

JUDICIAL COUNCIL MEETING

AGENDA

Monday, October 26, 2015

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. Judge David Mortensen
Policy and Planning Judge Reed Parkin
Bar Commission. John Lund, esq.
(Tab 2 - Information)
6. 9:45 a.m. Council Committee Appointments. . . . Chief Justice Matthew B. Durrant
(Tab 3 - Action)
7. 9:50 a.m. 2016 Council Calendar Approval. Ray Wahl
(Tab 4 - Action)
8. 9:55 a.m. Legislative Update and Interim Highlights. Rick Schwermer
(Information)
9. 10:05 a.m. Indigent Defense Committee Final Report. Judge Stephen Roth
(Tab 5 - Action)
10. 10:50 a.m. Rules for Final Action. Alison Adams-Perlac
(Tab 6 - Action)
- 11:00 a.m. Break
11. 11:10 a.m. Access and Fairness Survey. Jessica Van Buren
(Tab 7 - Information)

12. 11:40 a.m. 2016 Study Item Discussion. Daniel J. Becker
(Action) Rick Schwermer
- 11:55 a.m. Council Photo/Lunch
13. 12:40 p.m. Technology Committee Update. Ron Bowmaster
(Information)
14. 1:00 p.m. Farmington/Davis County Justice Court. Rick Schwermer
(Action)
15. 1:10 p.m. Kane County Court as a State-Owned Site. Wendell Roberts
(Tab 8 - Action)
16. 1:20 p.m. Senior Judge Rule Change. Nancy Sylvester
(Tab 9 - Action)
17. 1:30 p.m. Senior Judge Certification. Nancy Sylvester
(Tab 10 - Action)
18. 1:35 p.m. Executive Session
19. 1:40 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)

Brent Johnson
Nancy Sylvester
Debra Moore
Alyn Lunceford

TAB 1

JUDICIAL COUNCIL MEETING

Minutes

Tuesday, September 22, 2015

Silver Mine A

Park City Marriott

Park City, Utah

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, Vice Chair
Justice Thomas Lee
Justice Jill Parrish
Hon. Marvin Bagley
Hon. Ann Boyden
Hon. Glen Dawson
Hon. Paul Farr
Hon. Thomas Higbee
Hon. David Marx
Hon. David Mortensen
Hon. Reed Parkin
Hon. Randall Skanchy
Hon. Kate Toomey
John Lund, esq.

EXCUSED:

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
Debra Moore
Dawn Marie Rubio
Rick Schwermer
Tim Shea
Alison Adams-Perlac
Tom Langhorne
Clayson Quigley
Nancy Sylvester
Nancy Volmer

GUESTS:

Joanne Slotnik, JPEC
Judge Reuben Renstrom
Judge Derek Pullan

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

Motion: Judge Skanchy moved to approve the minutes from the August 14, 2015 Judicial Council meeting. Judge Toomey seconded the motion, and it passed unanimously.

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

Chief Justice Durrant had nothing new to report.

3. ADMINISTRATOR'S REPORT: (Ray Wahl)

Mr. Wahl reported on the following items:

Presiding Judge Meeting. The presiding judges are scheduled to meet tomorrow at 11:45 a.m. A presentation on perimeter security and an update on the law clerk study will be provided.

New Council Member Orientation. A new Council member orientation will be held on the morning of October 26 prior to the Council meeting.

Juvenile Court E-Filing. Voluntary CARE e-filing went live last week, with no problems experienced.

November Council Meeting. The Council has been invited to hold a future meeting at the new S.J. Quinney College of Law at the University of Utah. It was suggested to hold the November 23 meeting at the law school.

Motion: Judge Higbee moved to hold the November 23 Council meeting at the new S.J. Quinney College of Law at the University of Utah with the start time being moved from 9:00 a.m. to 9:30 a.m. Mr. Lund seconded the motion, and it passed unanimously.

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:

The Liaison Committee has not met since the last Council meeting and had nothing to report.

Policy and Planning Meeting:

Judge Parkin reported on the following items: 1) the Policy and Planning Committee considered comments received during the public comment period for Rule CJA 04-0905 – Restraint of minors in juvenile court, 2) recognized Judge Dawson for his service and contributions to the Policy and Planning Committee, with his term on the Council expiring, 3) Rules for Final Action will be considered later on the agenda, and 4) Rules for Public Comment on the consent calendar.

Bar Commission Report:

Mr. Lund reported on the following items: 1) the Bar Commission met last week, and 2) items of interest include the Futures Report and the Supreme Court Task Force to Examine Limited Legal Licensing.

5. RULES FOR FINAL ACTION: (Alison Adams-Perlac)

Chief Justice Durrant welcomed Ms. Adams-Perlac to the meeting.

The public comment period for Rule 4-202.02 – Record access and Rule 4-0905 – Restraint of minors in juvenile court has closed and the proposals were recommended for final action.

Rule 4-0202.02 – Records access. The rule was amended to provide that adoption records become public on the one hundredth anniversary of the date of the final decree as required by statute, and it makes notices from the U.S. Bankruptcy Court private.

The Policy and Planning Committee considered the comments and voted to recommend the proposal, as written.

Motion: Judge Toomey moved to approve the amendments to Rule 4-0202.02 – Records access as amended. Judge Hornak seconded the motion, and it passed unanimously.

Rule CJA 04-0905 – Restraint of minors in juvenile court. This is a new rule which provides for proper restraints of minors in juvenile court proceedings. It provides that ex parte communications related to restraint are not prohibited, but that the judge or commissioner shall

notify all parties of the communication as soon as possible and give them an opportunity to respond.

Discussion took place.

Motion: Judge Parkin moved to allow for the Policy and Planning Committee to review their decision on the proposed Rule CJA 04-0905 – Restraint of minors in juvenile court before the Council takes final action. Judge Mortensen seconded the motion, and it passed unanimously.

The Policy and Planning Committee met during the break to clarify their decision relative to the language in Rule CJA 04-0905 – Restraint of minors in juvenile court. The change in language was noted.

Motion: Judge Hornak moved to approve Rule CJA 04-0905 – Restraint of minors in juvenile court as recommended with an October 1 effective date. Justice Lee seconded the motion, and it passed with Judge Higbee voting no.

Rule CJA 04-202.08 – Fees for records, information, and services. The rule has been amended to change the fee to access a document online from \$2.50 per document to \$.50 per document. The amendment was recommended by the Technology Committee on an expedited basis.

Motion: Judge Hornak moved to approve Rule CJA 04-202.08 as recommended, on an expedited basis, effective immediately. Judge Toomey seconded the motion, and it passed unanimously.

6. LEGISLATIVE UPDATE: (Rick Schwermer)

Chief Justice Durrant welcomed Mr. Schwermer to the meeting.

Mr. Schwermer highlighted the following in his legislative update: 1) approval of a draft letter to the Law Enforcement and Criminal Justice Interim Committee recommending that it study certain issues related to peace officer use of force, and 2) the Judiciary report included information on electronic filings in district court.

7. JUDICIAL BRANCH EDUCATION COMMITTEE UPDATE: (Tom Langhorne)

Chief Justice Durrant welcomed Mr. Langhorne to the meeting.

He highlighted the following in his meeting: 1) MSU Judicial Administration Program; 2) delivery of two new academies – non-supervisory court skills academy and the middle management leadership academy; 3) conduct “train the faculty” workshop; 4) long-term, formal curriculum guide for district court judges; 5) continue to enhance new judge orientation; 6) formalizing mentoring training; 7) substantially revised PO trainings; 8) restructured PO Safety training; 9) migrated to “paperless” conferences; 10) continue to provide a variety of educational opportunities.

Mr. Langhorne was thanked for his update.

8. JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE: (Joanne Slotnik)

Chief Justice Durrant welcomed Ms. Slotnik to the meeting.

Ms. Slotnik highlighted the following in her update: 1) the Commission is fully staffed, 2) , the surveys and courtroom observations have been completed for the 2016 retention and the 2018 midterm reports; 3) for the 2012, 2014, and 2016 retention elections, justice court judges

are classified as full-time or part-time for evaluation purposes; 4) with the 2018 retention election, justice court judges will be classified as follows for evaluation purposes: a) full-time, b) mid-level, and c) basic evaluation; 5) 21 district court judges, 11 juvenile court judges and 20 justice court judges are up for retention in 2016; 6) survey response rate has declined relative to the 2016 retention evaluations; 7) the response rate for surveys by court staff and juvenile court professionals, overall, reflected an 11% decrease with 52% responding; 8) use of pre-notification letter signed by the three branches of government relative to completing the surveys with the recent survey period, 9) future survey requests to attorneys may be sent by mail to the attorneys with the link and password included in the letter, 10) process audit of the data collection and transfer of the data took place, with everything shown to be in order; 11) deliberation for the judges up for retention in 2016 begins September 8 and goes through December 4, twice monthly meetings will be held by the Commission; 12) notification will be made to the judges who failed any part of the minimum performance standards in mid October and provide them with an opportunity to meet with members of the Commission, 13) notification will be made to judges that the Commission has concerns with, to provide them with an opportunity to meet with the Commission on November 10; 14) final retention votes will be taken in January; 15) final 2016 retention reports will be distributed by March 1; 13) the 2018 mid-term reports will go out before the end of September; and 14) adjective question will be shown differently in this reporting cycle with the use of a bar graph and it will include a peer group comparison.

Questions were asked of Ms. Slotnik. She provided responses to the questions asked of her.

Chief Justice Durrant thanked Ms. Slotnik for her update.

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

Chief Justice Durrant welcomed Judge Renstrom to the meeting.

Judge Renstrom highlighted the following in his update: 1) reputation of justice courts, 2) history of justice courts, 3) the changing face of the justice courts, 4) positive changes in the past year, 5) additional changes to be made to achieve judicial independence.

Chief Justice Durrant thanked Judge Renstrom for his update.

10. ONLINE DISPUTE RESOLUTION (ODR) PROPOSAL: (Daniel J. Becker)

Mr. Becker reminded the Council of the Online Dispute Resolution Proposal which was presented to them at their June meeting. At that time, the Council approved for the Online Dispute Resolution Workgroup to further assess the matter of Online Dispute Resolution and report back to the Council at a later date. At that time, it was reported that online dispute resolution was more commonly used in the private sector with little experience in the public sector.

Mr. Shea reviewed the conceptual design of an online dispute resolution system. The Workgroup determined to pursue the area of small claims as they moved forward with their assessment of online dispute resolution.

He reviewed the principles involved with an online dispute resolution (ODR) system. They include: 1) evaluation, 2) negotiation, and 3) judicial decision.

It has been designed to parallel the system in place for small claims.

As the workgroup met, they identified areas to be examined that would: 1) reduce time and costs for litigants, 2) potentially reduce filing fees, and 3) lower overhead to the courts.

The effectiveness of an online court would be increased by the following: 1) individualized assistance, 2) a collaborative approach to resolution among the parties, 3) compensating for imbalances of power and resources, 4) allowing asynchronous conversations,

in which parties control the pace, as well as contemporaneous conversations, and 5) creating incentives to encourage parties to resolve their dispute online.

Mr. Shea mentioned that statutes would need to be examined and amended. The issue of territorial jurisdiction and venue would need to be addressed.

He noted that the legal requirements process is outlined in the document provided for each Council member.

The proposal presumed online dispute resolution for small claims cases with an opportunity to opt out.

Mr. Becker highlighted the following relative to the proposal if approved by the Council, 1) a year of development work is expected, 2) the IT development costs are included as part of the CORIS rewrite project, and 3) Utah would be the first state to undertake an online dispute resolution program.

Discussion took place and questions were asked.

Motion: Judge Toomey moved to approve the following 1) a committee be formed by the Online Dispute Resolution Workgroup to further assess the needs, 2) apply for a grant to provide funding for the required staff for the project, and 3) seek Council input throughout the process. Judge Farr seconded the motion, and it passed with Judge Parkin and Judge Higbee voting no.

11. BUDGET ADJUSTMENT FOR UNALLOCATED CARRY FORWARD: (Ray Wahl)

A handout was distributed to members of the Council with the FY 2016 Proposed Additional Carry-Forward Plan in the amount of \$408,000.

Mr. Wahl reviewed the following proposed one-time spending plan: 1) start CORIS Rewrite Project in FY 2016, \$208,000; 2) data wiring and installation costs associated with credit card machines authorized last fiscal year, \$40,000; 3) courtroom technology and remote services, \$100,000; and 4) additional reserve, \$60,000.

Motion: Judge Toomey moved to approve the recommendations for the additional FY 2016 unallocated carry-forward budget adjustment. Judge Hornak seconded the motion, and it passed unanimously.

12. 2016 JUDICIAL COUNCIL STUDY ITEM: (Daniel J. Becker)

Mr. Becker reviewed the process, purpose and nature of the study item topics undertaken by the Council. The three items to consider for the 2016 Council study item included: 1) domestic court, 2) judicial district boundaries, and 3) court security.

Mr. Schwermer provided background information on the matter of domestic court, in particular, the way in which divorce cases are processed.

Discussion took place.

Further discussion and action will be taken relative to the 2016 Council study item at the October Council meeting.

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

The following senior judges' terms will expire on December 31, 2015; and they have applied for reappointment: 1) Judge Gordon Low, active senior judge; and 2) Judge Kay Lindsay, inactive senior judge. Both judges meet the minimum performance standards.

Motion: Judge Hornak moved to forward the recommendations, on behalf of the Council, to the Supreme Court to recertify Judge Gordon Low as an active senior judge and Judge Kay Lindsey as an inactive senior judge. Justice Lee seconded the motion, and it passed unanimously.

14. RETENTION ELECTION CERTIFICATIONS: (Nancy Sylvester)

Ms. Sylvester reported that there are a significant number of judges up for retention election in 2016 to be certified by the Judicial Council to the Judicial Performance Evaluation Commission (JPEC) that they have met the performance standards.

All judges, with the exception of the following who did not apply, will be considered for certification for the 2016 retention election: 1) Judge Russell Bulkley, Panguitch; 2) Judge Elizabeth Christensen, Escalante, and 3) Judge F. Kirk Heaton, Kanab.

Motion: Judge Hornak moved to enter into an executive session to address issues of professional competence. Justice Lee seconded the motion, and it passed unanimously.

Motion: Justice Lee moved to certify the judges, requesting certification for the 2016 retention election. The following judges are excluded from the certification: 1) Judge Russell Bulkley, 2) Judge Elizabeth Christensen, 3) Judge F. Kirk Heaton, 4) Judge Clinton Balmforth, and 5) Judge Roy Brown. Judge Parkin seconded the motion, and the motion passed with Judge Dawson, Judge Higbee, Judge Hornak, Judge Mortensen, Judge Skanchy, Judge Farr, and Judge Marx recusing themselves from voting for their certifications.

Motion: It was moved and seconded to authorize the Management Committee to consider certification for the 2016 retention election of the following judges on behalf of the Council: 1) Clinton Balmforth and 2) Roy Brown. The motion passed unanimously.

15. BOARD OF DISTRICT COURT JUDGES UPDATE: (Judge Derek Pullan and Debra Moore)

Chief Justice Durrant welcomed Judge Pullan to the meeting.

Judge Pullan highlighted the following in his update to the Council: 1) 71 district court judges in eight districts; 2) processed 269,143 filings in FY 2015; and 3) specialty courts.

He highlighted the following areas of importance: 1) bail and pre-trial release, 2) justice reinvestment matters, 3) best practices for law clerks, statewide; and 4) senior judge use.

Discussion took place on the senior judge issue.

Chief Justice Durrant thanked Judge Pullan for his update.

16. EXECUTIVE SESSION

An executive session was held at this time.

Chief Justice Durrant recognized the outgoing members for their service and contribution to the Council. The outgoing members included: 1) Judge Kimberly Hornak, and 2) Judge Glen Dawson.

17. ADJOURN:

The meeting was adjourned.

Administrative Office of the Courts

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

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

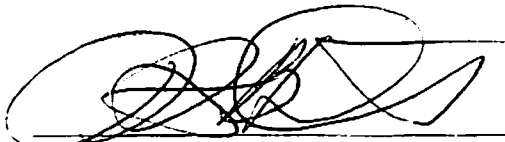
Sworn Statement under Rule 2-103(4)(B) of the Utah Code of Judicial Administration Regarding Judicial Council Meeting Closure

I, Chief Justice Matthew B. Durrant, state as follows:

1. On 9-22-15 (date), the Judicial Council closed its meeting. The meeting was closed only to discuss:
 - ☒ the character, competence, or physical or mental health of an individual;
 - ☐ litigation;
 - ☐ the deployment of security personnel, devices, or systems;
 - ☐ allegations of criminal misconduct; or
 - ☐ consideration of a private, protected, sealed, juvenile court social, juvenile court legal, or safeguarded record.
2. For the reason(s) noted above, a recording and minutes were not kept during the closed portion of the meeting.

I declare under penalty of perjury that the statements made in this document are true and correct.

9-22-15
Date


Chief Justice Matthew B. Durrant
Chair, Utah Judicial Council

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.

TAB 2

Management Committee Minutes

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE
MINUTES**

**Tuesday, October 13th, 2015
Matheson Courthouse
450 South State Street
Salt Lake City, Utah**

MEMBERS PRESENT:

Chief Justice Matthew B. Durrant, Chair
Hon. David Marx
Hon. Randall Skanchy

EXCUSED:

Hon. Kate Toomey

GUESTS:

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Alyn Lunceford
Heather Mackenzic-Campbell
Nancy Sylvester

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

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

Motion: Judge Marx moved to approve the August 14, 2015 Management Committee meeting minutes. Judge Skanchy seconded the motion, and it passed unanimously.

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

He reported on the following items:

New Council Member Orientation. A new Council member orientation will be held on October 26 prior to the Council meeting for the following Council members: 1) Justice Thomas Lee, 2) Judge Kate Toomey, 3) Judge Mark DeCaria, and 4) Judge Mary Noonan.

3. COMMITTEE APPOINTMENTS: (Brent Johnson, Nancy Sylvester, Debra Moore and Alyn Lunceford)

The Model Civil Jury Instruction Committee has a vacancy for a plaintiff attorney to replace Mr. Ryan Springer who resigned last month. The following applicants expressed interest in filling the vacancy for a plaintiff attorney: 1) Mr. Nelson Abbott, 2) Mr. Daniel F. Bertch, 3) Mr. Loren Lambert, 4) Mr. Nathan Morris, 5) Mr. Bruce Pritchett, 6) Mr. Denver Snuffer, and 7) Mr. Christopher Von Maack.

Ms. Juli Blanch, chair of the Model Civil Jury Instruction Committee, recommended the appointment of Mr. Christopher Von Maack to fill the vacancy on the committee as the plaintiff attorney representative.

Motion: Judge Skanchy moved to approve the recommended appointment of Mr. Christopher Von Maack to fill the vacancy on the Model Civil Jury Instruction Committee as the plaintiff attorney representative and place it on the October Judicial Council consent calendar. Judge Marx seconded the motion, and it passed unanimously.

The Committee on Resources for Self-Represented Parties recommended the reappointment Ms. Lisa Collins, Clerk of Court for the Utah Court of Appeals, as the Appellate Clerk of Court representative to serve a second term on the committee.

Motion: Judge Skanchy moved to approve the reappointment of Ms. Lisa Collins, Clerk of Court for the Utah Court of Appeals, as the Appellate Clerk of Court representative to serve a second term on the Committee on Resources for Self-Represented Parties and place it on the October Judicial Council consent calendar. Judge Marx seconded the motion, and it passed unanimously.

The Courts Facilities Planning Committee recommended the reappointment of Mr. Wendell Roberts, Sixth District TCE, to serve a second term on the committee.

Motion: Judge Marx moved to approve the reappointment of Mr. Wendell Roberts, Sixth District TCE, to serve a second term on the Facilities Planning Committee and place it on the October Judicial Council consent calendar. Judge Skanchy seconded the motion, and it passed unanimously.

The Ethics Advisory Committee has a vacancy for a district court judge representative with Judge Doug Thomas' term expiring. The following district court judges expressed interest in filling the vacancy on the committee: 1) Judge Wallace Lee, Sixth District Court; and 2) Judge Samuel McVey, Fourth District Court.

The Board of District Court Judges recommended the appointment of Judge Wallace Lee to fill the vacancy on the Ethics Advisory Committee. The Ethics Advisory Committee concurs with the board's recommendation.

Motion: Judge Skanchy moved to approve the recommendation of Judge Wallace Lee to fill the vacancy on the Ethics Advisory Committee for a district court judge representative and place it on the October Judicial Council consent calendar. Judge Marx seconded the motion, and it passed unanimously.

The Uniform Fine and Bail Schedule Committee recommended the reappointment of Judge James Brady to serve a third term and continue to serve as the committee chair due to exceptional circumstances. Ms. Moore provided details relative to the exceptional circumstances of this request.

Motion: Judge Marx moved to reappoint Judge James Brady to serve a third term and continue to serve as the committee chair to the Uniform Fine and Bail Schedule Committee as recommended, due to exceptional circumstances, and place it on the October Judicial Council consent calendar. Judge Skanchy seconded the motion, and it passed unanimously.

4. **THIRD DISTRICT, SALT LAKE COUNTY, TAYLORSVILLE CITY JUSTICE COURT FULL AUDIT REPORT: (Heather Mackenzie-Campbell)**

Chief Justice Durrant welcomed Ms. Mackenzie-Campbell to the meeting.

Ms. Mackenzie-Campbell highlighted the following in her Third District, Salt Lake County, Taylorsville City Justice Court full audit report: 1) a new clerk of court had been employed by the court in July 2014, 2) management and employees were recognized for implementing many effective procedures, 3) nine out of 37 observations were considered significant weaknesses, and 4) the court has been responsive to all of the recommendations resulting from the audit.

Motion: Judge Skanchy moved to accept the Third District, Salt Lake County, Taylorsville City Justice Court full audit report as prepared. Judge Marx seconded the motion, and it passed unanimously.

5. **FARMINGTON/DAVIS COUNTY JUSTICE COURT: (Rick Schwermer)**

Mr. Schwermer updated the Management Committee relative to the Farmington/Davis County Justice Court Inter-local Agreement. The matter of Davis County's 2016 lease agreement expiration date and Farmington's lease agreement are in question.

Mr. Lunceford provided information about the space included in both lease agreements.

Mr. Schwermer will discuss the matter further with the appropriate parties and see if an agreement can be reached.

6. **IRON COUNTY MENTAL HEALTH COURT: (Rick Schwermer)**

Mr. Schwermer provided information on the request for a mental health court in Iron County. Overall, the application is in order. He highlighted the following areas where there were questions that needed to be addressed before approval: 1) risk assessment, 2) defense attorney availability, and 3) eligibility criteria.

Motion: Judge Skanchy moved to approve the request for an Iron County Mental Health Court, with the recommended changes made to the application, and forward it to the Council for consideration at the October meeting. Judge Marx seconded the motion, and it passed unanimously.

7. **NEW JUDGE ORIENTATION: (Tim Shea)**

Mr. Tom Langhorne, Education Director, excused Judge Kate Toomey from attending the new-judge orientation in February of 2015. He also excused Justice Deno Himonas from attending the new-judge orientation in August of 2015.

Rule 3-403(3) requires "all judges and court commissioners [to] participate in the first designated orientation program offered after the date the judge is administered the oath of office, unless attendance is excused for good cause by the Management Committee."

Mr. Shea noted that the current new-judge orientation is not designed for appellate judges. For future new-judge orientation sessions, an appellate track will be created for new Court of Appeals judges and Supreme Court justices.

Motion: Judge Marx moved to approve Judge Kate Toomey and Justice Deno Himonas, nunc pro tunc, from attending new-judge orientation due to their appointments to the Court of Appeals and Supreme Court, respectively, and noting that they had completed new-judge orientation when they were appointed as district court judges. Judge Skanchy seconded the motion, and it passed unanimously.

8. 2016 MANAGEMENT COMMITTEE/COUNCIL CALENDARS: (Ray Wahl)

Mr. Wahl reviewed the proposed 2016 Management Committee and Judicial Council meeting dates.

He noted that the 2016 Management Committee dates are straightforward with the exception of the March Management Committee meeting being held on February 22 due to the earlier March Council meeting date to be held in St. George in conjunction with the Utah State Bar's Spring Conference.

He highlighted the following relative to the 2016 Judicial Council meeting dates: 1) the State of the Judiciary address will follow the January 25 Council meeting, 2) the March meeting will be held in St. George in conjunction with Utah State Bar's Spring Conference, 3) the August meeting will be held in conjunction with the Council's budget and planning session, and 4) the September meeting will be held in conjunction with the Annual Judicial Conference, dates to be determined.

Motion: Judge Marx moved to approve the Management Committee dates as recommended and recommend the proposed Council meeting dates to the Council, for approval, at the October meeting. Judge Skanchy seconded the motion, and it passed unanimously.

9. 2016 COUNCIL COMMITTEE APPOINTMENTS: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reviewed the proposed 2016 Council committee appointments. The following recommendations for Council committee appointments were proposed: 1) Judge Thomas Higbee will replace Judge Kim Hornak on the Management Committee, 2) Judge Mary Noonan will replace Judge Thomas Higbee on the Liaison Committee (and ex officio on the Policy and Planning Committee), 3) Judge Mark DeCaria will replace Judge Glenn Dawson on the Policy and Planning Committee, and 4) Judge Skanchy to serve as the vice-chair of the Judicial Council.

Motion: Judge Marx moved to recommend the 2016 Council committee appointments as proposed by Chief Justice Durrant to the Council, for approval. Judge Skanchy seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reviewed the proposed Council agenda for the October 26 Council meeting.

Motion: Judge Skanchy moved to approve the Council agenda for the October 26 Council meeting. Judge Marx seconded the motion, and it passed unanimously.



11. **ADJOURN**
The meeting was adjourned.



Policy and Planning Committee Minutes

Minutes of the Policy and Planning Committee
October 2, 2015
Draft

Members Present

Marvin Bagley, Ann Boyden, Reed S. Parkin

Members Excused

Thomas M. Higbee, John Lund

Staff

Alison Adams-Perlac

(1) Approval of Minutes

Judge Boyden moved to approve the minutes of the September 11, 2015 meeting. Judge Bagley seconded the motion and it passed unanimously.

(2) Rules for Final Action

Ms. Adams-Perlac stated the public comment period for rules 4-202.02, 4-202.03, 4-202.04, 4-202.09, 4-205, and 4-901 of the Code of Judicial Administration has closed, the rules received no public comments, and they are now ready for a final recommendation from the committee to the Judicial Council.

CJA 04-0202.02. Records classification. Amend. Classifies appellate filings, including briefs, as public. Classifies records maintained and prepared by juvenile probation, except for those filed with the court, as protected.

Ms. Adams-Perlac explained the portion of the rule classifying appellate filings as public was recommended by the Rules of Appellate Procedure Committee, following a request by the Supreme Court for the committee to consider this issue. She stated the portion of the rule related to probation records was approved by the Board of Juvenile Court Judges and Juvenile Court Administration. She explained the reason for this amendment is that probation officers investigate and put together information, which is similar to work product, and that until a probation officer's report is finalized and filed with the court, it is not complete. The point of the rule is to allow for a probation officer's non-final and investigation information to be protected, but that reports filed with the court are classified as juvenile court social records. She also stated the protected designation was recommended because the only other juvenile court records categories, juvenile court social record and juvenile court legal record, are accessible by the parties. Judge Boyden asked if AP&P would have a problem with this designation and Ms. Adams-Perlac explained that these records are limited to Juvenile Probation, which is under the Juvenile Court's umbrella.

Judge Bagley moved to recommend the proposal, as written, to the Judicial Council for final action. Judge Boyden seconded the motion and it passed unanimously.

CJA 04-0202.03. Records access. Amend. Provides that a person given access to a record in order for juvenile probation to fulfill a probation responsibility may access a safeguarded record.

Ms. Adams-Perlac explained this proposal was recommended by the Board of Juvenile Court Judges. She stated the rule allows probation to give access to a record to a person in order to fulfill a probation purpose, even though the record might otherwise be safeguarded. For example, probation may need to provide a victim's contact information to a prosecutor when probation has screened charges.

Judge Boyden moved to recommend the proposal, as written, to the Judicial Council for final action. Judge Bagley seconded the motion and it passed unanimously.

CJA 04-0202.04. Request to access a record associated with a case; request to classify a record associated with a case. Amend. Provides that a party with an interest in a case may move or petition a court with jurisdiction or a court that no longer has jurisdiction to reclassify a record or to have information redacted from the record. Adds all possible classifications. Provides that the relevant rules of procedure apply to such motions or petitions. Gives the appellate clerk responsibility for protecting sealed briefs and removing information ordered to be redacted. Provides that a court order is only binding on the court, the parties to the petition, and the state law library, unless otherwise ordered.

Ms. Adams-Perlac reminded the committee this amendment was recommended by the Rules of Appellate Procedure Committee, following a request by the Supreme Court for the committee to consider this issue. The proposal would allow a party with an interest in a case to seek an order reclassifying a record or to have information redacted from a record from a court that no longer has jurisdiction. She stated this would allow a party who is concerned about a future classification change to seek redress from the court. Ms. Adams-Perlac stated this rule might also address State Archives concerns regarding future classification changes.

Judge Bagley moved to recommend the proposal, as written, to the Judicial Council for final action. Judge Boyden seconded the motion and it passed unanimously.

CJA 04-0202.09. Miscellaneous. Amend. Provides that a party may move, or a non-party interested in a record may petition, to classify a record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social, or to redact non-public information from a public record.

Ms. Adams-Perlac reminded the committee this amendment was recommended by the Rules of Appellate Procedure Committee, following a request by the Supreme Court for the committee to consider this issue. Ms. Adams-Perlac stated this proposal would allow a party or a non-party with an interest in a record to seek an order classifying the record under Rule 4-202.02 or to redact information from it.

Judge Boyden moved to recommend the proposal, as written, to the Judicial Council for final action. Judge Bagley seconded the motion and it passed unanimously.

CJA 04-0205. Security of court records. Amend. Provides that an appellate clerk is responsible for expunging records upon an order of expungement, but that a brief will be public unless it is otherwise classified through an order on a motion or petition.

Ms. Adams-Perlac reminded the committee this amendment was recommended by the Rules of Appellate Procedure Committee, following a request by the Supreme Court for the committee to consider this issue. She stated the proposal gives appellate clerks the responsibility for expunging records upon an order of expungement. She stated appellate briefs remain public unless they are otherwise classified by order of the court.

Judge Bagley moved to recommend the proposal, as written, to the Judicial Council for final action. Judge Boyden seconded the motion and it passed unanimously.

CJA 04-0901. Mandatory electronic filing in juvenile court. New. Requires that pleadings and other papers filed in existing juvenile court cases on or after December 1, 2015 shall be filed electronically in C.A.R.E. Requires that pleadings and other papers filed to initiate juvenile court cases on or after August 1, 2016 shall be filed electronically in C.A.R.E.

Ms. Adams-Perlac stated this rule provides for mandatory electronic filing in juvenile court as already approved by the Court Administrator, Juvenile Court Administration, and the Board of Juvenile Court Judges. She stated that, due to programming, existing cases will have an earlier effective date than those that are filed in later.

Judge Boyden moved to recommend the proposal, as written, to the Judicial Council for final action. Judge Bagley seconded the motion and it passed unanimously.

Ms. Adams-Perlac stated the Juvenile Court has requested that the effective date be November 1, 2015 for rules 4-202.02, 4-202.03, and 4-901. She further stated all others should be effective May 1, 2016.

Judge Boyden moved to recommend the effective dates, as stated by Ms. Adams-Perlac, to the Judicial Council. Judge Bagley seconded the motion and it passed unanimously.

(3) Rule 3-114. Judicial outreach.

Ms. Adams-Perlac reviewed proposed amendments to rule 3-114 of the Utah Code of Judicial Administration with the committee. She stated these amendments were recommended by the Judicial Outreach Committee to reformat the rule and to clarify the language.

Judge Boyden stated it is fitting to be considering the work of the Judicial Outreach Committee as Commissioner Mike Evans, someone who was so devoted to the program recently passed. She stated the Judicial Outreach Committee was his baby, and the program is well-established now due to his efforts. The committee agreed.

Judge Bagley moved to recommend the proposal, as written, to the Judicial Council for public comment. Judge Boyden seconded the motion and it passed unanimously.

(4) Remote Hearings – Rules 3-302, 4-106, & 9-105.

Ms. Adams-Perlac explained the rules were proposed by the Remote Hearings Committee and have previously been opened for public comment. She stated the public comment period has now closed and that the rules are going back to the relevant committees. She explained she had met with Tim Shea, Brent Johnson, Nancy Sylvester, and Katie Gregory, and that the group had decided that the definition of contemporaneous transmission would have to be changed in the Code of Judicial Administration, because it would prevent phone hearings from being held since it required video as well as audio. Ms.

Adams-Perlac stated without the definition, "contemporaneous transmission" would not make sense in the context of the rules. She stated this phrase is not a term of art, and most practitioners are not familiar with it. She stated she had told the group she was recommending use of variations of the word remote, since practitioners and judges are very familiar with what remote appearance means. She told the committee she left the phrase in the draft rules, so the committee could decide.

The committee decided use of remote was plainer, and requested that Ms. Adams-Perlac revise the proposals to include that language in lieu of "contemporaneous transmission." The item was tabled for discussion at the next meeting.

(5) Rule 4-602. Victims' Rights Committees.

Ms. Adams-Perlac stated rule 4-602 of the Utah Code of Judicial Administration conflicts with Utah Code section 77-37-5 which outlines the membership of victims' rights committees and how they are appointed. She stated the statute does not include the Judiciary and recommended repealing rule 4-602. The committee expressed concerns with the Judiciary participating on these committees, and agreed that, given the statute, the rule should be repealed.

Judge Bagley moved to recommend repeal of the rule to the Judicial Council for public comment. Judge Boyden seconded the motion and it passed unanimously.

TAB 3

To: Judicial Council Management Committee
From: Chief Justice Matthew Durant
Subject: Council Committee and Vice-Chair Appointments

With two new Council members joining the Council in October, the management committee will need to make recommendations to the Council on committee appointments. I'd ask that we consider the following when we meet on October 13th:

- Judge Tom Higbee replaces Judge Kim Hornak on the Management Committee
- Judge Mary Noonan replaces Judge Tom Higbee on the Liaison Committee (and ex officio on Policy and Planning)
- Judge Mark DeCaria replaces Judge Glenn Dawson on the Policy and Planning Committee

In addition, Judge Hornak's departure creates a vacancy in the position of vice-chair. I'd like for us to consider advancing Judge Randall Skanchy to the Council for the position of vice-chair.

Thanks for your attention to this.

TAB 4

**JUDICIAL COUNCIL
2016 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 25, 2016 (State of the Judiciary to follow the Council meeting)

Monday, February 22, 2016

Friday, March 11, 2016 (in conjunction with the Bar's Spring Convention in St. George)

Monday, April 25, 2016

Monday, May 23, 2016

Monday, June 27, 2016

Monday, July 18, 2016

Friday, August 19, 2016 (Council Budget and Planning Meeting - Matheson Courthouse)

Tuesday, September (TBD)

Monday, October 24, 2016

Monday, November 21, 2016

Monday, December 19, 2016

Bar Conferences:

Spring Convention in St George - March 10-12, 2016

Summer Convention in San Diego, CA - July 6-9, 2016

Fall Forum – Tentative dates – Nov 17-18, 2016

COSCA/CCJ Meetings:

2016 CCJ Midyear Meeting – Jan 30 – Feb 3

2016 CCJ/COSCA Annual Meeting – Jul 23-27

2016 COSCA Midyear Meeting – Dec 1-3

TAB 6



Administrative Office of the Courts

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

MEMORANDUM

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

To: Judicial Council
From: Alison Adams-Perlac *Alison Adams-Perlac*
Date: October 21, 2015
Re: Rules for Final Action

The public comment period for rules 4-202.02, 4-202.03, 4-202.04, 4-202.09, 4-205, and 4-901 of the Utah Code of Judicial Administration has closed. None of the proposals received public comments and the Policy and Planning Committee voted to recommend each of the proposals to the Judicial Council for final action. With the exception of rules 4-202.02, 4-202.03 and 4-901, which the committee recommended to be effective November 1, 2015, the committee recommended that the rules be effective May 1, 2016.

CJA 04-0202.02. Records classification. Amend. Classifies appellate filings, including briefs, as public. Classifies records maintained and prepared by juvenile probation, except for those filed with the court, as protected.

The portion of the rule classifying appellate filings as public was recommended by the Rules of Appellate Procedure Committee, following a request by the Supreme Court for the committee to consider this issue. The portion of the rule related to probation records was approved by the Board of Juvenile Court Judges and Juvenile Court Administration. The reason for this amendment is that probation officers investigate and put together information, which is similar to work product, and until a probation officer's report is finalized and filed with the court, it is not complete. The point of the rule is to allow for a probation officer's non-final and investigation information to be protected, but reports filed with the court are classified as juvenile

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.

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court social records. The protected designation was recommended because the only other juvenile court records categories, juvenile court social record and juvenile court legal record, are accessible by the parties.

The Policy and Planning Committee voted to recommend the proposal, as written, to the Council for final action.

CJA 04-0202.03. Records access. Amend. Provides that a person given access to a record in order for juvenile probation to fulfill a probation responsibility may access a safeguarded record.

This proposal was recommended by the Board of Juvenile Court Judges. The amendment allows probation to give access to a record a person in order to fulfill a probation purpose, even though the record might otherwise be safeguarded. For example, probation may need to provide a victim's contact information to a prosecutor when probation has screened charges.

The Policy and Planning Committee voted to recommend the proposal, as written, to the Council for final action.

CJA 04-0202.04. Request to access a record associated with a case; request to classify a record associated with a case. Amend. Provides that a party with an interest in a case may move or petition a court with jurisdiction or a court that no longer has jurisdiction to reclassify a record or to have information redacted from the record. Adds all possible classifications. Provides that the relevant rules of procedure apply to such motions or petitions. Gives the appellate clerk responsibility for protecting sealed briefs and removing information ordered to be redacted. Provides that a court order is only binding on the court, the parties to the petition, and the state law library, unless otherwise ordered.

This amendment was recommended by the Rules of Appellate Procedure Committee, following a request by the Supreme Court for the committee to consider this issue. The proposal would allow a party with an interest in a case to seek an order reclassifying a record or to have information redacted from a record from a court that

no longer has jurisdiction. A party who is concerned about a future classification change could seek redress from the court.

The Policy and Planning Committee voted to recommend the proposal, as written, to the Council for final action.

CJA 04-0202.09. Miscellaneous. Amend. Provides that a party may move, or a non-party interested in a record may petition, to classify a record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social, or to redact non-public information from a public record.

This amendment was recommended by the Rules of Appellate Procedure Committee, following a request by the Supreme Court for the committee to consider the issue. This proposal would allow a party or a non-party with an interest in a record to seek an order classifying the record under Rule 4-202.02 or to redact information from the record.

The Policy and Planning Committee voted to recommend the proposal, as written, to the Council for final action.

CJA 04-0205. Security of court records. Amend. Provides that an appellate clerk is responsible for expunging records upon an order of expungement, but that a brief will be public unless it is otherwise classified through an order on a motion or petition.

This amendment was recommended by the Rules of Appellate Procedure Committee, following a request by the Supreme Court for the committee to consider this issue. The proposal gives appellate clerks the responsibility for expunging records upon an order of expungement. Additionally, appellate briefs remain public unless they are otherwise classified by order of the court.

The Policy and Planning Committee voted to recommend the proposal, as written, to the Council for final action.

CJA 04-0901. Mandatory electronic filing in juvenile court. New. Requires that pleadings and other papers filed in existing juvenile court cases on or after December 1, 2015 shall be filed electronically in C.A.R.E. Requires that pleadings and other papers filed to initiate juvenile court cases on or after August 1, 2016 shall be filed electronically in C.A.R.E.

This rule provides for mandatory electronic filing in juvenile court as already approved by the Court Administrator, Juvenile Court Administration, and the Board of Juvenile Court Judges. Due to programming, existing cases will have an earlier effective date than those that are initiated later.

The Policy and Planning Committee voted to recommend the proposal, as written, to the Council for final action.

Encl. CJA 4-202.02
CJA 4-202.03
CJA 4-202.04
CJA 4-202.09
CJA 4-205
CJA 4-901

Rule 4-202.02. Records classification.

Intent:

To classify court records as public or non-public.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) Court records are public unless otherwise classified by this rule.

(2) Public court records include but are not limited to:

(2)(A) abstract of a citation that redacts all non-public information;

(2)(B) aggregate records without non-public information and without personal identifying information;

(2)(C) appellate filings, including briefs;~~(2)(G)~~ ~~(2)(D)~~ arrest warrants, but a court may restrict access before service;~~(2)(D)~~ ~~(2)(E)~~ audit reports;~~(2)(E)~~ ~~(2)(F)~~ case files;~~(2)(F)~~ ~~(2)(G)~~ committee reports after release by the Judicial Council or the court that requested the study;~~(2)(G)~~ ~~(2)(H)~~ contracts entered into by the judicial branch and records of compliance with the terms of a contract;~~(2)(H)~~ ~~(2)(I)~~ drafts that were never finalized but were relied upon in carrying out an action or policy;~~(2)(I)~~ ~~(2)(J)~~ exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;~~(2)(J)~~ ~~(2)(K)~~ financial records;~~(2)(K)~~ ~~(2)(L)~~ indexes approved by the Management Committee of the Judicial Council, including the following, in courts other than the juvenile court; an index may contain any other index information:~~(2)(K)(i)~~ ~~(2)(L)(i)~~ amount in controversy;~~(2)(K)(ii)~~ ~~(2)(L)(ii)~~ attorney name;~~(2)(K)(iii)~~ ~~(2)(L)(iii)~~ case number;~~(2)(K)(iv)~~ ~~(2)(L)(iv)~~ case status;~~(2)(K)(v)~~ ~~(2)(L)(v)~~ civil case type or criminal violation;~~(2)(K)(vi)~~ ~~(2)(L)(vi)~~ civil judgment or criminal disposition;~~(2)(K)(vii)~~ ~~(2)(L)(vii)~~ daily calendar;~~(2)(K)(viii)~~ ~~(2)(L)(viii)~~ file date;~~(2)(K)(ix)~~ ~~(2)(L)~~ party name;~~(2)(L)~~ ~~(2)(M)~~ name, business address, business telephone number, and business email address of an adult person or business entity other than a party or a victim or witness of a crime;~~(2)(M)~~ ~~(2)(N)~~ name, address, telephone number, email address, date of birth, and last four digits of the following: driver's license number; social security number; or account number of a party;

38 ~~(2)(N)~~ (2)(O) name, business address, business telephone number, and business email address of a
39 lawyer appearing in a case;

40 ~~(2)(O)~~ (2)(P) name, business address, business telephone number, and business email address of
41 court personnel other than judges;

42 ~~(2)(P)~~ (2)(Q) name, business address, and business telephone number of judges;

43 ~~(2)(Q)~~ (2)(R) name, gender, gross salary and benefits, job title and description, number of hours
44 worked per pay period, dates of employment, and relevant qualifications of a current or former court
45 personnel;

46 ~~(2)(R)~~ (2)(S) unless classified by the judge as private or safeguarded to protect the personal safety of
47 the juror or the juror's family, the name of a juror empaneled to try a case, but only 10 days after the jury
48 is discharged;

49 ~~(2)(S)~~ (2)(T) opinions, including concurring and dissenting opinions, and orders entered in open
50 hearings;

51 ~~(2)(T)~~ (2)(U) order or decision classifying a record as not public;

52 ~~(2)(U)~~ (2)(V) private record if the subject of the record has given written permission to make the
53 record public;

54 ~~(2)(V)~~ (2)(W) probation progress/violation reports;

55 ~~(2)(W)~~ (2)(X) publications of the administrative office of the courts;

56 ~~(2)(X)~~ (2)(Y) record in which the judicial branch determines or states an opinion on the rights of the
57 state, a political subdivision, the public, or a person;

58 ~~(2)(Y)~~ (2)(Z) record of the receipt or expenditure of public funds;

59 ~~(2)(Z)~~ (2)(AA) record or minutes of an open meeting or hearing and the transcript of them;

60 ~~(2)(AA)~~ (2)(BB) record of formal discipline of current or former court personnel or of a person
61 regulated by the judicial branch if the disciplinary action has been completed, and all time periods for
62 administrative appeal have expired, and the disciplinary action was sustained;

63 ~~(2)(BB)~~ (2)(CC) record of a request for a record;

64 ~~(2)(CC)~~ (2)(DD) reports used by the judiciary if all of the data in the report is public or the Judicial
65 Council designates the report as a public record;

66 ~~(2)(DD)~~ (2)(EE) rules of the Supreme Court and Judicial Council;

67 ~~(2)(EE)~~ (2)(FF) search warrants, the application and all affidavits or other recorded testimony on
68 which a warrant is based are public after they are unsealed under Utah Rule of Criminal Procedure 40;

69 ~~(2)(FF)~~ (2)(GG) statistical data derived from public and non-public records but that disclose only
70 public data;

71 ~~(2)(GG)~~ (2)(HH) Notwithstanding subsections (6) and (7), if a petition, indictment, or information is
72 filed charging a person 14 years of age or older with a felony or an offense that would be a felony if
73 committed by an adult, the petition, indictment or information, the adjudication order, the disposition order,
74 and the delinquency history summary of the person are public records. The delinquency history summary

75 shall contain the name of the person, a listing of the offenses for which the person was adjudged to be
76 within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses.

77 (3) The following court records are sealed:

78 (3)(A) records in the following actions:

79 (3)(A)(i) Title 78B, Chapter 6, Part 1, Utah Adoption Act six months after the conclusion of
80 proceedings, which are private until sealed;

81 (3)(A)(ii) Title 78B, Chapter 15, Part 8, Gestational Agreement, six months after the conclusion of
82 proceedings, which are private until sealed; and-

83 (3)(A)(iii) Title 76, Chapter 7, Part 304.5, Consent required for abortions performed on minors; and

84 (3)(B) expunged records;

85 (3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code Section
86 77-23a-15;

87 (3)(D) records showing the identity of a confidential informant;

88 (3)(E) records relating to the possession of a financial institution by the commissioner of financial
89 institutions under Utah Code Section 7-2-6;

90 (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;

91 (3)(G) records designated as sealed by rule of the Supreme Court;

92 (3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal
93 proceedings; and

94 (3)(I) other records as ordered by the court under Rule 4-202.04.

95 (4) The following court records are private:

96 (4)(A) records in the following actions:

97 (4)(A)(i) Section 62A-15-631, Involuntary commitment under court order;

98 (4)(A)(ii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed; and

99 (4)(A)(iii) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed; and

100 (4)(B) records in the following actions, except that the case history; judgments, orders and decrees;
101 letters of appointment; and the record of public hearings are public records:

102 (4)(B)(i) Title 30, Husband and Wife, except that an action for consortium due to personal injury under
103 Section 30-2-11 is public;

104 (4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;

105 (4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability and their Property;

106 (4)(B)(iv) Title 78B, Chapter 7, Protective Orders;

107 (4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;

108 (4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

109 (4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support Act;

110 (4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and

111 (4)(B)(ix) an action to modify or enforce a judgment in any of the actions in this subparagraph (B);

112 (4)(C) aggregate records other than public aggregate records under subsection (2);
113 (4)(D) alternative dispute resolution records;
114 (4)(E) applications for accommodation under the Americans with Disabilities Act;
115 (4)(F) citation, but an abstract of a citation that redacts all non-public information is public;
116 (4)(G) judgment information statement;
117 (4)(H) judicial review of final agency action under Utah Code Section 62A-4a-1009;
118 (4)(I) the following personal identifying information about a party: driver's license number, social
119 security number, account description and number, password, identification number, maiden name and
120 mother's maiden name, and similar personal identifying information;
121 (4)(J) the following personal identifying information about a person other than a party or a victim or
122 witness of a crime: residential address, personal email address, personal telephone number; date of birth,
123 driver's license number, social security number, account description and number, password, identification
124 number, maiden name, mother's maiden name, and similar personal identifying information;
125 (4)(K) medical, psychiatric, or psychological records;
126 (4)(L) name of a minor, except that the name of a minor party is public in the following district and
127 justice court proceedings:
128 (4)(L)(i) name change of a minor;
129 (4)(L)(ii) guardianship or conservatorship for a minor;
130 (4)(L)(iii) felony, misdemeanor or infraction;
131 (4)(L)(iv) child protective orders; and
132 (4)(L)(v) custody orders and decrees;
133 (4)(M) personnel file of a current or former court personnel or applicant for employment;
134 (4)(N) photograph, film or video of a crime victim;
135 (4)(O) record of a court hearing closed to the public or of a child's testimony taken under URCrP 15.5:
136 (4)(O)(i) permanently if the hearing is not traditionally open to the public and public access does not
137 play a significant positive role in the process; or
138 (4)(O)(ii) if the hearing is traditionally open to the public, until the judge determines it is possible to
139 release the record without prejudice to the interests that justified the closure;
140 (4)(P) record submitted by a senior judge or court commissioner regarding performance evaluation
141 and certification;
142 (4)(Q) record submitted for in camera review until its public availability is determined;
143 (4)(R) reports of investigations by Child Protective Services;
144 (4)(S) victim impact statements;
145 (4)(T) name of a prospective juror summoned to attend court, unless classified by the judge as
146 safeguarded to protect the personal safety of the prospective juror or the prospective juror's family;
147 (4)(U) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure, except briefs
148 filed pursuant to court order;

- 149 (4)(V) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure;
150 (4)(W) an addendum to an appellate brief filed in a case involving:
151 (4)(W)(i) adoption;
152 (4)(W)(ii) termination of parental rights;
153 (4)(W)(iii) abuse, neglect and dependency;
154 (4)(W)(iv) substantiation under Section 78A-6-323; or
155 (4)(W)(v) protective orders or dating violence protective orders;
156 (4)(X) other records as ordered by the court under Rule 4-202.04.
157 (5) The following court records are protected:
158 (5)(A) attorney's work product, including the mental impressions or legal theories of an attorney or
159 other representative of the courts concerning litigation, privileged communication between the courts and
160 an attorney representing, retained, or employed by the courts, and records prepared solely in anticipation
161 of litigation or a judicial, quasi-judicial, or administrative proceeding;
162 (5)(B) records that are subject to the attorney client privilege;
163 (5)(C) bids or proposals until the deadline for submitting them has closed;
164 (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance
165 of the final recommendations in these areas;
166 (5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would
167 reveal the court's contemplated policies or contemplated courses of action;
168 (5)(F) court security plans;
169 (5)(G) investigation and analysis of loss covered by the risk management fund;
170 (5)(H) memorandum prepared by staff for a member of any body charged by law with performing a
171 judicial function and used in the decision-making process;
172 (5)(I) confidential business records under Utah Code Section 63G-2-309;
173 (5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or
174 discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be
175 expected to:
176 (5)(J)(i) interfere with an investigation;
177 (5)(J)(ii) interfere with a fair hearing or trial;
178 (5)(J)(iii) disclose the identity of a confidential source; or
179 (5)(J)(iv) concern the security of a court facility;
180 (5)(K) record identifying property under consideration for sale or acquisition by the court or its
181 appraised or estimated value unless the information has been disclosed to someone not under a duty of
182 confidentiality to the courts;
183 (5)(L) record that would reveal the contents of settlement negotiations other than the final settlement
184 agreement;

(5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;

(5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation or parole;

(5)(O) record the disclosure of which would jeopardize life, safety or property;

(5)(P) strategy about collective bargaining or pending litigation;

(5)(Q) test questions and answers;

(5)(R) trade secrets as defined in Utah Code Section 13-24-2;

(5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;

(5)(T) presentence investigation report;-and

(5)(U) except for those filed with the court, records maintained and prepared by juvenile probation;
and

(5)(V) other records as ordered by the court under Rule 4-202.04.

(6) The following are juvenile court social records:

(6)(A) correspondence relating to juvenile social records;

(6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;

(6)(C) medical, psychological, psychiatric evaluations;

(6)(D) pre-disposition and social summary reports;

(6)(E) probation agency and institutional reports or evaluations;

(6)(F) referral reports;

(6)(G) report of preliminary inquiries; and

(6)(H) treatment or service plans.

(7) The following are juvenile court legal records:

(7)(A) accounting records;

(7)(B) discovery filed with the court;

(7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees;

(7)(D) name of a party or minor;

(7)(E) record of a court hearing;

(7)(F) referral and offense histories

(7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.

(8) The following are safeguarded records:

(8)(A) upon request, location information, contact information and identity information other than name of a petitioner and other persons to be protected in an action filed under Title 77, Chapter 3a, Stalking Injunctions or Title 78B, Chapter 7, Protective Orders;

(8)(B) upon request, location information, contact information and identity information other than name of a party or the party's child after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;

(8)(C) location information, contact information and identity information of prospective jurors on the master jury list or the qualified jury list;

(8)(D) location information, contact information and identity information other than name of a prospective juror summoned to attend court;

(8)(E) the following information about a victim or witness of a crime:

(8)(E)(i) business and personal address, email address, telephone number and similar information from which the person can be located or contacted;

(8)(E)(ii) date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information.

Rule 4-202.03. Records access.

Intent:

To identify who may access court records.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) Any person may access a public court record.

(2) An adoptive parent or adult adoptee may obtain a certified copy of the adoption decree upon request and presentation of positive identification. Otherwise, no one may access a sealed court record except by order of the court. A judge may review a sealed record when the circumstances warrant.

(3) The following may access a private court record:

(3)(A) the subject of the record;

(3)(B) the parent or guardian of the subject of the record if the subject is an unemancipated minor or under a legal incapacity;

(3)(C) a party or attorney for a party to litigation in which the record is filed;

(3)(D) an interested person to an action under the Uniform Probate Code;

(3)(E) the person who submitted the record;

(3)(F) the attorney for a person who may access the private record or an individual who has a written power of attorney from the person or the person's attorney;

(3)(G) an individual with a release from a person who may access the private record signed and notarized no more than 90 days before the date the request is made;

(3)(H) anyone by court order;

(3)(I) court personnel, but only to achieve the purpose for which the record was submitted;

(3)(J) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(3)(K) a governmental entity with which the record is shared under Rule 4-202.10.

(4) The following may access a protected court record:

(4)(A) the person or governmental entity whose interests are protected by closure;

(4)(B) the parent or guardian of the person whose interests are protected by closure if the person is an unemancipated minor or under a legal incapacity;

(4)(C) the person who submitted the record;

(4)(D) the attorney for the person who submitted the record or for the person or governmental entity whose interests are protected by closure or for the parent or guardian of the person if the person is an unemancipated minor or under a legal incapacity or an individual who has a power of attorney from such person or governmental entity;

(4)(E) an individual with a release from the person who submitted the record or from the person or governmental entity whose interests are protected by closure or from the parent or guardian of the person

if the person is an unemancipated minor or under a legal incapacity signed and notarized no more than 90 days before the date the request is made;

(4)(F) a party or attorney for a party to litigation in which the record is filed;

(4)(G) anyone by court order;

(4)(H) court personnel, but only to achieve the purpose for which the record was submitted;

(4)(I) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(4)(J) a governmental entity with which the record is shared under Rule 4-202.10.

(5) The following may access a juvenile court social record:

(5)(A) the subject of the record, if 18 years of age or over;

(5)(B) a parent or guardian of the subject of the record if the subject is an unemancipated minor;

(5)(C) an attorney or person with power of attorney for the subject of the record;

(5)(D) a person with a notarized release from the subject of the record or the subject's legal representative dated no more than 90 days before the date the request is made;

(5)(E) the subject of the record's therapists and evaluators;

(5)(F) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(G) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(H) the Department of Human Services, school districts and vendors with whom they or the courts contract (who shall not permit further access to the record), but only for court business;

(5)(I) court personnel, but only to achieve the purpose for which the record was submitted;

(5)(J) a governmental entity with which the record is shared under Rule 4-202.10;

(5)(K) the person who submitted the record;

(5)(L) anyone by court order.

(5)(M) Juvenile court competency evaluations, psychological evaluations, psychiatric evaluations, psychosexual evaluations, sex behavior risk assessments, and other sensitive mental health and medical records may be accessed only by:

(5)(M)(i) the subject of the record, if age 18 or over;

(5)(M)(ii) an attorney or person with power of attorney for the subject of the record;

(5)(M)(iii) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(M)(iv) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(M)(v) court personnel, but only to achieve the purpose for which the record was submitted;

(5)(M)(vi) anyone by court order.

(5)(N) When records may be accessed only by court order, a juvenile court judge will permit access consistent with Rule 4-202.04 as required by due process of law in a manner that serves the best interest of the child.

(6) The following may access a juvenile court legal record:

(6)(A) all who may access the juvenile court social record;

(6)(B) a law enforcement agency;

(6)(C) a children's justice center;

(6)(D) a public or private agency providing services to the subject of the record or to the subject's family; and

(6)(E) the victim of a delinquent act may access the disposition order entered against the defendant.

(7) The following may access a safeguarded record:

(7)(A) the subject of the record;

(7)(B) the person who submitted the record;

(7)(C) the attorney for a person who may access the record or an individual who has a written power of attorney from the person or the person's attorney;

(7)(D) an individual with a release from a person who may access the record signed and notarized no more than 90 days before the date the request is made;

(7)(E) anyone by court order;

(7)(F) court personnel, but only to achieve the purpose for which the record was submitted;

(7)(G) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(7)(H) a governmental entity with which the record is shared under Rule 4-202.10-; and

(7)(I) a person given access to the record in order for juvenile probation to fulfill a probation responsibility.

(8) Court personnel shall permit access to court records only by authorized persons. The court may order anyone who accesses a non-public record not to permit further access, the violation of which may be contempt of court.

(9) If a court or court employee in an official capacity is a party in a case, the records of the party and the party's attorney are subject to the rules of discovery and evidence to the same extent as any other party.

Rule 4-202.04. Request to access a record associated with a case; request to classify a record associated with a case.

Intent:

To establish the process for accessing a court record associated with a case.

Applicability:

This rule applies to court records associated with a case.

Statement of the Rule:

(1) A request to access a public court record shall be presented in writing to the clerk of the court unless the clerk waives the requirement. A request to access a non-public court record to which a person is authorized access shall be presented in writing to the clerk of the court. A written request shall contain the requester's name, mailing address, daytime telephone number and a description of the record requested. If the record is a non-public record, the person making the request shall present identification.

(2)(A) If a written request to access a court record is denied by the clerk of court, the person making the request may file a motion to access the record.

(2)(B) A person not authorized to access a non-public court record may file a motion to access the record. If the court allows access, the court may impose any reasonable conditions to protect the interests favoring closure.

~~(2)(C) A (3)(A) If the court record is associated with a case over which the court has jurisdiction, a person with an interest in a court record may file a motion to classify the record as private, protected, or sealed, safeguarded, juvenile court legal, or juvenile court social; or to have information redacted from the record. The court shall deny access to the record until the court enters an order-is-entered.~~

~~(3)(B) If the court record is associated with a case over which the court no longer has jurisdiction, a person with an interest in the record may file a petition to classify the record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social; or to have information redacted from the record. The court shall deny access to the record until the court enters an order.~~

~~(4) The court may classify the record as private, protected, or sealed, if it safeguarded, juvenile court legal, or juvenile court social, or redact information from the record if the record or information:~~

~~(2)(C)(i)-(4)(A) is so-classified as private, protected, sealed, or safeguarded under Rule 4-202.02;~~

~~(2)(C)(ii)-(4)(B) is classified as private, controlled, or protected by a governmental entity and shared with the court under the Government Records Access and Management Act;~~

~~(2)(C)(iii)-(4)(C) is a record regarding the character or competence of an individual; or~~

~~(2)(C)(iv)-(4)(D) is a record containing information the disclosure of which constitutes an unwarranted invasion of personal privacy.~~

~~(2)(D) Motions-(5) As appropriate for the nature of the case with which the record is associated, the motion or petition shall be filed and proceedings shall be conducted under Utah Rule of Civil Procedure 7 and served under Utah Rule of Civil Procedure 5 the rules of civil procedure, criminal procedure, juvenile procedure, or appellate procedure. The person filing the motion or petition shall serve any representative~~

of the press who has requested notice in the case. The court shall conduct a closure hearing when a motion or petition to close a record is contested, when the press has requested notice of closure motions or petitions in the particular case, or when the judge-court decides public interest in the record warrants a hearing.

~~(3)(6)~~ In deciding whether to allow access to a court record or whether to classify a court record as private, protected, or sealed, or safeguarded or to redact information from the record, the court may consider any relevant factor, interest, or policy ~~presented by the parties~~, including but not limited to the interests described in Rule 4-202. In ruling on a motion or petition under this rule the judge-court shall:

~~(3)(A)(6)(A)~~ make findings and conclusions about specific records;

~~(3)(B)(6)(B)~~ identify and balance the interests favoring opening and closing the record; and

~~(3)(C)(6)(C)~~ if the record is ordered closed, determine there are no reasonable alternatives to closure sufficient to protect the interests favoring closure.

(7)(A) If an appellate brief is sealed, the clerk of the court shall seal the brief under Rule 4-205. If an appellate brief is classified as private, protected, safeguarded, juvenile court legal, or juvenile court social, the clerk of the court shall allow access only to persons authorized by Rule 4-202.03. If the court orders information redacted from the brief, the clerk of the court shall remove the information and allow public access to the edited brief.

(7)(B) If the petitioner serves the order on the director of the State Law Library, the director shall comply with the order in the same manner as the clerk of the court under paragraph (7)(A).

(7)(C) Unless otherwise ordered by the court, the order is binding only on the court, the parties to the petition, and the state law library. Compliance with the order by any other person is voluntary.

~~(4)(8)~~ A request under this rule is governed also by Rule 4-202.06. A motion or petition under this rule is not governed by Rule 4-202.06 or Rule 4-202.07.

Rule 4-202.09. Miscellaneous.

Intent:

To set forth miscellaneous provisions for these rules.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) The judicial branch shall provide a person with a certified copy of a record if the requester has a right to inspect it, the requester identifies the record with reasonable specificity, and the requester pays the fees.

(2)(A) The judicial branch is not required to create a record in response to a request.

(2)(B) Upon request, the judicial branch shall provide a record in a particular format if:

(2)(B)(i) it is able to do so without unreasonably interfering with its duties and responsibilities; and

(2)(B)(ii) the requester agrees to pay the additional costs, if any, actually incurred in providing the record in the requested format.

(2)(C) The judicial branch need not fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.

(3) If a person requests copies of more than 50 pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the judicial branch may provide the requester with the facilities for copying the requested records and require that the requester make the copies, or allow the requester to provide his own copying facilities and personnel to make the copies at the judicial branch's offices and waive the fees for copying the records.

(4) The judicial branch may not use the form in which a record is stored to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record.

(5) Subpoenas and other methods of discovery under state or federal statutes or rules of procedure are not records requests under these rules. Compliance with discovery shall be governed by the applicable statutes and rules of procedure.

(6) If the judicial branch receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect, it shall allow access to the information in the record that the requester is entitled to inspect, and shall deny access to the information in the record the requester is not entitled to inspect.

(7) The Administrative Office shall create and adopt a schedule governing the retention and destruction of all court records.

(8) The courts will use their best efforts to ensure that access to court records is properly regulated, but assume no responsibility for accuracy or completeness or for use outside the court.

(9)(A) Non-public information in a public record. The person filing a public record shall omit or redact non-public information. The person filing the record shall certify that, upon information and belief, all non-public information has been omitted or redacted from the public record. The person filing a private,

protected or sealed, safeguarded, juvenile court legal, or juvenile court social record shall identify the classification of the record at the top of the first page of a classified document or in a statement accompanying the record.

(9)(B) ~~If a person believes that a record qualifies as a non-public record, the person may file with the record a motion to classify the record as private, protected or sealed. Under Rule 4-202.04, the clerk shall deny access to the record until the motion is decided. Unless filed with a motion to classify as private, protected or sealed, public records, even with non-public information, will be accessible. A party may move or a non-party interested in a record may petition to classify a record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social or to redact non-public information from a public record.~~

(9)(C) If the following non-public information is required in a public record, only the designated information shall be included:

(9)(C)(i) social security number: last four digits;

(9)(C)(ii) financial or other account number: last four digits;

(9)(C)(iii) driver's license number: state of issuance and last four digits;

(9)(C)(iv) address of a non-party: city, state and zip code;

(9)(C)(v) email address or phone number of a non-party: omit; and

(9)(C)(vi) minor's name: initials.

(9)(D) If it is necessary to provide the court with private personal identifying information, it must be provided on a cover sheet or other severable document, which is classified as private.

~~(10) A vendor or governmental agency that provides a court information technology support to gather, store, or make accessible court records is bound by rules 4-202 through 4-202.10.~~

Rule 4-205. Security of court records.

Intent:

To assure that the security and accuracy of court records are maintained.

To assure that authorized personnel have access to court records when appropriate.

To establish responsibility of court personnel for security of court records.

To establish the procedures for securing non-public records.

Applicability:

This rule shall apply to all courts of record and not of record.

Statement of the Rule:

(1) Court records restricted. All court records shall be kept in a restricted area of the court closed to public access.

(2) The clerk of the court may authorize, in writing, abstractors, credit bureau representatives, title company representatives and others who regularly research court records to have direct access to public court records. The clerk of the court shall ensure that persons to whom such authorization is granted are trained in the proper retrieval and filing of court records. The clerk of court may set reasonable restrictions on time and place for inspecting and copying records.

(3) Removal of records. Court records shall not be removed from their normal place of storage except by court personnel or by individuals obtaining the written authorization of the clerk of the court or the judge assigned to the case. Court records shall not be removed from the courthouse without permission of the court. Records removed from the courthouse shall be returned within two days, except that records removed for the purpose of an appeal shall be returned within such time as specified by the clerk of the court, unless otherwise ordered by the judge. Any person removing a record is responsible for the security and the integrity of the record.

(4) Management of non-public records.

(4)(A) Method of sealing and storage. Non-public records which are part of a larger public record shall be filed apart from the public record or in a manner that clearly distinguishes the record as not public. Sealed records shall be placed in an envelope which is securely sealed. The clerk of the court shall record the case number and record classification on the envelope and shall inscribe across the sealed part of the envelope the words "Not to be opened except upon permission of the court."

(4)(B) Expunged records.

(4)(B)(i) Upon entry of an order of expungement, the clerk of the court shall:

(4)(B)(i)(a) obliterate or destroy all reference to the expunged portion of the record in the paper copy of the index and maintain a separate index of expunged records not available to the public;

~~(4)(B)(ii)~~ (4)(B)(i)(b) cover, without obliterating or destroying, all entries in the paper copy of the register of actions, including case identifying information other than the court docket number; and

36 ~~(4)(B)(iii)~~ (4)(B)(i)(c) place an entry in the computer record that restricts retrieval of case identifying
37 information and the register of actions to court personnel with authorization to review such information.
38 The security restriction shall not be removed except upon written order of the court.

39 (4)(B)(ii) Upon being served with an order of expungement, the clerk of an appellate court shall
40 comply with paragraph (4)(B)(i). A brief will not be classified as private, protected, sealed, or safeguarded,
41 juvenile court legal, or juvenile court social unless a motion or petition to do so under Rule 4-202.04 is
42 granted.

43 (4)(C) Record of event. The record of expunging or sealing a record shall be entered in the register of
44 actions.

Rule 4-901. Mandatory electronic filing in juvenile court.

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Intent:

To require that documents in juvenile court cases be filed electronically.

To provide for exceptions.

Applicability:

This rule applies in the juvenile court.

Statement of the Rule:

(1)(A) Except as provided in Paragraph (2), pleadings and other papers filed in existing juvenile court cases on or after December 1, 2015 shall be electronically filed using the juvenile court's Court and Agency Records Exchange (C.A.R.E.).

(1)(B) Except as provided in Paragraph (2), pleadings and other papers filed to initiate a new juvenile court case on or after August 1, 2016 shall be electronically filed using C.A.R.E.

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(2)(A) A self-represented party who is not a lawyer may file pleadings and other papers using any means of delivery permitted by the court.

(2)(B) A lawyer whose request for a hardship exemption from this rule has been approved by the Judicial Council may file pleadings and other papers using any means of delivery permitted by the court. To request an exemption, the lawyer shall submit a written request outlining why an exemption is necessary to the Juvenile Court Administrator.

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(3) The electronic filer shall obtain and use a unique C.A.R.E. login for all filings in the juvenile court.

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TAB 7

2015 Access & Fairness Survey

Ratings higher in 5 categories than 2013

- I finished my court business in a reasonable time (90 v 89)
- Court staff paid attention to my needs (94 v 93)
- The judge, commissioner, referee or mediator listened to all sides (93 v 92)
- The judge, commissioner, referee or mediator had needed information (92 v 91)
- The hearing was fair (91 v 90)

Ratings the same in 5 categories compared to 2013

- I felt safe in the courthouse (97)
- The court's hours made it easy to do my business (94)
- I understood what happened in my case (93)
- I know what to do next in my case (93)
- Both sides at the hearing were treated the same (89)

Ratings lower in 10 categories than 2013

- The courthouse was easy to find (99 v 95)
- Parking was easy (93 v 92)
- I easily found the courtroom or office I needed (98 v 97)
- Security officers treated me with respect (97 v 96)
- The forms I needed were easy to understand (94 v 93)
- The court met my needs for disability assistance (95 v 94)
- The court tries to remove language barriers (96 v 94)
- The court's website was useful (92 v 91)
- I was treated with courtesy and respect (96 v 95)
- I am satisfied with my experience at the court (93 v 92)

Demographics

How do you identify yourself?

	Survey	Census
White	74%	91.4%
Hispanic or Latino	13%	13.5%
American Indian or Alaska Native	4%	1.5%
Black or African American	2%	1.3%
Hawaiian or Pacific Islander	2%	1%
Asian	1%	2.4%
More than one race	3%	2.4%

Gender?

Male	54%
Female	46%

Primary Language?

English	95%
Spanish	4%
Other	1%

Access & Fairness Survey – Comparison to Other States

	GA 2015	MA 2009	MN 2009	NJ 2014	UT 2015
The courthouse was easy to find	89.1	89	90	88	97
Parking was easy	-	-	-	-	92
I easily found the courtroom or office I needed	87.4	88.5	90	87	97
I felt safe in the courthouse	90.9	91.4	88.5	91	97
Security officers treated me with respect	-	-	-	-	96
The forms I needed were easy to understand	75	82.3	82	85	93
The court met my needs for disability assistance	-	-	-	80	94
The court tries to remove language barriers	-	-	-	79	94
The court makes reasonable efforts to remove physical and language barriers to service *	77.2	79.6	83.8	-	-
The court's website was useful	38	50.3	58.2	70	91
The court's hours made it easy to do my business	79.6	84.3	77.5	79	94
I finished my court business in a reasonable time	78.5	68.6	71.5	75	90
Court staff paid attention to my needs	82.7	86.7	83.5	83	94
I was treated with courtesy and respect	88.9	87.7	89.1	88	95
I am satisfied with my experience at the court	-	80.5	-	-	92
I understood what happened in my case	-	-	-	83	93
I know what to do next in my case	79.2	83.7	85.2	83	93
The judge, commissioner, referee or mediator listened to all sides	70.8	78.2	81.7	74	93
The judge, commissioner, referee or mediator had needed information	70.8	79.5	82.1	74	92
The hearing was fair	77	77.2	80.8	80	91
Both sides at the hearing were treated the same	77.9	84.3	84.9	75	89

* Some states combine the disability and language questions.

TAB 8



Kane County Commission

Douglas K. Heaton

James Matson

Dirk Clayson

435-644-2458

October 19, 2015

Judicial Council
450 South State
Salt Lake City, UT 84114

Dear Judicial Council:

The Kane County Commissioners hereby request to transfer responsibility for operations of the District Court to the State. It is our understanding that Rule 4-408.01 will need to be amended by removing Kane County from the list of locations that are not administered directly through the Administrative Office of the Courts.

Kane County will work with the Courts to lease the necessary space in the Courthouse. Kane County will continue to work with the state regarding the IT needs of the Court. It is Kane County's desire to continue a working relationship with the Administrative Office of the Courts to facilitate a smooth transition. It is Kane County's desire that this change be made as soon as possible.

Best regards,

A handwritten signature in black ink, which appears to read "Douglas K. Heaton".

Douglas K. Heaton
Kane County Commission Chairman.

Kane County Commission

76 N. Main St., Kanab, Utah 84741

Come to Kane County, Where anything is Possible!



Kane County Commission

Douglas K. Heaton

James Matson

Dirk Clayson

435-644-2458

October 19, 2015

Judicial Council
450 South State
Salt Lake City, UT 84114

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Kane County will work with the Courts to lease the necessary space in the Courthouse. Kane County will continue to work with the state regarding the IT needs of the Court. It is Kane County's desire to continue a working relationship with the Administrative Office of the Courts to facilitate a smooth transition. It is Kane County's desire that this change be made as soon as possible.

Best regards,

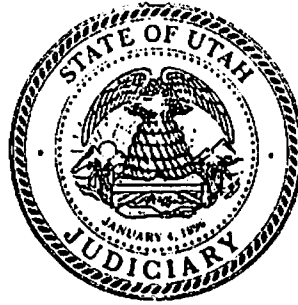
A handwritten signature in cursive script, reading "Douglas K. Heaton", followed by a long horizontal flourish.

Douglas K. Heaton
Kane County Commission Chairman.

Kane County Commission

76 N. Main St., Kanab, Utah 84741

Come to Kane County, Where anything is Possible!



SIXTH JUDICIAL DISTRICT

District Judge Marvin D. Bagley
District Judge Wallace A. Lee
Juvenile Judge Paul D. Lyman

Wendell L. Roberts, Court Executive
Keri Sargent, Clerk of Court
Christopher T. Morgan, Chief of Probation

Oct. 19, 2010

Dan Becker
State Court Administrator
450 South State Street
Salt Lake, UT 84114

Dear Dan,

Please find attached a letter dated this same day from Kane County. They have asked to transfer responsibilities of District Court to the State as soon as possible. I am requesting to have this item addressed with the Judicial Council on the 26th of this month.

Kane County is making this request as a couple of critical personnel issues evolve involving the only employees trained in district court matters. We are assisting Kane County out of the Richfield office temporarily but recognize this as a temporary solution and not best practices. Richfield is three hours away from Kanab and their site currently works through a contract with the state.

Thanks for your consideration in this matter.

Respectfully,

Wendell L. Roberts
Trial Court Executive
Sixth District Courts

Cc: Ray Wahl, Deputy Court Administrator

TAB 9



Administrative Office of the Courts

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

MEMORANDUM

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

To: Management Committee
From: Nancy Sylvester *Nancy D. Sylvester*
Date: October 20, 2015
Re: Senior Judge Education Hours: Rule Amendment

During the senior judges' bench meeting on September 23, 2015, the judges present expressed concerns about the difficulty of meeting the annual education requirements for active senior judges, which is 30 hours, because of any number of intervening variables, including travel, availability when CLE classes are held, and other circumstances. The judges proposed that rather than having an annual requirement, that it be a biannual requirement for active senior judges. This would mean they would certify to having completed 60 education hours every two years, rather than 30 hours every year.

Their arguments for this are sound since many of them may end up, for example, doing 50 hours one year but only 10 hours the next year. In those situations, the Judicial Council, for certification purposes, could look at the total for 2 years, rather than the total of each year.

Below in bold is a suggested amendment to the current language of the applicable rule:

UT R J ADMIN CODE, Rule 11-201

- (1)(B) Active Senior Judge. To be an active senior judge, a judge shall:
- (1)(B)(i) meet the qualifications of a senior judge;
- (1)(B)(ii) be a current resident of Utah;
- (1)(B)(iii) be physically and mentally able to perform the duties of judicial office;
- (1)(B)(iv) maintain familiarity with current statutes, rules and case law;
- (1)(B)(v) satisfy the education requirements of an active judge;
- (1)(B)(vi) attend the annual judicial conference;
- (1)(B)(vii) accept assignments, subject to being called, at least two days per calendar year;

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.

- (1)(B)(viii) conform to the Code of Judicial Conduct, the Code of Judicial Administration and rules of the Supreme Court;
 - (1)(B)(ix) obtain attorney survey results on the final judicial performance evaluation survey conducted prior to termination of service sufficient to have been certified for retention election regardless whether the survey was conducted for self-improvement or certification;
 - (1)(B)(x) continue to meet the requirements for certification for judicial retention election as those requirements are determined by the Judicial Council to be applicable to active senior judges;
 - (1)(B)(xi) undergo a performance evaluation every eighteen months following an initial term as an active senior judge; and
 - (1)(B)(xii) take and subscribe an oath of office to be maintained by the state court administrator.
- (1)(C) If an active senior judge has not met the annual education requirements set forth in Rule 3-111(4)(D) of this Code, then the Council may look to the total of two years of education hours to satisfy (1)(B)(v).

For your reference, CJA Rule 3-111(4)(D) provides as follows:

(4)(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.

If the Council decides it is interested in exploring this change, the Policy and Planning Committee would be a good body to vet this language.

TAB 11

Ethics Committee

Administrative Office of the Courts

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

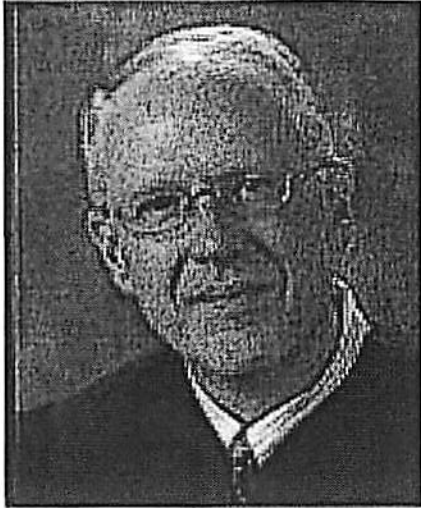
Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Management Committee
From: *B* Brent Johnson, General Counsel
Re: *E* Ethics Advisory Committee
Date: October 6, 2015

The Ethics Advisory Committee currently has an opening for a district court judge. The opening results from the expiration of Judge Douglas Thomas's term. The Board of District Court Judges solicited applications for a new member. The Board received two applications. The Board recommends that Judge Wallace Lee be appointed, and the Ethics Advisory Committee agrees with this recommendation. A copy of Judge Lee's webpage bio is attached. The other district court member of the Committee is Judge Sam McVey. Judge McVey is an excellent member and helps provide the perspective of an urban court judge. Judge Lee will help provide the perspective of a rural court judge. Having worked with Judge Lee on other matters I am confident that he will be an excellent member. The Ethics Advisory Committee asks the Judicial Council to appoint Judge Lee.

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.



PRESIDING JUDGE WALLACE A. LEE

PRESIDING JUDGE WALLACE A. LEE Judge Wallace A. Lee was appointed to the Sixth District Court in October 2005 by Gov. Jon M. Huntsman, Jr. He serves Garfield, Kane, Piute, Sanpete, Sevier, and Wayne counties. Judge Lee received a law degree from the J. Reuben Clark Law School at Brigham Young University in 1988. After graduating from law school, he practiced with the St. George law firm of Thompson, Hughes & Reber, and later established a private practice in Panguitch and served as Garfield County Attorney and Panguitch City Attorney. Judge Lee is a member of the Utah State Bar, Southern Utah Bar, the U.S. District Court, Utah, and the Tenth Circuit Court of Appeals. He serves as a member of the Board of District Court Judges, the Standing Committee on Judicial Branch Education, and the District Court Curriculum Committee. In addition, Judge Lee is chairman of the board of the Bryce Canyon Natural History Association. 09/09

MUJI Civil 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 16, 2015
Re: Nominees for the Model Civil Jury Instructions Committee

Ryan Springer has sat on the Model Civil Jury Instructions Committee since 2011, having devoted likely hundreds of hours to its efforts. Last month, he announced his retirement from the committee, leaving a vacancy for a practitioner who primarily represents plaintiffs. An email announcing the vacancy was sent out through the Bar's listserv on August 26 and seven attorneys applied.

On October 13, the Management Committee selected **Christopher Von Maack** for appointment to the committee. Some of his information is below. All of the applicants' letters of interest and resumes are attached.

Christopher Von Maack

- Partner, Magleby & Greenwood, PC.
- Civil trial lawyer, intellectual property, contract, real property, and commercial tort
- Numerous complex multi-week trials and arbitrations resulting in favorable jury verdicts
- Former law clerk to Judge Pamela T. Greenwood

All of the candidates were very well qualified. Juli Blanch, chairwoman, and I expect to get in touch with the ones who are not chosen about potentially joining some of the subcommittees, which has proven successful in the past.

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



MAGLEBY GREENWOOD
ATTORNEYS AT LAW

T 801.359.9000 : F 801.359.9011 : www.mgpclaw.com
170 South Main Street, Suite 1100, Salt Lake City, Utah 84101

Christopher M. Von Maack*
vonmaack@mgpcclaw.com

*Also Admitted in California

September 8, 2015

Via Electronic Mail Only

Nancy J. Sylvester
nancyjs@utcourts.gov
Staff Attorney
ADMINISTRATIVE OFFICE OF THE COURTS
450 South State Street
P.O. Box 140241
Salt Lake City, Utah 84114-0241

Re: Application for Position on Standing Committee on Model Utah Jury
Instructions

Dear Ms. Sylvester:

I write in response to your August 26, 2015 e-mail and to apply for the open position on the Standing Committee on Model Utah Jury Instructions.

I am a civil trial lawyer and primarily represent plaintiffs in cases involving breach of contract and commercial tort, such as misappropriation of trade secret, breach of fiduciary duty, and interference with economic relations. Cases in which I have participated include *USA Power, LLC v. PacifiCorp* (\$134 million jury verdict for plaintiffs in misappropriation of trade secret and breach of fiduciary duty case), *Haug v. La Caille Restaurant Corporation* (\$4.7 million jury verdict for plaintiffs in partnership case), *ClearOne v. Chang* (\$10.5 million jury verdict for plaintiff in trade secret case), and *Neff v. Neff* (favorable jury verdict for plaintiffs in breach of fiduciary duty case).

In cases handled by my firm, I am typically involved in the jury instruction process, which includes researching and drafting proposed instructions, resolving objections related to proposed jury instructions, and arguing at hearings regarding proposed jury instructions. Accordingly, I have significant experience with the Model Utah Jury Instructions ("MUJI"), Model Utah Jury Instructions Second Edition ("MUJI 2d"), California Civil Jury Instructions ("CACI"), and certain judge's stock jury instructions, among other sources of jury instructions.

Nancy J. Sylvester
ADMINISTRATIVE OFFICE OF THE COURTS
September 8, 2015
Page 2

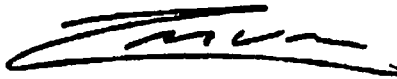
Recognizing that MUJI 2d is a work in progress, much remains to be done. If appointed to the Standing Committee on Model Utah Jury Instructions, I would work to expand the number and scope of MUJI 2d instructions, on which judges heavily rely in my experience. For instance, presently, the only MUJI 2d instructions for breach of fiduciary duty are within the context of legal malpractice. Yet, a claim for breach of fiduciary duty arises in many other instances, and an instruction for breach of fiduciary duty claims generally might be warranted. As another example, there is presently no MUJI 2d instruction for economic interference. And, there has recently been a clarification of the elements of such a claim. See *Eldridge v. Johndrow*, 2015 UT 21, ¶ 70, 345 P.3d 553. Thus, this is an excellent time for expansion of Utah's jury instruction canon, and I would be honored to assist in that expansion.

I presently serve on the Standing Committee on Professionalism, but that committee is effectively inactive at this time. So, to the extent there is a disinclination to appoint people who already serve on standing committees, that disinclination is less applicable here.

Thank you for your time and consideration.

Sincerely,

MAGLEBY & GREENWOOD, P.C.



Christopher M. Von Maack

CMV/zp
Enclosure

CHRISTOPHER MARLOWE VON MAACK

Work Address

MAGLEBY & GREENWOOD, P.C.
170 South Main Street, Suite 1100
Salt Lake City, Utah 84101
Telephone: 801-359-9000
Facsimile: 801-359-9011
E-mail: vonmaack@mgpclaw.com

Home Address

1550 Yale Avenue
Salt Lake City, Utah 84105
Telephone: 801-583-0130
Mobile: 801-634-4410
E-mail: cvonmaack@gmail.com

LEGAL EXPERIENCE

MAGLEBY & GREENWOOD, P.C., Salt Lake City, Utah

Partner, 2011-Present

Associate, 2005-2011

- Civil trial lawyer, focusing on areas of intellectual property, contract, real property, and commercial tort
- First or Second-chaired complex multi-week trials and arbitrations to favorable results, including the following matters: *Haug v. La Caille Restaurant Corp.* (\$4.7 million jury verdict for plaintiff), *Neff v. Neff* (favorable jury verdict for plaintiff), and *Caruso v. Viridian Network, LLC* (\$27 million defense award)
- Assisted colleagues in prosecution of high-profile cases handled by the firm, including *Kitchen v. Herbert* (marriage equality), *USA Power, LLC v. PacifiCorp* (\$134 million jury verdict for plaintiffs), and *ClearOne v. Chang* (\$10.5 million jury verdict for plaintiff)
- AV Preeminent peer-review and Preeminent client-review ratings from Martindale-Hubbell®
- Selected for inclusion in *Super Lawyers*® list of *Super Lawyers* and *Mountain States Rising Stars*
- Named among Utah's *Legal Elite* by *Utah Business Magazine*

UTAH COURT OF APPEALS, Salt Lake City, Utah

Law Clerk to the Honorable Pamela T. Greenwood, 2004-2005

- Assisted Judge in analyzing issues, legal research, and writing opinions and memorandum decisions

UNIVERSITY OF THE PACIFIC, McGEORGE SCHOOL OF LAW, Sacramento, California

Research Assistant to Professor Gregory C. Pingree, 2002-2004

- Performed research for a law review article juxtaposing personal identity concepts of intellectual property and First Amendment law
- Teaching Assistant, 2002-2004
- Taught review courses on torts and professional responsibility
- Taught a preparatory course on the Multi-State Ethics Exam

VANCOTT, BAGLEY, CORNWALL & MCCARTHY, P.C., Salt Lake City, Utah

Summer Associate in Litigation Section, 2003

EDUCATION

UNIVERSITY OF THE PACIFIC, McGEORGE SCHOOL OF LAW, Sacramento, California

Juris Doctorate with Distinction, 2004

Order of the Coif: Top 10%

McGeorge Law Review editor and comment writer

UNIVERSITY OF CALIFORNIA, LOS ANGELES, Westwood, California

Bachelor of Arts in English, 2001

President of Sigma Chi Fraternity, Delta Eta Chapter, 1999-2000

PROFESSIONAL MEMBERSHIPS AND AFFILIATIONS

UTAH SUPREME COURT ADVISORY COMMITTEE ON PROFESSIONALISM

Member, 2006-Present

- Assist the Utah Supreme Court formulate and implement civility and professionalism programs, including the Utah Standards of Civility and Professionalism and proposed Utah Standards of Judicial Professionalism and Civility

WATKISS II/SUTHERLAND INNS OF COURT

Member, 2006-Present

Program Committee Member, 2010

UTAH STATE BAR, YOUNG LAWYERS DIVISION

Executive Board Member, 2005-2010

Governmental Relations Committee Liaison, 2008-2010

Co-Chair of Professionalism and the Practice of Law Committee, 2005-2008

BAR ADMISSIONS

California State Bar, 2004

Utah State Bar, 2005

United States District Court, Central District of Utah, 2005

United States District Court, Central District of California, 2006

United States Court of Appeals for the Tenth Circuit, 2009

United States Supreme Court, 2014

PUBLICATIONS AND SPEAKING ENGAGEMENTS

- *Civility in the Practice of Law: A Young Lawyer's Perspective*, 19 UTAH BAR J. 22 (Nov./Dec. 2006).
- "A Relatively Simple Matter" – *Navigating the Utah Discovery Rule*, 19 UTAH BAR J. 36 (July/Aug. 2006).
- *Utah Standards of Professionalism & Civility - Gaining Traction and Growing Teeth*, Utah State Bar Paralegal Division Annual Seminar, 2007

COMMUNITY INVOLVEMENT

ROWLAND HALL ST. MARK'S SCHOOL
Trustee, 2014-Present

SALT LAKE HONORARY COLONELS
Trustee, 2012-Present
Member, 2007-Present

UTAH HERITAGE FOUNDATION
Trustee, 2009-Present

SALT LAKE COUNTRY CLUB
Long-range planning committee member, 2014-2015

AMERICAN CANCER SOCIETY
Ambassador, 2010-2013

HUNTSMAN 2012 UTAH FINANCE COMMITTEE
Member

MCCAIN 2008 UTAH FINANCE COMMITTEE
Member



August 26, 2015

Nancy J. Sylvester
Administrative Office of the Courts
P.O. Box 140241
Salt Lake City, Utah 84114-0241

nancyjs@utcourts.gov

Re: Standing MUJI Committee

Dear Ms. Sylvester:

Please accept this as my application to join the standing committee on Model Utah Civil Jury Instructions. Attached is my resume.

Please note that I primarily represent plaintiffs in personal injury litigation and I have done so during my entire 21 year career. I have tried about a dozen such cases to a jury. I have also represented plaintiffs in class action shareholder litigation.

More generally, I represent both plaintiffs and defendants in business and real estate litigation and I have had several trials in this area of the law and, as best I can remember, two jury trials in this area of the law.

If you have any other questions, I would be happy to give you an interview or discuss them over the phone or by email.

Sincerely,

Nelson T. Abbott
Attorney at Law

NELSON T. ABBOTT

3651 North 100 East, Ste. 350, Provo, Utah 84604 • 801-374-3000

EXPERIENCE

ABBOTT LAW FIRM

Attorney, June 1993 to present

Areas of Practice Include: business litigation, contracts, and consulting.

BRIGHAM YOUNG UNIVERSITY

Part time faculty, June 2004 to December 2012

TRI-CONNECTIONS, INC.

Board of Directors, June 1998 to 2008

Non-profit corporation with gross receipts exceeding \$2,000,000.00 annually.

EDUCATION

BRIGHAM YOUNG UNIVERSITY

J.D., 1993, Cum Laude

Lead Editor, Journal of Public Law

Highest Grade Advanced Torts

BRIGHAM YOUNG UNIVERSITY

M.B.A., 1993

GPA 3.93

BRIGHAM YOUNG UNIVERSITY

B.A., Economics, 1989

PUBLISHED ARTICLES AND BOOKS

Nelson T. Abbott and Landon Magnusson, AN ENIGMATIC DEGREE OF MEDICAL CERTAINTY, Utah Bar Journal, Aug 2008, at 20

Nelson T. Abbott, INSURANCE: TO TELL OR NOT TO TELL, THAT IS THE QUESTION, Utah Trial Lawyer's Association Journal, Summer 2004, at 41

Kristen Bell DeTienne & Nelson T. Abbott, DEVELOPING AN EMPLOYEE-CENTERED ELECTRONIC MONITORING SYSTEM, Journal of Systems Management, August 1993, at 12

Nelson T. Abbott, Note, UNITED STATES v. HALPER: MAKING DOUBLE JEOPARDY AVAILABLE IN CIVIL ACTIONS, 6 BYU Journal of Public Law 551 (1992)

Charles F. Abbott & Nelson Abbott, HOW TO FORM A CORPORATION IN ANY STATE, Advocate Publishers (1990)

Charles F. Abbott & Nelson Abbott, THE COMPLETE ASSET PROTECTION PLAN, Advocate Publishers (1990)

PUBLISHED APPELLATE CASES

TIMOTHY V. KEETCH, 2011 UT App. 104

N.M. V. DANIEL E., 2008 UT 1

MCKEON V. CRUMP, 2002 UT App. 258

STATE EX REL. A.P., 2002 UT App 230

STATE EX REL. A.W., 2002 UT App 159

STATE V. VILLALOBOS, 2000 UT App. 354

STATE V. KOHL, 999 P.2d 392, 2000 UT 35

RUSS V. WOODSIDE HOMES, 905 P.2d 901 (Utah App. 1995)

PROFESSIONAL SERVICE

ETHICS ADVISORY OPINION COMMITTEE, UTAH STATE BAR
October 2001 to 2009

UNAUTHORIZED PRACTICE OF LAW COMMITTEE, UTAH STATE BAR
Fall 1999 to Fall 2001

FEE ARBITRATION COMMITTEE, UTAH STATE BAR
Fall 1999 to present

MOOT COURT COACH, LAKERIDGE JUNIOR HIGH
1997 to 2003)

PRESENTATIONS

HOW TO HANDLE POST TRIAL ISSUES, Presented February 2007 for National Business Institute in Salt Lake City.

HOW TO AVOID COMMON ETHICAL PITFALLS, Presented February 2007 for National Business Institute in Salt Lake City.

PREPARING YOUR EXPERT WITNESS FOR DEPOSITION, Presented December 2007 for National Business Institute in Salt Lake City.

RECENT UPDATES IN THE LAW, Presented September 2008 for Utah Association for Justice Annual Convention in Salt Lake City.

HOW TO SELECT THE RIGHT JURY FOR YOUR CASE, Presented June 2010 for National Business Institute in Salt Lake City.

EFFECTIVE VOIR DIRE, Presented September 2010 for Utah Association for Justice Annual Convention in Salt Lake City.

EFFECTIVE USE OF FACT WITNESSES AT TRIAL, Presented October 2012 for National Business Institute in Salt Lake City.

EXPERT REPORTS AND EXPERT WITNESSES, Presented October 2012 for National Business Institute in Salt Lake City.

Chair of UAJ's AUTO SPECTACULAR SEMINAR providing 6 hours of CLE focused on auto accident litigation. March 2015, Salt Lake City.

RELIGIOUS AND CULTURAL BIASES HELD BY AUTO ACCIDENT JURIES, Presented March 2015 for Utah Association for Justice in Salt Lake City.



Nancy Sylvester <nancyjs@utcourts.gov>

MUJI Committe - Plaintiff's position

Daniel Bertch <dan@bertchrobson.com>
To: "nancyjs@utcourts.gov" <nancyjs@utcourts.gov>
Cc: Kevin Robson <kevin@bertchrobson.com>

Fri, Sep 11, 2015 at 11:32 AM

Dear Ms. Sylvester:

Please accept this as my letter of interest in this committee position. The bulk (95%+) of my civil practice is plaintiff's personal injury and insurance claims, of every variety. As you know, I have been very active in appellate work to assist in the development of a modern body of law in tort and insurance law. Please let me know if you have any questions. Thank you for your consideration.

Daniel F. Bertch

BERTCH ROBSON ATTORNEYS

1996 East 6400 South, Suite 100

Salt Lake City, UT 84121

Tel. 801-424-3800

Fax. 801-424-4243

UPDATED resume DFB 2013.pdf
168K

DANIEL F. BERTCH

Employment:

2000-present	Bertch Robson, partner, general civil practice with emphasis on insurance and personal injury cases, BV rated by Martindale-Hubbell
1993-2000	Bertch & Birch, partner, general civil practice
1992-present	Draper City Justice Court judge, misdemeanor and small claims
1990-1993	Solo practioner, general civil practice
1989-1990	Associate, Purser, Okazaki & Berrett, S.L.C., Utah, general civil practice, emphasis on defense of insurance and personal injury cases
1986-1989	Associate, Robert J. DeBry & Assoc., S.L.C., Utah, personal injury and insurance cases for plaintiffs
1984-1986	Associate, Parker & Parker, Howell, Michigan, general civil practice with emphasis on defense of insurance and personal injury cases

Education:

1984	BYU Law School, cum laude, Order of the Coif
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Selected Published Opinions:

Glaittli v. State, 2013 UT App 10 (governmental immunity - natural conditions)
Lopez v. UAIC, 274 P.3d 897, 2012 UT 10 (UIM auto ins waiver requirements)
Waters v. Powell, 232 P.3d 1086, 2010 UTApp 105 ("keeper" under dog bite statute)
Clegg v. Wasatch County, 227 P.3d 1243, 2010 UT 5 (high-speed responder liability)
Willden v. Duchesne County, 217 P.3d 1143, 2010 UT App 213 (high-speed responder liability)
Magana v. DRC, 215 P.3d 143, 2009 UT 45 (2009)(gen. contractor premises liability)
Gen. Sec. Indem. Co. v. Tipton, 158 P.3d 1121, 2007 UT App 109 (UM auto ins waiver requirement)
Tan v. Ohio Cas. Ins. Co., 157 P.3d 367, 2007 UT App 93 (ins policy suit - misnomer)
Calhoun v. State Farm Ins. Co., 96 P.3d 916, 2004 UT 56 (liability ins req'ts - intrafamily car swap)
Intermtn. Slurry Seal v. Labor Comm., 48 P.3d 252 (Utah Ct. App. 2002)(PTD for loss of both feet)
Ohlander v. Larson, 114 F.3d 1531 (10th Cir. 1997)(international child custody jurisdiction)
Bansasine v. Bodell, 927 P.2d 675 (Utah Ct. App. 1996)(road rage proximate causation)
Kirberg v. WestOne Bank, 872 P.2d 39 (Utah Ct. App. 1993)(employee handbook - wrongful term.)
West v. Grand County, 967 F.2d 362 (10th Cir. 1992)(pre-firing due process for employee)
Anderson v. ASPRS, 807 P.2d 825 (Utah 1990)(long-arm jurisdiction over med. experiment monitor)
Anderson v. DHHS, 907 F.2d 936 (10th Cir. 1990)(FOIA documents released re silicon injections)
Gaw v. State of Utah, 798 P.2d 1130 (Utah Ct. App. 1990)(statute violation - prima facie negligence)
Ostler v. Albina Trucking Co., 781 P.2d 445 (Utah Ct. App. 1989)(foreseeability - proximate cause)
Camp v. ORS, 779 P.2d 242 (Utah Ct. App. 1989)(Medicaid subrogation - later overruled by S. Ct.)
Madsen v. Borthick, 769 P.2d 245 (Utah 1988)(gov't immunity - notice of claim)

Seminars/Presentations:

- "How to Win a \$75,000 Whiplash Verdict", SLC UT, Utah Trial Lawyers Assoc., 1991
- "Trying the Soft-Tissue Injury Case", SLC, UT, NBI Seminars, 1992
- "Utah Insurance Law Update", SLC, UT, NBI Seminars, 1993
- "Utah Bad-Faith Insurance Law", SLC, UT, NBI Seminars, 1995
- "Utah Tort Case Law Update", SLC, UT, Utah Trial Lawyers Assoc., 1996
- "Utah Insurance Law", SLC, NBI Seminars, 1997
- "Utah Insurance Law", SLC, NBI Seminars, 1999
- "Utah Uninsured/Underinsured Motorist Insurance Law", NBI Seminars, 1999
- "Utah Uninsured/Underinsured Motorist Insurance Law", NBI Seminars, 2000
- "Utah Uninsured/Underinsured Motorist Insurance Law", NBI Seminars, 2001
- "Automobile Accidents - Small Claims", Justice Court Judges Ass'n, August 2012

ARROW LEGAL SOLUTIONS GROUP, PC



266 EAST 7200 SOUTH MIDVALE, UTAH 84047

August 31, 2015

Nancy Sylvester
nancyjs@utcourts.gov

Re: Application for Standing Committee on Model Utah Civil Jury Instructions

Dear Ms. Sylvester:

I primarily represent Plaintiffs. I am applying for a position on the Standing Committee on Model Utah Civil Jury Instructions. Years ago I helped Judge Ray Harding, Sr. draft jury instructions, making sure they fairly represented the law and were worded in plain English. Judge Harding also instructed me to draft jury instructions in a manner which avoided or eliminated modifications for particular cases. I feel that my writing skills and knowledge of the law would be of benefit to the committee.

Enclosed please find a copy of my professional resume. Please let me know if you need any further information.

Sincerely,
ARROW LEGAL SOLUTIONS, PC

/s/ Loren M. Lambert
Loren M. Lambert
Attorney at Law

LML:cms

ATTORNEY AT LAW: LOREN M. LAMBERT
llambert@arrowlegalsolutions.com
Phone: 801-568-0041

266 East 7200 South Phone: (801)568-0041
Midvale, UT 840471 E-mail: arrowlegalsolutions@gmail.com

Loren Mitchell Lambert

EDUCATION

- J. Reuben Clark Law School, Brigham Young University, J.D. Graduate, 1987
- University of Utah, Bachelor of Arts Degree in Spanish, June 1984 Cum Laude
- University of Seville, Spain, History, Arts, Culture
- Recipient of Study Abroad Scholarship

WORK EXPERIENCE

- Owner Arrow Legal Solutions Group, PC Since 1991--Extensive Trial Experience
- Legal Services and Criminal Defense Attorney for the U. S. Army, Rank-Captain
- Law Clerk for Judge Harding, Fourth District Court, Utah County, Utah
- Bailiff, Fourth District Court, Utah County, Utah
- Law Clerk, Extensive Writing and Research, Jeffs & Jeffs, Provo, Utah
- Instructor of English, Seville, Spain
- Head White-water Boatman, Solitude Float Trips, Jackson Hole, Wyoming
- Expedition Leader, Teton High Adventure Base, Boy Scouts of America, Jackson Hole, Wyoming
- Laborer, United Parcel Service

EXTRACURRICULAR ACTIVITIES

- Member of the International and Comparative Law Annual
- Member of the University of Utah A Capella Choir
- Team Member of the Mercantile Yacht Club, Seville, Spain
- Kayaking Instructor at the University of Utah
- Winner of the Governor's Cup, Downriver Kayak Champion, Jackson Hole, Wyoming
- Owner of Ozone Publishing, LLC (a/k/a Ozone Productions, LLC)

VOLUNTEER AND COMMUNITY SERVICE

- Volunteer Service at the Salt Lake City, Guadalupe Center, Teaching Survival English
- Little League Wrestling Coach
- Eagle Scout
- Board Member for OFFER non-profit organization
- Volunteer Instruction of Criminal Procedure and Trial Advocacy for the Leavitt Institute of International Development

INTERESTS AND HOBBIES

- Publications and extensive writing experience in creative, fiction, non-fiction and argumentative styles
- Producer Plays and Film--Extensive Singing, Theater, and Acting Experience
- Kayaking, Karate (Black Belt), Yoga, Swimming
- Saxophone



Nancy Sylvester <nancyjs@utcourts.gov>

Application (Standing Committee on Model Utah Civil Jury Instructions)

Nathan Morris <nmorris@robertdebry.com>

Fri, Sep 4, 2015 at 3:26 PM

To: "nancyjs@utcourts.gov" <nancyjs@utcourts.gov>

Ms. Sylvester,

Please accept this email as my "letter of interest" in the position on the Standing Committee on Model Utah Civil Jury Instructions. I have attached my current resume. If a more formal letter is required please let me know.

I have been lead counsel in a significant number of cases, primarily while a partner at Richards Brandt Miller Nelson. I believe that my background in defense work (including outstanding mentors at RBMN), in combination with my current employment representing plaintiffs at Robert J. DeBry & Associates and my association with the fine trial lawyers at RJD, gives me a unique perspective on the MUJI 2d instructions and the varied issues facing trial practitioners and judges. I very much enjoy jury trials and I have discussed the MUJI 2d rules with scores of judges and attorneys during my 13 years in practice. Just this year, I have been lead counsel in three jury trials: January 2015 - a one-week drilling rig personal injury case in Casper Federal Court with Judge Scott Skavdahl; March 2015 - a one week flooding case in Utah County with Judge Darold McDade; and July 2015 - a three day trial for an automobile personal injury case in West Jordan with Judge James Gardner.

I have a good working relationship with many of the members currently on the Standing Committee and believe that I would be able to contribute to the collective effort in making the MUJI 2d Instructions increasingly jury-friendly and accurately reflective of Utah case law and statutory law.

I appreciate the Judicial Council's consideration of my application.

Sincerely,

Nathan Morris

Robert J. DeBry

ASSOCIATES

Nathan S. Morris
Attorney
45 West Sego Lily Dr Suite 401 Sandy UT 84070
Office: 801.262.8915 **Fax:** 801.208.9726
robertdebry.com | facebook | twitter



 **Nathan S. Morris Resume (9.4.15).pdf**
31K



Nathan Smith Morris

248 East 100 North, Centerville, Utah 84014; Telephone (801) 298-4447; nmorris@robertdebry.com

EMPLOYMENT and EXPERIENCE *Admitted to Practice: Utah State Bar 2002*

Robert J. DeBry & Associates – Litigation Attorney – 45 West Sego Lily Drive, Suite 401, Sandy, Utah 84070, June 2015 to present

- Attorney specializing in personal injury litigation, including the following areas of practice: wrongful death cases, dram shop litigation, automobile and pedestrian injuries, trucking/transportation litigation, UIM/UM and other first party litigation, including “bad faith” litigation, appellate law.
- Trial Lawyer: Lead counsel in 28 civil jury trials ranging from two days to four weeks, including the following claims: canal flooding, wrongful deaths, scarring, personal injury and automobile accident, trucking accident, medical malpractice, drilling rig injury, and punitive damages; over 100 mediations and arbitrations; reported cases include: *Solis v. Burningham Enterprises Inc.*, 2015 UT App 11; *Smith v. Bank of Utah*, 2007 UT App 89; and *Triesault v. Greater Salt Lake Business Dist.*, 2005 UT App 489.
- 2011, 2012, 2013, 2014, 2015 *Utah Business Magazine* Legal Elite Top Lawyer – Civil Litigation.
- 2011, 2012, 2013 *Mountain States Super Lawyers* list; 2009 *Mountain States - Rising Star*.
- Utah State Bar Exam Grader – Torts, 2009 to present

Richards Brandt Miller Nelson - Partner – 299 South Main, #1500, Salt Lake City, Utah 84111, June 2003 to June 2015

- Attorney specializing in commercial trucking/transportation litigation, public transportation litigation involving public bus/rail litigation, commercial and personal insurance/personal injury litigation, appellate law.
- RBMN Board Member 2012-2015, Member of RBMN Compensation Committee 2010-14; Chairman of RBMN Litigation Group 2009-2014;

Burbidge & White, LLC, 15 West South Temple, Salt Lake City, Utah, 84110,

- Attorney specializing in Education Law; No Child Left Behind Act; Medical Malpractice

Research Assistant for Dean Rodney K. Smith and Dean Charles Goldner, University of Arkansas at Little Rock School of Law, August 1999 to May 2002

- Research Project: “The History of African American Lawyers in the Arkansas Bar”

EDUCATION

Juris Doctorate 2002, ***Univ. of Arkansas at Little Rock, William H. Bowen School of Law***, Little Rock, AR,

UALR Moot Court

- Winner, 2000 UALR Intra-school Moot Court Competition, Final arguments in front of Richard S. Arnold - 8th Cir. Ct. App.; Morris Arnold - 8th Cir. Ct. App.; Alex Kozinski - 9th Cir. Ct. App.
- Semi-finalist, Region IX National Moot Court Competition, November 2001
- Chairman, UALR Moot Court Board 2001

UALR Law Review

- Member, University of Arkansas at Little Rock Law Review
- Case Note: Freedom of Expressive Association in *Boy Scouts of America v. Dale*
- 2001 Criminal Law Case Survey Author

Bachelor of Arts 1998, ***Brigham Young University***, Provo, UT

Major: English, Minor: Italian and Communications

Collegiate soccer All-American at BYU, 1996, 1997, 1998

ORGANIZATIONS/MEMBERSHIPS (Previous and Current)

- Utah Association for Justice
- A. Sherman Christensen American Inn of Court I
- National Association of Railroad Trial Counsel
- DRI- Litigation Section
- American Bar Association – Tort Trial & Insurance Practice Section
- Utah Bar Association
- Utah Defense Lawyers Association
- Salt Lake County Bar Association

SEMINARS/PRESENTATIONS

- *August, 2015* – Speaker, “**Voir Dire and Jury Selection: Social Media and Other Complex Issues and Ethical Considerations at Trial.**” National Business Institute. Discussed complexities of social media at trial, including use during cross examination, in jury selection, and in building your case.
- *July, 2014* – Speaker, “**Expert Witnesses, Laying the Foundation for Impeachment During Deposition.**” National Business Institute. Presented issues pertaining to whether to impeach expert witnesses during deposition or whether to lay the foundation for successful impeachment at trial.
- *April, 2013* – Speaker, “**Advanced Trial Tactics – Cross Examination of an Expert Witness.**” Provided examples of successful trial tactics in cross examining accident reconstructionists, medical experts, and other forensic experts, including preparation techniques and deposition practices.
- *May, 2012* – Speaker, “**Litigating the Uninsured & Underinsured Motorist Claim**” National Business Institute. Presentation on Utah’s new UM/UIM statute and how to prepare your case to optimize chances of success at arbitration.
- *November 2011* – Speaker/Moderator, “**Understanding Recent Amendments to the Utah Rules of Civil Procedure**” Utah Defense Lawyers’ Association. Presented topics and moderated a 2.5 hour presentation on the litigation impacts of the amended Rules of Civil Procedure, including expert disclosures and discovery, deposition and discovery strategies, and trial preparation.
- *September 2011* – Speaker, “**A New Trend: Anti-Indemnification Statutes.**” Arkansas Trucking Association. Presentation to over 300 trucking industry representatives and attorneys on the nationwide trend for Anti-Indemnification Statutes that are designed to assist motor carriers in conducting business on equal footing with the shipping industry and large companies.
- *November 2010* – Speaker, “**Comprehensive Safety Analysis (CSA) 2010**” The Presidio Group. Presented seminar to corporate officers, risk managers, and claims adjusters regarding the Department of Transportation’s recent implementation of CSA 2010.
- *September 2010* – Speaker, **Utah Hospital Liens**, Utah Association for Justice, Presented seminar to plaintiffs’ attorneys addressing hospital and other liens arising out of a personal injury claim.
- *September 2010* – Speaker, “**Facing Risk With Confidence**” The Presidio Group. Presented seminar to corporate officers, risk managers, and claims adjusters addressing document retention and accident investigation.
- *December 2009* – Speaker, **Professional Civility in Utah**, Utah Defense Lawyers Association: Presented seminar on civility during arbitration and trial.
- *December 2008* – Speaker, **Professional Civility in Utah**, National Business Institute: Presented seminar on recent implementation to Rules of Civility in Utah.
- *September 2008* – Speaker, **Gaining the Best Settlement in Auto Injury Cases**, National Business Institute: Presented seminar on “Evaluating Liability Issues and Coverage” and “Putting Your Best Foot Forward In Trial”, including Uninsured and Underinsured Coverage, No Fault coverage, and bad faith case law in Utah.
- *December 2005* – Speaker, **Uninsured and Underinsured Motorist Claims in Utah**, National Business Institute: Presented seminar on Defending UM/UIM cases and presenting your case at arbitration.

ACHIEVEMENTS/INTERESTS

- *Leadership*
 - RBMN Board Member 2012-2015, Member of RBMN Compensation Committee 2011-14; Chairman of RBMN Litigation Group 2009-2014;
 - 2001 UALR Moot Court Chairman
 - Captain of Brigham Young University Soccer Team 1997 to 1998
 - Student Body Secretary Viewmont High School, Utah 1992
- *Athletics*
 - Collegiate soccer All-American at BYU, 1996, 1997, 1998
 - Soccer Coach at Forza Futbol Club, Davis County, Utah, 2011 to present
- *Service/Other*
 - Full-time Volunteer Representative LDS Church, Italy, Rome, 1992 to 1994
 - Eagle Scout 1991
- *Community*
 - Leader of Church Young Men's Organization and Boy Scouts of America program with over 300 youth (ages 12-18) – 2009 to August 2015;
 - Centerville City Citizen Sub-committee Member – 2003;
 - Organized Utah State Hospital service project at BYU – 1997-1998;
 - Created and chaired Little Rock High School Moot Court Competition – 2001.
- *Family*
 - Married to Kristen with five lovely children (Emmaline 16, AnnaKate 14, Luke 11, Gwenyth 8, Sarah 8)

REFERENCES

Lewis B. Quigley, Attorney, Mediations and Arbitrations
632 North Quail Hollow
Alpine, Utah 84004, Telephone (801) 641-5446

Judge David N. Mortensen, Fourth District Court Judge
125 North 100 West
Provo, Utah 84601, Telephone (801) 429-1065

Paul H. Matthews, Utah Arbitration and Mediation
10 West Broadway #350
Salt Lake City, Utah 84101, Telephone (801) 355-7007

Lynn S. Davies, Attorney
299 South Main, #1500,
Salt Lake City, Utah 84111, Telephone (801) 531-2000



Nancy Sylvester <nancyjs@utcourts.gov>

Applications Sought for Utah Judicial Council Standing Committee on Model Utah Civil Jury Instructions

bruce@pritchett-law.com <bruce@pritchett-law.com>

Thu, Aug 27, 2015 at 3:30 PM

To: nancyjs@utcourts.gov

Ms. Sylvester,

Pete Summerill, a current member of the Standing Committee on MUJI, mentioned that there may be an opening on the MUJI-Civil committee. I am interested in such a position.

Attached please find my resume, highlights of which include the following:

-23 years of experience in civil litigation.

-Education:

- BYU (BA, cum laude, University Honors, 1989);
- University of Washington (JD, 1992);
- Stanford University (FLAS fellowship in Chinese, 1990)

-Numerous civil trials, the large majority of which have been for plaintiffs

-Judicial clerkship, Chief Judge George T. Shields (Washington Court of Appeals)

-Judicial externship, federal Judge John C. Coughenour (W.D. Wash.)

-Won \$11 million judgment, US ex re. Leitner v. Spier, civil no. 11-00385 (D.D.C. 2014)

-Obtained \$1.2 million settlement in medical malpractice case (confidential)

-Won reversal of fee award on appeal, Martin v. Rasmussen, 2014 UT App 200.

-Won jury verdict of \$182,000 in 5-day personal injury trial in 4th District, Provo.

-Obtained relief from US District Court of Utah in \$50 million securities transfer agent case.

-Obtained favorable settlement for \$10 million+ London investment fund against SEC.

-Helped obtain 7-figure settlement, Adams v. Royal Indemnity, 99 F.3d 964 (10th Cir. 1996).

It would be a great honor to work with the MUJI-Civil committee.

I believe Mr. Summerill would give me a good reference.

Respectfully,

Bruce M. Pritchett, Of Counsel

LARSON LAW

Attorneys & Counselors at Law

922 West Baxter Drive, Suite 200

South Jordan, Utah 84095-8626

Phone: (801) 601-8323

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8/27/2015

Utah State Courts Mail - Applications Sought for Utah Judicial Council Standing Committee on Model Utah Civil Jury Instructions

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—Original Message—

From: "Nancy Sylvester" <nancyjs@utcourts.gov>

Sent: Wednesday, August 26, 2015 4:44pm

To: utahstatebarnews@usblists.utahbar.org

Subject: [UtahStateBarNews] Applications Sought for Utah Judicial Council Standing Committee on Model Utah Civil Jury Instructions

The Utah Judicial Council is accepting applications for one position on the Standing Committee on Model Utah Civil Jury Instructions.

This position requires an attorney who *primarily represents plaintiffs*. If you are interested in applying, please submit a resume and a letter of interest to Nancy Sylvester (nancyjs@utcourts.gov) no later than Friday, September 11, 2015 at 5 p.m.

MUJI-Civil Committee Site:

<http://www.utcourts.gov/committees/muji/>

Rule 1-205. Standing and ad hoc committees

*<http://www.utcourts.gov/resources/rules/ucja/ch01/1-205.htm>

<<http://www.utcourts.gov/resources/rules/ucja/ch01/1-205.htm>>*

[Quoted text hidden]



BMP Resume 2015B.rtf

127K

Bruce M. Pritchett, Of Counsel
LARSON LAW

922 West Baxter Drive
Suite 200
South Jordan, Utah 84111

Tel: (801) 718-2438
Fax: (801) 757-9130
bruce@pritchett-law.com

Experience

Of Counsel, Larson Law. South Jordan, UT. (2013-present)

- 85% plaintiff personal injury (mainly auto injury; some medical and legal malpractice).
- 15% civil litigation and appeals (mainly business disputes, False Claims Act actions).
- Won \$11 million judgment, *US ex rel. Leitner v. Spier*, civil no. 11-00385 (D.D.C. 2014).
- Obtained \$1.2 million settlement in medical malpractice case (confidential, in 2014).
- Won reversal of fee award on appeal, *Martin v. Rasmussen*, 2014 UT App 200.
- Obtained favorable confidential settlements in numerous personal injury cases.

Managing Partner, Martin & Pritchett, P.A. Salt Lake City, UT. (2006 - 2013)

- 80% plaintiff personal injury, mainly medical and legal malpractice (also auto injury).
- 20% civil litigation and securities transactions (referrals from partner Harold Martin).
- Won jury verdict of \$182,000 in 5-day personal injury trial in 4th District, Provo.
- Won trial involving approx. \$100,000 claim in 1-day bench trial in 3rd District, SLC.
- Obtained settlement of approx. \$250,000 in food contamination case.
- Obtained relief from US District Court in \$50 million securities transfer agent case.
- Obtained favorable settlement for \$10 million+ London investment fund against SEC.

Owner and Managing Member, Bruce M. Pritchett, LC. Salt Lake City, UT. (1996 - 2006)

- Helped obtain 7-figure settlement, *Adams v. Royal Indemnity*, 99 F.3d 964 (10th Cir.1996).
- Majority litigation caseload included medical malpractice, auto injury, and fraud litigation.
- Substantial minority of practice involved contracts and securities offerings, mergers, etc.

Associate Attorney, Hanson, Epperson & Smith. Salt Lake City, UT. (1994 - 1996)

- Worked closely with David Epperson and Jaryl Rencher in medical malpractice defense.

Judicial Clerk, Washington State Court of Appeals. Spokane, WA. (1992 - 1994)

- Researched and drafted opinions for Chief Judge George Shields.

Judicial Extern, U.S. District Court (W.D. Wash.) Seattle, WA. (Spring 1992)

- Researched and drafted rulings and orders for federal Judge John C. Coughenour.

Summer Associate, Best, Best & Krieger. Riverside, CA. (Summer 1991)

- Drafted research memoranda for large NLJ 250 law firm in southern California.

Awards, Honors and Volunteer Activities

Utah Legal Elite, Utah Business Magazine. (2012-15, 4 years consecutive)

- Listed in the categories of Civil Litigation and Personal Injury.

Eisenberg, Gilchrist & Cutt Trial Advocacy Award, recipient. (2012)

Utah Bar Association, CLE Director, Solo & Small Firm Section. (2011 - 2012)

Utah Association for Justice, Silver Eagle Member. (2011 - Present)

- Frequent contributor to Listserv discussions, especially on personal injury topics.

NBI, Inc. (National Business Institute), Lecturer. (2011 – Present)

- Lectured on numerous personal injury and litigation topics for Utah attorneys.

IBI International, Faculty Member and Lecturer. (2002-2006)

- Lectured on securities laws to national entrepreneurial group.

Utah Hemophilia Association, Board Member. (2000 - 2002)

Boy Scouts of America, Scoutmaster (2008 – 2009), various other leadership. Eagle Scout.

Education

- **University of Washington.** JD (1992).
 - Co-Founder & Managing Editor, Pacific Rim Law & Policy Journal
 - Moot Court Honor Board (1st Place, 1st-Yr. Moot Court competition)
 - Research Assistant to Dean of Law School (Wallace D. Loh)
- **Stanford University.** FLAS Fellowship in Chinese (1990).
- **Brigham Young University.** BA, *Cum Laude* & University Honors (1989).
 - Rhodes Scholar nominee from BYU
 - Kimball Scholar (BYU's top award; 4-year full tuition scholarship)

NELSON, SNUFFER, DAHLE & POULSEN, P.C.

DENVER C. SNUFFER, JR.
J. DAVID NELSON
ROBERT D. DAHLE
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DANIEL B. GARRIOTT
STEVEN R. PAUL
JOSHUA D. EGAN

OF COUNSEL
BRET W. REICH

◊ ALSO ADMITTED IN ILLINOIS

‡ ALSO ADMITTED IN TEXAS
^ ADMITTED ONLY IN ARIZONA

August 27, 2015

Nancy Sylvester
Utah State Bar
Via Email: nancyjs@utcourts.gov

Re: Standing Committee on Model Utah Civil Jury Instructions

Dear Ms. Sylvester and Committee:

I am interested in serving on the committee. I have 35 years experience in civil litigation. I have tried numerous jury cases, the last one was in the First District in Logan. I will have a jury trial in US District Court in November of this year.

I am a member of the Bar in good standing, and have been continuously in good standing since admission in 1980. I have never had any discipline from the Bar. I have supervised attorneys who needed supervision, under the Office of Professional Conduct. I am also a first year lawyer mentor, and have been so since the program was initiated.

Attached is a brief resume. I can furnish more information if you need it. It has been my experience that brevity is preferred in matters like these, and therefore I provide only what appears to be essential.

Sincerely;

/S/

Denver C. Snuffer, Jr.

Denver C. Snuffer, Jr.
Nelson, Snuffer, Dahle & Poulsen
10885 South State Street
Sandy, UT 84070
(801) 576-1400
denversnuffer@gmail.com

Mr. Snuffer received his law degree from the J. Reuben Clark Law School at Brigham Young University in 1980. He was a Senior Editor for the *Journal of Legal Studies* while a law student, publishing an article on Types of Zones in the Summary of Utah Real Property Law. He was also the Assistant Editor of the *Clark Memorandum*. He was appointed to the Ad Hoc Organizing Committee for the US Inns of Court, serving with law school dean Rex Lee, US District Court Judge A. Sherman Christensen, Ninth Circuit Court Judge J. Clifford Wallace, US Supreme Court Chief Justice Warren Burger, classmate and former congressman Bill Orton, and classmate Michael Eldredge.

He is admitted to practice in the US Supreme Court, US Court of Appeals for the Federal Circuit, US Court of Federal Claims, Tenth Circuit Court of Appeals, US District Court for Arizona, US District Court for Utah, and the Utah Supreme Court.

Founding partner of the law firm Nelson, Snuffer, Dahle & Poulsen, Mr. Snuffer has litigated cases for thirty-five years before State, Federal, Administrative and Arbitration proceedings primarily as counsel for plaintiffs.

He served the bar as an editor for the *Utah Bar Journal* eleven years, was a member of the Continuing Legal Education Committee, chairman of an ethics panel for the Utah Ethics Committee for six years, and assisted lawyers in need for several years as part of the Lawyers Helping Lawyers program of the Utah State Bar Association. He has taught Continuing Legal Education courses on Discovery, Negotiations and Ethics. He also taught night classes on business management, law and negotiations for the University of Phoenix for five years.

Education:

Associate of Arts: Daniel Webster Junior College, Nashua, New Hampshire
Bachelors of Business Administration: McMurry University, Abilene, Texas
Juris Doctor: Brigham Young University, Provo, Utah

**Committee on Resources for
Self-Represented Parties**



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 16, 2015
Re: 1 position to fill on the Committee on Resources for Self-represented Parties

We have one vacancy to fill on the Committee on Resources for Self-represented Parties.

Appellate Clerk of Court:

Lisa Collins' (Clerk of Court for Utah Court of Appeals) first term expired on September 11, 2015 and she has asked to be appointed for a second term. The committee welcomes her participation for a second term, particularly in light of her work on increasing pro bono assistance to self-represented appellants.

On October 13, 2015, the Management Committee recommended her reappointment to the committee.

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



Uniform Fine and Bail Schedule Committee



Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

October 7, 2015

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council Management Committee

FROM: Debra Moore

RE: Uniform Fine and Bail Schedule Committee

Judge James Brady's second term on the Uniform Fine/Bail Schedule Committee will expire at the end of this year. Judge Brady serves as Chair of the Committee. Because exceptional circumstances exist, I recommend that the Council appoint Judge Brady to a third term and that he continue as chair. Judge Brady is willing to serve if the Council deems it prudent.

Exceptional circumstances for a third term exist because the Committee is currently or soon will be engaged in two special projects. First, the Pretrial Release Committee is expected to recommend to the Council that bail no longer be based on the fine. This recommendation, if adopted, will require implementation by the Fine/Bail Schedule Committee. Judge Brady is also a member of the Pretrial Release Committee and can bring his insight into the recommendations of that committee, if they are adopted, to the Fine/Bail Committee.

Secondly, the Fine/Bail Committee will likely embark upon a reorganization of the entire schedule to reduce the number of fines based on the category of the offense. This was a project initiated by Judge Brady and will require careful analysis and planning. Judge Brady has already performed a substantial amount of work on this project and his leadership will be invaluable to the committee as it moves forward.

Based on those considerations, I recommend that the Management Committee recommend that the Council appoint Judge Brady to a third term and retain him as Chair of the Fine/Bail Schedule Committee.

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

**Facilities Planning
Committee**



Chief Justice Matthew B. Durrant
Chair, Utah Judicial Council

MEMORANDUM

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

To: Judicial Council Management Committee
From: Courts Facility Planning Committee
Date: October 7, 2015
Re: Courts Facility Planning Committee Membership

The Facilities Planning Committee is requesting the reappointment of Wendell Roberts, the Sixth District TCE for a second term on the Committee to be recommended by the Management Committee to the Judicial Council for a three year term. Wendell has been a valuable member of the committee and is very interested in serving a second term.

We are requesting that the Judicial Council Management Committee consider this reappointment and to fill the TCE position on the Courts Facility Planning Committee and forward his name to the Judicial Council for consideration.

Thank you for your consideration.

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 / 801-578-3819 / Fax: 801-578-3843