If a senior judge receives an overall "Needs Improvement" rating on the performance evaluation, the evaluator shall provide a copy of the evaluation to the Judicial Council.

(24) ~~Active S~~senior judges and court commissioners shall be evaluated and certified upon the following criteria:

(24)(A) ~~integrity~~demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;

(24)(B) ~~knowledge and understanding of the law and procedures~~attentiveness to factual and legal issues before the court;

(24)(C) ~~ability to communicate~~adherence to precedent and ability to clearly explain departures from precedent;

(24)(D) ~~preparation, attentiveness, dignity and control over proceedings~~grasp of the practical impact on the parties of the commissioner's or senior judge's rulings, including the effect of delay and increased litigation expense;

(24)(E) ~~skills as a manager~~ability to write clear judicial opinions;

(24)(F) ~~punctuality~~ability to clearly explain the legal basis for judicial opinions;

(24)(G) ~~service to the profession and the public~~demonstration of courtesy toward attorneys, court staff, and others in the commissioner's or senior judge's court; and

(24)(H) ~~effectiveness in working with other court personnel.~~maintenance of decorum in the courtroom;

(2)(I) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the judicial system;

(2)(J) preparation for hearings or oral argument;

(2)(K) avoidance of impropriety or the appearance of impropriety;

(2)(L) display of fairness and impartiality toward all parties;

(2)(M) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions;

(2)(N) management of workload;

(2)(O) willingness to share proportionally the workload within the court or district, or regularly accepting assignments; and

61 (2)(P) issuance of opinions and orders without unnecessary delay.

62 (3) Senior judges shall also be evaluated on their ability and willingness to use the
63 court's case management systems in all cases.

64 (42) Standards of performance.

65 (42)(A) Survey of attorneys.

66 (42)(A)(i) The Council shall measure satisfactory performance by a sample survey of
67 the attorneys appearing before the senior judge or court commissioner during the period
68 for which the senior judge or court commissioner is being evaluated. The Council shall
69 measure satisfactory performance based on the results of the final survey conducted
70 during a court commissioner's term of office, subject to the discretion of a court
71 commissioner serving an abbreviated initial term not to participate in a second survey
72 under Section (2)(A)(vi) of this rule.

73 (42)(A)(ii) Survey scoring. The survey shall be scored as follows.

74 (42)(A)(ii)(a) Each question of the attorney survey will have six possible responses:
75 Excellent, More Than Adequate, Adequate, Less Than Adequate, Inadequate, or No
76 Personal Knowledge. A favorable response is Excellent, More Than Adequate or
77 Adequate.

78 (42)(A)(ii)(b) Each question shall be scored by dividing the total number of favorable
79 responses by the total number of all responses, excluding the "No Personal Knowledge"
80 responses. A satisfactory score for a question is achieved when the ratio of favorable
81 responses is 70% or greater.

82 (42)(A)(ii)(c) A court commissioner's performance is satisfactory if:

83 (42)(A)(ii)(c)(1) at least 75% of the questions have a satisfactory score; and

84 (42)(A)(ii)(c)(2) the favorable responses when divided by the total number of all
85 responses, excluding "No Personal Knowledge" responses, is 70% or greater.

86 (32)(A)(ii)(d) The Judicial Council shall determine whether the senior judge's survey
87 scores are satisfactory.

88 (42)(A)(iii) Survey respondents. The Administrative Office of the Courts shall identify
89 as potential respondents all lawyers who have appeared before the court commissioner
90 during the period for which the commissioner is being evaluated.

(42)(A)(iv) Exclusion from survey respondents.

(42)(A)(iv)(a) A lawyer who has been appointed as a judge or court commissioner shall not be a respondent in the survey. A lawyer who is suspended or disbarred or who has resigned under discipline shall not be a respondent in the survey.

(42)(A)(iv)(b) With the approval of the Management Committee, a court commissioner may exclude an attorney from the list of respondents if the court commissioner believes the attorney will not respond objectively to the survey.

(42)(A)(v) Number of survey respondents. The Surveyor shall identify 180 respondents or all attorneys appearing before the court commissioner, whichever is less. All attorneys who have appeared before the senior judge shall be sent a survey questionnaire as soon as possible after the hearing.

(42)(A)(vi) Administration of the survey. Court commissioners shall be the subject of a survey approximately six months prior to the expiration of their term of office. Court commissioners shall be the subject of a survey during the second year of each term of office. Newly appointed court commissioners shall be the subject of a survey during the second year of their term of office and, at their option, approximately six months prior to the expiration of their term of office.

(42)(A)(iv) Survey report. The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity.

(42)(B) Survey of presiding judges and court staff. The Council shall measure performance of senior judges by a survey of all presiding judges and trial court executives of districts in which the senior judge has been assigned. The Administrative Office of the Courts shall distribute survey forms with instructions to return completed surveys to the Surveyor. The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity. The

Judicial Council shall determine whether the senior judge's survey scores are
satisfactory.

(42)(C) Case under advisement standard. A case is considered to be under
advisement when the entire case or any issue in the case has been submitted to the
senior judge or court commissioner for final determination. The Council shall measure
satisfactory performance by the self-declaration of the senior judge or court
commissioner or by reviewing the records of the court.

(4)(C)(i) A senior judge or court commissioner in a trial court demonstrates
satisfactory performance by holding:

(42)(C)(i)(a) no more than three cases per calendar year under advisement more
than 60 days after submission; and

(42)(C)(i)(b) no case under advisement more than 180 days after submission.

(4)(C)(ii) A senior judge in the court of appeals demonstrates satisfactory
performance by:

(4)(C)(ii)(a) circulating no more than an average of three principal opinions per
calendar year more than six months after submission with no more than half of the
maximum exceptional cases in any one calendar year; and

(4)(C)(ii)(b) achieving a final average time to circulation of a principal opinion of no
more than 120 days after submission.

(42)(D) Compliance with education standards. Satisfactory performance is
established if the senior judge or court commissioner annually complies with the judicial
education standards of this Code, subject to the availability of in-state education
programs. The Council shall measure satisfactory performance by the self-declaration
of the senior judge or court commissioner or by reviewing the records of the state court
administrator.

(42)(E) Substantial compliance with Code of Judicial Conduct. Satisfactory
performance is established if the response of the senior judge or court commissioner
demonstrates substantial compliance with the Code of Judicial Conduct, if the Council
finds the responsive information to be complete and correct and if the Council's review
of formal and informal sanctions lead the Council to conclude the court commissioner is

in substantial compliance with the Code of Judicial Conduct. Under Rule 11-201 and Rule 11-203, any sanction of a senior judge disqualifies the senior judge from reappointment.

(42)(F) Physical and mental competence. Satisfactory performance is established if the response of the senior judge or court commissioner demonstrates physical and mental competence to serve in office and if the Council finds the responsive information to be complete and correct. The Council may request a statement by an examining physician.

(53)(A) At its meeting in August, the Council shall begin the process of determining whether the senior judges and court commissioners whose terms of office expire that year meet the standards of performance provided for in this rule. The Administrative Office of the Courts shall assemble all evaluation information, including:

(53)(A)(i) survey scores;

(53)(A)(ii) judicial education records;

(53)(A)(iii) self-declaration forms;

(53)(A)(iv) records of formal and informal sanctions; and

(53)(A)(v) performance evaluations, if the commissioner or senior judge received an overall rating of Needs Improvement; and

(5)(A)(vi) any information requested by the Council.

(53)(B) Prior to the meeting the Administrative Office of the Courts shall deliver the records to the Council and to the senior judges and court commissioners being evaluated.

(53)(C) In a session closed in compliance with Rule 2-103, the Council shall consider the evaluation information and make a preliminary finding of whether a senior judge or court commissioner has met the performance standards.

(53)(D) If the Council finds the senior judge or court commissioner has met the performance standards, it is presumed the Council will certify the senior judge or court commissioner for reappointment. If the Council finds the senior judge or court commissioner did not meet the performance standards, it is presumed the Council will not certify the senior judge or court commissioner for reappointment. The Council may

180 certify the senior judge or court commissioner or withhold decision until after meeting
181 with the senior judge or court commissioner.

182 (53)(E) A presumption against certification may be overcome by a showing of good
183 cause to the contrary. A presumption in favor of certification may be overcome by:

184 (53)(E)(i) reliable information showing non-compliance with a performance standard;
185 or

186 (53)(E)(ii) formal or informal sanctions of sufficient gravity or number or both to
187 demonstrate lack of substantial compliance with the Code of Judicial Conduct.

188 (53)(F) At the request of the Council the senior judge or court commissioner shall
189 meet with the Council in September. At the request of the Council the presiding judge
190 shall report to the Council any meetings held with the senior judge or court
191 commissioner, the steps toward self-improvement identified as a result of those
192 meetings, and the efforts to complete those steps. Not later than 5 days after the August
193 meeting, the Administrative Office of the Courts shall deliver to the senior judge or court
194 commissioner being evaluated notice of the Council's action and any records not
195 already delivered to the senior judge or court commissioner. The notice shall contain an
196 adequate description of the reasons the Council has withheld its decision and the date
197 by which the senior judge or court commissioner is to deliver written materials. The
198 Administrative Office of the Courts shall deliver copies of all materials to the Council and
199 to the senior judge or court commissioner prior to the September meeting.

200 (53)(G) At its September meeting in a session closed in accordance with Rule 2-103,
201 the Council shall provide to the senior judge or court commissioner adequate time to
202 present evidence and arguments in favor of certification. Any member of the Council
203 may present evidence and arguments of which the senior judge or court commissioner
204 has had notice opposed to certification. The burden is on the person arguing against the
205 presumed certification. The Council may determine the order of presentation.

206 (53)(H) At its September meeting in open session, the Council shall approve its final
207 findings and certification regarding all senior judges and court commissioners whose
208 terms of office expire that year.

209 (~~53~~)(I) The Judicial Council shall communicate its certification decision to the senior
210 judge or court commissioner. The Judicial Council shall communicate its certification
211 decision for senior judges to the Supreme Court and for court commissioners to the
212 presiding judge of the district the commissioner serves.