

**JUDICIAL COUNCIL MEETING  
Minutes**

**September 13, 2022**

**Meeting held through Webex  
and In Person**

**Zermatt Resort  
Basel Room  
784 W. Resort Drive  
Midway, UT 84049**

**12:30 p.m. – 5:47 p.m.**

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

**Members:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Todd Shaughnessy, Vice Chair  
Hon. Keith Barnes  
Hon. Brian Brower  
Hon. Samuel Chiara  
Hon. Augustus Chin  
Hon. David Connors  
Hon. Ryan Evershed  
Hon. Paul Farr  
Hon. Elizabeth Lindsley  
Hon. David Mortensen  
Hon. Kara Pettit  
Margaret Plane, esq.  
Hon. Derek Pullan

**Excused:**

Justice Paige Petersen  
Michael Drechsel

**Guests:**

Hon. Michele Christiansen Forster, Court of Appeals  
Travis Erickson, TCE, Seventh District Court  
Hon. Dennis Fuchs, Senior Judge  
Justice Diana Hagen, Supreme Court  
Holly Langton, GOPB  
Hon. Richard Mrazik, Third District Court

**AOC Staff:**

Ron Gordon  
Neira Siaperas  
Lauren Andersen  
Brody Arishita  
Shane Bahr  
Todd Eaton  
Jordan Murray  
Bart Olsen  
Chris Palmer  
Jim Peters  
Jon Puente  
Keri Sargent  
Nick Stiles  
Karl Sweeney  
Sonia Sweeney  
Melissa Taitano  
Keisa Williams  
Jeni Wood

**Guests Cont.:**

Hon. Cristina Ortega, Second District Court  
Commissioner Bridget Romano, JPEC  
Hon. Rick Romney, Provo Justice Court  
Mark Urry, TCE, Fourth District Court  
Dr. Jennifer Yim, JPEC  
Justice Michael Zimmerman

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Justice Diana Hagen attended on behalf of Justice Paige Petersen.

**Motion:** Judge Keith Barnes moved to approve the August 19, 2022 Judicial Council meeting minutes, as presented and to approve the August 19, 2022 Annual Budget and Planning meeting minutes, as presented. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

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

Chief Justice Durrant, Ron Gordon, Neira Siaperas, and other court personnel attended the 2022 CCJ/COSCA Western Region Summit (Summit), which focused on *How to Select and Implement Remote and Hybrid Court Services and Operations*.

**3. STATE COURT ADMINISTRATOR’S REPORT: (Ron Gordon)**

Mr. Gordon introduced Sonia Sweeney as the new Juvenile Court Administrator, noting that Ms. Sweeney has quickly begun to understand the working of the juvenile courts. The Council will have a lengthy discussion following their October meeting about justice court reform.

Mr. Gordon noted that a Legislator may introduce a bill to remove indeterminate sentencing because they felt that authority to determine the length of a sentence should be held with judges, not the Board of Pardons. Mr. Gordon will start gathering feedback on this issue from judges and stakeholders. The Liaison Committee will begin discussions on this issue as well.

The current draft of the Green Phase Workgroup proposed report will include the courts using suggested factors but not include mandates or presumptions for judges. Utah was the only state at the Summit that would allow complete judicial discretion on whether to hold virtual or in person hearings. The Workgroup has taken feedback from stakeholders into consideration. Judge Paul Farr and Judge Shaughnessy thought giving full discretion to judges may be a mistake. Judge Pettit felt that judicial discretion was important because there were many variables to consider when holding hearings.

**4. COMMITTEE REPORTS:**

**Management Committee Report:**

The work of this committee is reflected in the minutes.

**Budget & Fiscal Management Committee Report:**

The work of the committee will be addressed later in this meeting.

**Liaison Committee Report:**

The committee met to discuss interim items and will start meeting more often in preparation of the upcoming session.

### **Policy, Planning, and Technology Committee Report:**

Judge Derek Pullan said the committee is finishing the Policy, Planning, and Technology rule amendment. The committee will continue their work on the funding issue of the Supreme Court.

### **Bar Commission Report:**

Margaret Plane updated the Council that the Bar's new website is available and includes an easier search system. The Bar Commission will approve a survey that will be sent to all Bar members to identify ways to better serve them. The Commission decided not to hold a 2023 Summer Convention, in part because online CLEs have been so well-received.

## **5. RACIAL AND ETHNIC DISPARITY WORKGROUP: (Jon Puente, Judge Richard Mrazik, and Judge Cristina Ortega)**

Chief Justice Durrant welcomed Jon Puente, Judge Richard Mrazik, and Judge Cristina Ortega. Mr. Puente recently held an event for minority law students. A primary objective of the Office of Fairness and Accountability (OFA) is to support the Judiciary's efforts to eliminate bias from court operations. The duties of the OFA include conducting data collection and research, through collaboration with national experts. The OFA formed the Racial and Ethnic Disparity Data Gathering Workgroup, composed of judges, representatives from the AOC, prosecutors, defense counsel, law enforcement, probation supervision, and community representatives. The workgroup will implement a data gathering and analysis project that will identify disparities that contribute to racial and ethnic biases in the justice system.

### **The workgroup's foundational principles**

- Target touchpoints in the criminal justice system that involve both judicial decisions and sufficient data variability.
- Gather a scope of data broad enough to identify possible biases of non-judicial actors and systems.
- Not hold individual districts, counties, or judges accountable for any disparity that is discovered in the past.

The OFA will provide the Judicial Council with their findings if the initial analysis finds racial and ethnic disparities in Judiciary related to pretrial release, sentencing, and/or probation violation resolutions.

Judge Mrazik explained that certain judicial decision situations, such as search warrants or decisions to bind over at preliminary hearings, rarely have data variability because the applicable legal standard is so low. Whereas, other judicial decision situations, such as pretrial release, sentencing or resolution of probation violation have tremendous data variability. The workgroup decided to focus their analysis on pretrial release, sentencing, and probation violation. Among other information, the data gathered will include custody status, pretrial risk assessment scores, initial charges, recommendations made by both prosecutors and defense counsel, presentence investigations report recommendations, and probation violation report recommendations. The workgroup may consider data collection on victim characteristics, gender identity, and age.

The workgroup is considering partnering with the “Massive Data Institute (MDI) at Georgetown’s McCourt School of Public Policy.” One key finding of a Massachusetts study identified that initial charges are one of the strongest correlations with racial disparities in sentencings.

Judge Pullan wondered if there are too few variables to get an accurate statistic. Judge Mrazik said if the comparisons become too granular, they won’t have statistically valid data.

Judge Pullan recognized that at each point they have input from different frameworks, such as at the pretrial release stage, judges have the PSA Report. He wondered if racial disparities could be found in those reports, for example, statistically a person of color may be arrested more times than a person not of color. Judge Mrazik understood Judge Pullan’s point and noted that there are disparities that may be built into these reports but they are hoping this data collection project may sift through some of this. Judge Pullan asked if they will look at the systems that make recommendations to the court, such as the PSA Reports or prosecutor or defense attorney recommendations.

Judge Ortega said the workgroup is trying to determine how they are going to gather data from recordings, since orders don’t provide all of the information they need. Judge Mrazik stated that someone will have to decide how much research and resources they want to put into this project. The workgroup is considering starting with Salt Lake County and obtaining the data that is kept from local entities, such as the Salt Lake Prosecutor’s Office.

Judge Pettit said once the courts move to the cloud-based FTR system, the data may be easier to obtain.

Judge Shaughnessy commented that the cost for the Georgetown consultants is not a huge amount but the cost for the data mining will be significant and may require the Council to make a commitment for resources. Mr. Puente will put forth three models to the Council for consideration. The first model is the Oregon model, which focuses on the future. The problem with that is that they will have to wait 3-5 years for enough data. Washington State is the second model, which asked judges to volunteer for the data gathering. The third model is the European model, which is using public records and notifying people they have a certain amount of time to correct issues. This would include education to correct biases.

Chief Justice Durrant thanked Mr. Puente, Judge Mrazik, and Judge Ortega.

## **6. JUDICIAL BRANCH EDUCATION COMMITTEE REPORT: (Justice Diana Hagen and Lauren Andersen)**

Chief Justice Durrant welcomed Justice Diana Hagen and Lauren Andersen. The Education Department continued to evolve in 2021-2022, as they introduced more tools, new people and transitioned to hybrid events.

### **Key performance metrics**

- 24,933 enrollments in live trainings and online, on-demand courses. 82% of these enrollments received credit.

- Hosted seven judicial conferences, four New Judge Orientations, two New Employee Orientations, one Employee Conference, one Justice Court Clerk Conference, one virtual Mental Health Summit and one Problem Solving Conference. Six of these events were offered in a hybrid format.
- Supported the 2022 Legislative Update and Justice Court's Law & Literature event.

The 2021 Mental Health Summit and the Annual Judicial Conference were held virtually. In 2022, the courts returned to in-person and hybrid conferences.

In addition to the Mental Health Summit and the Annual Judicial Conference, the Department supported the Commissioners Retreat, Appellate Court Conference, District Court Judges Conference, Justice Court Clerks Conference, Court Employee Conference, Legislative Update, Justice Court Judges Conference, Juvenile Court Judges Conference, Law & Literature, and Problem Solving Conference.

Justice Court Clerk Certification launched on January 1, 2022. To date, 358 of the 385 justice court clerks have registered and completed at least one Certification course. From January 1 through June 30, 2022 clerks have successfully completed a total of 2,876 courses.

The Department also collaborated with the juvenile probation department to create the Performance Education for Probation Guide. The Guide provides information about required and optional training, while mapping out learning paths based on professional development needs. Similarly, the Education Department is collaborating with Clerks of Court to create learning pathways for Judicial Assistants.

Chief Justice Durrant thanked Justice Hagen and Ms. Andersen.

**7. JUDICIAL PERFORMANCE EVALUATION COMMISSION REPORT: (Dr. Jennifer Yim and Commissioner Bridget Romano)**

Chief Justice Durrant welcomed Dr. Jennifer Yim and Commissioner Bridget Romano, Vice Chair of JPEC. Commissioner Romano stated that JPEC’s website has been accessed more frequently than in the past. Dr. Yim presented JPEC’s Self-Represented Litigant Pilot Proposal, noting the purpose of a pilot is to analyze the value of the data generated and the process of data collection. JPEC pilot projects do not generate data that are used in the evaluation of judges.

**Project Impetus**

In 2021, a justice court judge wrote to JPEC with concerns about the fairness of their evaluation. Since only 5% of the cases before the judge had legal counsel, aside from the public defender, the judge argued JPEC should not give special emphasis to the lawyer surveys if it did not also survey the litigants who were self-represented.

<b>Both Parties Self-Represented</b>			
<b>District Court</b>		<b>Justice Court</b>	
Case type	Total cases	Case type	Total cases
Divorce/Annulment	5,990	Small Claims	11,615
Protective Orders	2,423	Small Claims – Gov’t	162

Civil Stalking	796	Misdemeanor	5
Eviction	398	Infraction	2
Custody and Support	343	Traffic and Contempt	1 each
<b>Total</b>	<b>9,950</b>	<b>Total</b>	<b>11,785</b>

<b>One Party Self-Represented</b>			
<b>District Court</b>		<b>Justice Court</b>	
Case type	Total cases	Case type	Total cases
Debt Collection	49,994	Traffic Court	66,270
Divorce/Annulment	4,572	Misdemeanor	20,948
Eviction	3,218	Infraction	3,971
Traffic Court	3,177	DUI	1,687
Involuntary Commitment	1,688	Small Claims	1,014
<b>Total</b>	<b>60,961</b>	<b>Total</b>	<b>92,876</b>

**Background: “Lawyer-less Courts”**

“[The Landscape of Civil Litigation in State Courts](#)” by Paula Hannaford-Agor, NCSC (2015)

- 76% of state court cases in the study’s dataset had at least 1 self-represented party.
- Only tort cases had a majority of cases (64%) with both parties represented by an attorney.
- “The vast majority of civil cases that remain in state courts are debt collection, landlord/tenant, foreclosure, and small claims cases... The majority of defendants in these cases, however, are self-represented.”

“[Judges in Lawyer-less Courts](#)” by Anna Carpenter, Colleen Shanahan, Jessica Steinberg, Alyx Mark (2022)

- Definition: “Lawyer-less” courts are those where more than three-quarters of cases involve at least one unrepresented party.”
- A judge who engages in a substantive way with pro se litigants promotes better transparency, improves perceptions of procedural justice, and better develops the factual record.

**Survey Access**

- Self-represented litigants must be surveyed “within 30 days of the day on which the case in which the person appears in the judge’s court is closed, exclusive of any appeal.” Utah Code § 78A-12-204(6) Judicial Performance Survey.
- JPEC Website
- Utah courts Self-Help web pages, in the after-judgment sections of the following:
  - Divorce
  - Parentage
  - Motion to Enforce
  - Petition for Essential Treatment and Intervention
  - Debt Collection
  - Small Claims

- Emails to self-represented litigants with MyCase accounts.

#### **For Discussion**

- Survey content
- Other ideas for evaluating “lawyer-less courts”
  - Surveys of others with expertise in the proper functioning of the courts?
  - “Expert” courtroom observation?

Judge Shaughnessy thought surveying litigants would present a number of challenges and felt courtroom observers may provide more useful information. Dr. Yim wasn’t sure if courtroom observers would be trained to identify the right information when sitting in certain calendar hearings. Judge Shaughnessy thought the existing courtroom observers were well-trained and could probably handle these but felt JPEC should have them observe a certain number of calendars. Judge Pullan thought one distinction of importance was whether the observations included cases where one or both litigants were self-represented. He believed that self-represented parties are often going to feel like they were treated unfairly. Judge Brian Brower regularly explains procedures to self-represented litigants and was concerned about the survey because many litigants don’t understand the process so they leave feeling like they were not heard.

Commissioner Romano explained that the analysis is the first step, training the second step, and implementation after those steps. Judge Pettit thought the survey should identify the type of case and the type of calendar. Judge Elizabeth Lindsley recommended minor changes to the survey to allow for judicial improvement.

Chief Justice Durrant thanked Dr. Yim and Commissioner Romano.

#### **8. OFFICE OF INNOVATION UPDATE: (Nick Stiles and Margaret Plane)**

Chief Justice Durrant welcomed Nick Stiles and Margaret Plane. Mr. Stiles briefly stated that the Office of Innovation (Office) has not heard back yet on the Stand Together grant. As of July, the Office has received 79 applications, 46 of which have been forwarded to the Supreme Court for consideration. To date this year, there have been 25,000 legal services provided. Ms. Plane said the Bar Commission continues to work identifying whether they can house the Office. They are aiming to make a recommendation by the December 16 Commission meeting. The Bar Commission will work with Mr. Stiles on gathering information they still need.

Chief Justice Durrant thanked Mr. Stiles and Ms. Plane.

#### **9. BOARD OF APPELLATE COURT JUDGES REPORT: (Judge Michele Christiansen Forster and Nick Stiles)**

Chief Justice Durrant welcomed Judge Michele Christiansen Forster and Nick Stiles. Judge Christiansen Forster mentioned that they continue to review recommendations for the appellate roster of indigent representation. John Nielsen is the new Chair of the Standing Committee on Appellate Representation. They are working on amendments to address how sealed records are handled at the appellate level.

The Supreme Court is back to in-person/hybrid hearings while the Court of Appeals is still fully remote at least through September. Both courts are having their courtrooms fitted with Webex, which will allow for hybrid hearings.

They are using senior judge coverage until the two vacant Court of Appeals judicial positions are filled. They will meet with Mr. Puente for discussions of the Office of Fairness of Accountability’s work.

Chief Justice Durrant thanked Judge Christiansen Forster and Mr. Stiles.

**10. PROBLEM-SOLVING COURTS RECERTIFICATIONS: (Judge Dennis Fuchs)**

Chief Justice Durrant welcomed Judge Dennis Fuchs. Judge Fuchs reviewed the problem-solving courts that were presented for recertification.

**Courts that meet all Required and Presumed Best Practices**

Adult Drug Court	Salt Lake County	Judge Blanch
Adult Drug Court	Salt Lake County	Judge Hogan
Adult Drug Court	Salt Lake County	Judge Gibson
Veteran’s Court	Salt Lake County	Judge Mow

**Courts that do not meet all Required and Presumed Best Practices**

Adult Drug Court	Salt Lake County	Judge Skanchy
Juvenile Family Dependency Court	Salt Lake County	Judge Renteria
Juvenile Family Dependency Court	Salt Lake County	Judge Eisenman
Juvenile Family Dependency Court	Salt Lake County	Judge Jan
Juvenile Family Dependency Court	Salt Lake County	Judge Johnson
Juvenile Family Dependency Court	Salt Lake County	Judge Beck

Judge Skanchy’s Adult Drug Court does not meet all Presumed Best Practices due to some drug tests not being returned within 48 hours. Judge Connors said drug testing has become a high profile issue and wondered what avenues the court has to respond. Judge Fuchs thought the courts can notify the drug testing company that the courts may not renew their contract if they can’t get timely testing done. Judge Pullan said if the testing company can’t meet the requirement, the Council can decertify this court and thought holding these discussions with the company may be beneficial.

All of the Juvenile Family Dependency Courts that do not meet the Presumed Best Practices are due to the minimum participant requirement. Judge Fuchs noted participant numbers are increasing as they slowly move back to in-person hearings.

Judge Fuchs met the new Treatment Court Coordinator and looks forward to her arrival. Shane Bahr thought the new Coordinator can assist with these situations.

Chief Justice Durrant thanked Judge Fuchs.



**Motion:** Judge Shaughnessy moved to approve recertifying all of the problem-solving courts, including the six courts that do not meet all Required and Presumed Best Practices, as amended to require someone to hold a discussion with the drug testing company about the courts' expectations. Judge Connors seconded the motion, and it passed unanimously.

Judge Fuchs offered to hold those discussions.

**11. JUSTICE COURT REFORM: (Jim Peters and Ron Gordon)**

Chief Justice Durrant welcomed Jim Peters and Ron Gordon. The Justice Court Reform Workgroup has been conducting a number of focus groups to identify any questions or concerns, facilitated by the National Center for State Courts (NCSC). A focus group consisting of city and county officials will be held later this week. The NCSC will then create a survey that will be sent to stakeholders for further feedback on justice court reform. Mr. Peters would like to gather information from the appellate courts as well. The fiscal note is still being compiled, including personnel costs of about 260 additional clerks, staff, and IT staff. Some funds could be redirected from justice courts to the new division courts. The fiscal note may reach \$50 – \$70 million. Judge Farr said they may propose a name change from “division court” after receiving feedback.

Chief Justice Durrant thanked Mr. Peters and Mr. Gordon.

**12. BOARD OF JUSTICE COURT JUDGES REPORT: (Judge Rick Romney and Jim Peters)**

Chief Justice Durrant welcomed Judge Rick Romney and Jim Peters. There are 73 judges who serve 109 justice courts. There are a number of judges who will not seek retention. Of the 73 judges, 57 are male and 16 are female. The Board continues to work on:

- providing subject-matter expertise for justice court reform,
- recommending improvements to the judicial selection process for justice courts,
- studying payment options for justice court patrons and making recommendations for improvements, and
- developing a workload study for justice court clerks.

The Board will select more goals in the coming year. In the meantime, Judge Romney mentioned that over 300 staff have completed nearly 3,000 courses for justice court certification since its initiation in January, 2022. The Board has also revised their justice courts operating standards.

Chief Justice Durrant thanked Judge Romney and Mr. Peters.

**13. MENTAL HEALTH INITIATIVE UPDATE: (Judge Kara Pettit and Chris Palmer)**

Chief Justice Durrant welcomed Judge Kara Pettit and Chris Palmer. Mr. Palmer updated the Council that they have established stakeholder groups in each of the districts, including treatment providers and law enforcement. The local conversations include discussions on mobile mental health teams. Two teams have traveled to Florida and Arizona to learn about their mental health models. Law enforcement officers have expressed the need for courts to invest in diverting people pre-adjudication for mental health assessments.

The courts met with the Kem C. Gardner Policy Institute, who recently completed a needs assessment with the courts, where several judges participated. The information the Institute gathered will be presented to the Legislature for resources. Mr. Palmer explained that the courts have very little to do with people until they have charges filed or appear before a judge. He explained that the Legislature gives the courts latitude for diversion courts at the point of charging documents.

Judge Pettit didn't want the courts to cross a line with other agencies in taking a lead on seeking legislative resources, and instead, should remain as facilitators. She stated that the purpose of the courts involvement in the mental health initiative was to try to get statewide resources in place to help those with mental health issues that enter the judicial system but may be better served getting treatment, such as through a diversion program like the mobile crisis centers. Mr. Palmer said when a judge is involved with mental health initiatives, stakeholders receive a powerful message that the courts are interested in diverting those in need pre-adjudication.

Judge Connors told the Council that Mr. Palmer presented on court security at the American Bar Association national conference.

Chief Justice Durrant thanked Judge Pettit and Mr. Palmer.

**14. BUDGET AND GRANTS: (Karl Sweeney, Melissa Taitano, Todd Eaton, Brody Arishita, and Jordan Murray)**

Chief Justice Durrant welcomed Karl Sweeney, Melissa Taitano, Todd Eaton, Brody Arishita, and Jordan Murray.

**Reserve Funding**  
\$500,076 one-time

This is a request to move unused carryforward funding to Reserves. These funds could then be allocated by the Council through the year end spending process for one time FY 2023 projects.

**Motion:** Judge Lindsley moved to approve the Reserve Funding one-time funding request of \$500,076, as presented. Judge Chin seconded the motion, and it passed unanimously.

**FY 2023 Ongoing Turnover Savings**

#	Funding Type	Actual	Forecasted	
		Amount YTD	Amount @ YE	
1	Carried over Ongoing Savings (from FY 2022, includes unallocated ongoing appropriation)	Internal Savings	250,392	250,392
2	Ongoing Turnover Savings FY 2023	Internal Savings	30,365	530,365
3	TOTAL SAVINGS		280,756	780,756
	2023 Hot Spot Raises		(48,889)	(200,000)
	2023 Authorized Ongoing for Performance Based Raises (will be used at the end of the FY)		-	(450,000)
4	TOTAL USES before YE Requests		(48,889)	(650,000)
Actual Turnover Savings for FY 2023 as of 08/22/2022 Before Judicial Council YE Requests			\$ 231,868	\$ 130,756

## FY 2023 One Time Turnover Savings

#		Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 08/05/2022)	Internal Savings	392,881.18
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 08/05/2022)	Reimbursements	100,213.85
3	Est. One Time Savings for 1,880 remaining pay hours (\$1,750 / pay hour)	Internal Savings (Est.)	3,290,000.00
<b>Total Potential One Time Savings</b>			<b>\$ 3,783,095.03</b>

## Funding for Performance Raises

\$450,000 ongoing

This request is for ongoing turnover savings that will be used to fund performance raises for non-judicial court personnel for FY 2023. This amount is consistent with the performance raises approved by the Council for FY 2022. Judge Pullan asked if the Council should identify current retention rates prior to allocating these funds. Mr. Gordon explained that preliminary data has shown positive results in both recruitment and retention efforts. Judge Pettit informed the Council that the Budget and Fiscal Management Committee accounted for these factors and confirmed that authorizing these funds does not necessarily mean spending them. Any funds leftover can be reallocated.

**Motion:** Judge Connors moved to approve the Funding for Performance Raises ongoing funding request of \$450,000 as presented. Judge Farr seconded the motion, and it passed with Judge Pullan opposed.

## FY 2023 Year End Forecasted Available One-time Funds

Forecasted Available One-time Funds			
	Description	Funding Type	Amount
<b>Sources of YE 2023 Funds</b>			
*	Turnover Savings as of pay period ending 08/05/22 (including anticipated ARPA reimbursement)	Turnover Savings	493,095
**	Turnover savings Estimate for the rest of the year (\$1,750 x 1,880 pay hours)	Turnover Savings	3,290,000
(a)	<b>Total Potential One Time Turnover Savings</b>		<b>3,783,095</b>
(b)	<i>Operational Savings From TCE / AOC Budgets</i>	<i>Internal Operating Savings</i>	-
(c)	<i>Reserve Balance (balance from FY 2022 Carryforward) if request approved</i>	<i>Judicial Council Reserve</i>	500,076
	<i>Anticipated Reserve Uses - including previously approved and pending requests</i>	<i>Judicial Council Reserve Uses</i>	(152,000)
<b>Uses of YE 2023 Funds</b>			
	<i>Carryforward into FY 2024 (Maximum is \$2,500,000)</i>	<i>Desired Carryforward</i>	(2,500,000)
<b>Total Potential One Time Savings = (a) + (b) + (c) less Carryforward</b>			<b>\$ 1,631,171</b>
<b>Less: Judicial Council Requests Previously Approved</b>			<b>\$ -</b>
<b>Less: Judicial Council Current Month Spending Requests</b>			<b>\$ (851,000)</b>
<b>Remaining Forecasted Funds Available for FY 2023 YE Spending Requests</b>			<b>\$ 780,171</b>

## FY 2023 Quarter 1/Quarter 2 Performance Bonus Payments

\$450,000 one-time funds

The conversion of the court's incentive plans to a court-wide incentive plan (as approved by the Council in May 2021) includes a performance based bonus plan. Under this plan all non-judicial court employees have the opportunity to receive a performance bonus using one-time

turnover savings. Judge Pullan asked how much of performance bonuses were paid to clerical staff who had just received a significant increase from the Legislature last year. Mr. Gordon said the AOC has not tracked these, instead, the TCEs were given latitude to distribute them.

Judge Pullan felt it may be premature to determine the retention rate. He said the Council talked about providing funding for the Supreme Court, which would come from this pool of money and the Council needed to be prepared to financially support the Office of Fairness’ project. Mr. Sweeney said as the Legislature provides money for IT uses, there is a declining need for money in IT, therefore, he believes he can balance the decline with other money in the courts. Judge Pettit reminded the Council that they deferred \$200,000 for the Office of Innovation, that can be used. Ms. Plane wanted to be cautious about taking money from personnel to fund projects.

**Motion:** Judge Farr moved to approve the FY 2023 Quarter 1/Quarter 2 Performance Bonus Payments one-time funding request of \$450,000, as presented. Judge Chin seconded the motion, and it passed with Judge Pullan opposed.

**FY 2023 Year End Forecasted Available One-Time Funds**

Forecasted Available One-time Funds			
	Description	Funding Type	Amount
<b>Sources of YE 2022 Funds</b>			
*	Turnover Savings as of pay period ending 08/05/22 (including anticipated ARPA reimbursement)	Turnover Savings	493,095
**	Turnover savings Estimate for the rest of the year (\$1,750 x 1,880 pay hours)	Turnover Savings	3,290,000
(a)	<b>Total Potential One Time Turnover Savings</b>		3,783,095
(b)	<b>Operational Savings From TCE / AOC Budgets</b>	Internal Operating Savings	-
(c)	<b>Reserve Balance (balance from FY 2022 Carryforward)</b>	Judicial Council Reserve	500,076
<b>Uses of YE 2023 Funds</b>			
	<b>Carryforward into FY 2023 (Maximum is \$2,500,000)</b>	Desired Carryforward	(2,500,000)
<b>Total Potential One Time Savings = (a) + (b) + (c) less Carryforward</b>			<b>\$ 1,783,171</b>

**St. George Courtroom A/V Upgrades**

\$141,000 one-time

A purchase order was created in August of 2021 to upgrade the audio systems in all of the St. George courtrooms. Due to supply chain and technology parts shortages, only partial hardware was delivered during FY 2022. When a majority of the hardware had arrived, special arrangements were made through the Legal and Finance Departments to allow IT to partially pay about \$195,000 of this purchase order. The remaining \$141,000 was left open through completion of the project. This request is for that remaining balance to be carried forward for FY 2023.

**Motion:** Judge Mortensen moved to approve the St. George Courtroom A/V Upgrades one-time funding request of \$141,000, as presented. Judge Connors seconded the motion, and it passed unanimously.

**Adobe e-Signature (Adobe Sign) Implementation**

\$260,000 one-time

Adobe Sign brings the ability to efficiently sign e-filed documents across all of the different case types and document types and the various persons who need to sign or otherwise access electronic documents including judges, commissioners, court clerical, attorneys, and the public – which includes pro se filers. Judge Pettit asked Mr. Arishita what the courts are gaining from Adobe Sign when they already have the fill and sign ability. He explained that in a true Adobe signature document, no changes can be made, therefore, making it a more secure court document. This would alleviate the need for judicial assistants to have to affix a seal.

**Motion:** Judge Lindsley moved to approve the Adobe E-Signature (Adobe Sign) Implementation one-time funding request of \$260,000, as presented. Ms. Plane seconded the motion, and it passed unanimously.

Mr. Murray updated the Council on grants in the courts.

**Active Grants.** The AOC presently holds 12 active grants comprised of 6 federally-awarded grants and 6 non-federally awarded grants.

**Closed Grants.** Three grants concluded as scheduled at the close of FY 2022. Closed grants include those awarded by The Pew Charitable Trusts supporting the assessment and implementation of various usability and accessibility enhancements to the Online Dispute Resolution platform, a State Justice Institute grant supporting the pilot of the Office of Legal Services Innovation, and a State Asset Forfeiture Grant awarded by the Commission on Criminal and Juvenile Justice in support of the May 2022 Problem Solving Court Conference.

**Grant Distribution.** Among the 12 active grants in the portfolio of the courts, 4 are administered by the juvenile court, 1 by the IT Department, 2 by the Domestic Violence Program, 3 by the Innovation Office, 1 by the ADR Department, and 1 by the Office of Guardian ad Litem.

**Grants Under Consideration.** The Stand Together Foundation grant requesting \$975,000 in support of the Innovation Office.

Judge Pullan asked if Mr. Murray felt confident that the grants are being managed appropriately. Mr. Murray believed grant management rules are being followed. He has been reinforcing the guardrails that were put in place.

Chief Justice Durrant thanked Mr. Sweeney, Ms. Taitano, Mr. Eaton, Mr. Arishita, and Mr. Murray.

**15. ADMINISTRATIVE FEE FOR DEFERRED TRAFFIC PROSECUTION: (Keisa Williams)**

Chief Justice Durrant welcomed Keisa Williams. HB 139 Traffic Violation Amendments, deferred traffic prosecution, goes into effect on October 1, 2022. Related rule amendments and

orders were approved by the Council at its August 19, 2022 meeting. Ms. Williams requested the Council now approve an administrative fee. The code contemplates an administrative fee to be paid by participants to cover costs associated with the development and implementation of the automated system. Utah Code § 77-2-4.2 Compromise of Traffic Charges – Limitations, section (5)(h)(i) states the “Judicial Council shall set and periodically adjust the fee...in an amount that the Judicial Council determines to be necessary to cover the cost to implement, operate, and maintain the deferred prosecution program...” The use of automated orders will help keep the administrative fee lower and more cost effective for court patrons.

The AOC estimates that a \$5.00 fee is necessary to cover initial implementation and operation costs. Staff will provide periodic reports and recommendations to the Council on any necessary adjustments to that amount.

Chief Justice Durrant thanked Ms. Williams.

**Motion:** Judge Pettit moved to approve a \$5.00 administrative fee, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

**16. RULES FOR FINAL APPROVAL: (Keisa Williams)**

Chief Justice Durrant welcomed Keisa Williams. The Policy, Planning, and Technology Committee recommended that the following rules be approved as final.

**Rule 4-206 Exhibits.** For clarification purposes, “biological evidence” has been added to the non-exhaustive list of exhibits.

**Rule 9-107. Justice court technology, security, and training account.** Following the creation of the Budget and Fiscal Management Committee, the approval process for allocations from the Justice Court Technology, Security and Training Account was modified.

**Rule 3-412. Procurement of goods and service.** The small purchase limits have been increased to \$5,000 per item and up to \$10,000 for an entire purchase.

Chief Justice Durrant thanked Ms. Williams.

**Motion:** Judge Farr moved to approve UCJA Rules 4-206 and 9-107, as presented, with an effective date of November 1, 2022 and Rule 3-412, as presented, with an effective date of September 13, 2022, followed by a 45-day comment period. Judge Chin seconded the motion, and it passed unanimously.

**17. OLD BUSINESS/NEW BUSINESS**

No additional business was discussed.

**18. RECOGNITION OF OUTGOING JUDICIAL COUNCIL MEMBER - JUDGE TODD SHAUGHNESSY AND JUDGE DEREK PULLAN: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant thanked Judge Shaughnessy and Judge Pullan for their dedication to the Council and the courts. He felt the judges have done so much for the Judiciary and are superb judges, noting that they are judicial leaders.

**19. SENIOR JUDGE RECERTIFICATIONS: (Neira Siaperas)**

Neira Siaperas requested the Council go into an executive session to address senior judge recertifications. Judge W. Brent West withdrew his application for Active Senior Judge recertification and instead applied for Inactive Senior Judge certification. Judge Robert Dale withdrew his application, therefore, his term as an Active Senior Judge will expire on December 31, 2022.

**20. EXECUTIVE SESSION**

**Motion:** Judge Shaughnessy moved to go into an executive session for the purpose of discussing the character, competence, or physical or mental health of an individual and litigation. Judge Chin seconded the motion, and it passed unanimously.

After the executive session, the following motions were made.

**Motion:** Judge Pullan moved that the Council recommend to the Supreme Court that Judge Kent Bachman be found qualified for reappointment as an Active Senior Judge, subject to the requirement that he initiate contact with the AOC through an active court email account. Judge Barnes seconded the motion, and it passed unanimously.

**Motion:** Judge Connors moved that the Council recommend to the Supreme Court that Judge Lynn Davis be certified for reappointment as an Active Senior Judge, conditioned upon following through on a performance plan, developed in conjunction with the Fourth District Court presiding judge addressing training in Judicial Workspace and other technological tools that reduce the burden on court staff. Judge Pettit clarified that the language states “meets qualifications and recommends appointment.” Judge Pullan clarified that the performance plan may include other matters that concern the presiding judge. Judge Chin seconded the motion, and it passed unanimously.

**Motion:** Judge Pettit moved that the Council recommend to the Supreme Court that Judge W. Brent West be certified for appointment as an Inactive Senior Judge and that Judge Gordon Low be recertified as an Active Senior Judge and to notify the Supreme Court that the Council determined that Judge Ben Hadfield does not meet qualifications as an Active Senior Judge and the Judicial Council does not recommend reappointment. Judge Chin seconded the motion, and it passed unanimously.

**Motion:** Chief Justice Durrant moved to approve the funding discussed in the executive session for litigation. Judge Brian Brower seconded the motion, and it passed unanimously.

**21. CONSENT CALENDAR ITEMS**

- a) Forms Committee Forms. Memo concerning Health Care Coverage Provisions in OCAP, Summons for Publication, Motion for Temporary Order, Order on Motion for Temporary Order, Temporary Separation Provisions in OCAP, Motion to Waive Fees, and Objection

to Petition to Expunge Civil Protective Order or Civil Stalking Injunction. Approved without comment.

- b) Rules for Public Comment. UCJA Rules 4-202.04 Request to Access a Record Associated with a Case; Request to Classify a Record Associated with a Case; 4-202.08 Fees for Records, Information, and Services; 1-204 Executive Committees, 1-201 Membership – Election; and 1-302 Membership – Officers – Secretariat. Approved without comment.

**22. ADJOURN**

The meeting adjourned.