



## Utah Supreme Court's Task Force on Regulatory Reform

January 8, 2020

3:00–4:30 p.m.

Scott M. Matheson Courthouse  
Judicial Council Room, Suite N31  
450 South State Street  
Salt Lake City, UT 84111

### ATTENDANCE

Name	Position	Present	By Phone	Excused
John Lund	Co-Chair	√		
Justice Deno Himonas	Co-Chair	√		
Justice Christine Durham (Ret.)	Member	√		
Thomas Clarke	Member		√	
Rebecca Sandefur	Member		√	
Heather Farnsworth	Member			√
Dean Gordon Smith	Member			√
Lucy Ricca	Member		√	
Gillian Hadfield	Member		√	
Margaret Hagan	Member		√	
Steven G. Johnson	Member			√
Larissa Lee	Member	√		
Marina Kelaidis	Staff, Recording Secretary	√		
Tyler Hubbard	Staff, Law Clerk	√		

# **Utah Supreme Court's Task Force on Regulatory Reform**

## **Meeting Minutes DRAFT**

January 8, 2020

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Judicial Council Room, Suite N31 450  
S. State Street  
Salt Lake City, Utah 84111  
3:00 p.m.–4:30 p.m.

### **Attendees:**

Justice Deno Himonas, Co-Chair  
John Lund, Co-Chair  
Justice Christine Durham (Ret.)  
Lucy Ricca  
Gillian Hadfield  
Rebecca Sandefur  
Thomas Clarke  
Margaret Hagan  
Larissa Lee

### **Excused:**

Heather Farnsworth  
Steven Johnson  
Dean Gordon Smith

### **Staff:**

Marina Kelaidis, Recording Secretary, Staff  
Tyler Hubbard, Staff

### **Guests:**

Mike Harmond, Law Clerk, Supreme Court  
Jason Velez, 1LAW

## **1. Welcome and approval of December 18, 2019 minutes: (John Lund)**

John Lund welcomed everyone to the meeting and asked for approval of the minutes.

*Justice Himonas moved to approve the December 18, 2019 minutes. Justice Durham seconded the motion, and it passed unanimously.*

## **2. Discussion – Update on applicants/interest: (Larissa Lee)**

Larissa Lee reported that she has received a fair amount of interest from the Connect tab of the sandbox website since the website became live. She has received about 25 requests from individuals to receive updates and 10 parties have expressed interest in participating in the sandbox.

John Lund asked the committee about increasing marketing efforts for the sandbox and/or the website. Justice Durham proposed to continue to measure the amount of interest received from the website. If there is a noticeable decrease in interest received, she suggested increasing the marketing efforts at that time. Gillian Hadfield proposed for the committee to wait to increase active outreach efforts until after the sandbox itself has been launched. Considering the suggestions made, John Lund proposed for the committee to continue including a short reminder about the website at each of their upcoming speaking engagements/presentations and to encourage interested individuals to connect with the task force via the Connect tab as we approach the launch of the sandbox.

Justice Himonas reported that those who sign up for updates, express interest or submit general feedback and/or questions via the Connect tab of the website, now receive an automated response email as an acknowledgement that their connection has been received.

Justice Himonas, along with Lucy Ricca, proposed including some sort of reference to the Institute for Advancement of the American Legal System (IAALS) and the National Center for State Courts (NCSC) on the website for access to additional information on regulatory reform as well as a statement of gratitude to these organizations for their support of the Task Force. John Lund agreed that it is a good idea to acknowledge the support of these organizations. Larissa Lee and Lucy Ricca will construct the wording of this acknowledgement and placement on the website to be presented at the next meeting for approval.

Larissa Lee reported that since the last meeting, both approved documents, [Data Collection Requirements for Sandbox Participants](#) and [Scope of the Sandbox Project](#), have been added to the Home page of the website. In addition, a link has been included in the About tab for more information on Task Force meetings. This link provides access to the Task Force's meeting page on the court's website which includes the committee's 2020 meeting schedule, a list of members, a link to the Narrowing the Access-to-Justice Gap by Reimagining Regulation report, past meeting materials, and approved minutes.

Ms. Lee reported that she has drafted a memo to be sent out by the Chief Justice to all judicial members and staff with information on the website. Justice Himonas reported that the Chief Justice will be sending an email with information on the website to all judicial members and staff and will also discuss regulatory reform in his upcoming State of the Judiciary Address on January 27, 2020 at the Utah State Capitol. John Lund reported that he did connect with the Bar's Communications Director, Matthew Page, following the last committee meeting, but does not believe that an email has been sent out yet to members of the Bar. Ms. Lee suggested that the email push from the Bar should include language reiterating that the website can be

used for updates, submitting questions and feedback, as well as expressing interest. Lucy Ricca suggested for the date and scope of the first data workshop to also be included in the email to the members of the Bar. Mr. Lund will follow up with Mr. Page and ask that this reminder and the workshop information be included in the email push.

3. **Timeline for the implementation team:** (Justice Himonas, Tom Clarke, Lucy Ricca)

Justice Himonas reported that he and Mr. Lund met with the Chair of the Supreme Court's Advisory Committee on the Rules of Professional Conduct and the Chair of the subcommittee who will be redrafting Rule 5.4. The subcommittee will be meeting on Monday, January 13, 2020, to finalize their proposed changes to Rule 5.4. However, they will draft an alternative to Rule 5.4 that will address outside ownership. For example, the alternative Rule 5.4 will include language detailing the requirement for compliance with a new Supreme Court Standing Order (No. 15) for participation in the sandbox. Mr. Lund also included that the alternative Rule 5.4 will have a notation at the beginning of the document stating that the Rule is subject to approval in accordance with Standing Order No. 15. The new Standing Order will outline the scope of the activities of the implementation task force. Justice Himonas offered that once the changes to the Rule are adopted, they will allow for the regulator to perform a full evaluation and allow for sandbox participants to provide legal services under Rule 14-802 without risk of conflict with the prohibition against the unauthorized practice of law. Justice Himonas anticipates that the Rules of Professional Conduct Committee will vote on these rule changes at their next meeting in early February. The proposed changes would then likely go before the Supreme Court at their next conference on February 19, 2020, and then go out for public comment.

Justice Himonas reported that the Bar Commission submitted a request to the Supreme Court for a six month comment period for any rule changes that go out for public comment, which the Court has not yet reviewed. Justice Himonas offered that an elongated comment period may be necessary due to the importance of these rule changes to the Bar. Gillian Hadfield suggested that a prolonged comment period may potentially be a barrier to the continued momentum that the Task Force has created thus far. John Lund offered that the rulemaking piece of this reform process is critical to the overall success and viability of the Task Force. With this in mind, Mr. Lund asked the committee for ideas on how to continue the work of the Task Force while awaiting the various approval processes of each rule change, so that when the rules become effective, the Task Force is ready to act without further delay. Justice Himonas suggested that the Task Force can begin the preliminary work of overseeing sandbox applicants, with the understanding that the applications cannot be approved until after the rules are approved.

Lucy Ricca suggested that it would be in the Task Force's interest to address Standing Order 15 at the next few committee meetings so that it is ready to go out for public comment as a package along with the other changes to Rule 5.4. The committee created a subcommittee to initially draft proposed language for the Standing Order.

**4. Discussion – Communications update:** (Justice Himonas, John Lund, Lucy Ricca)

Lucy Ricca reported that she, Mr. Lund, and Justice Himonas have discussed that the Task Force needs a concerted communications education strategy. With this goal in mind, the Task Force has received the pro-bono assistance of Walter Montgomery, a strategic communications expert. Mr. Montgomery has provided a list of communication strategy recommendations for targeting specific groups in Utah, what materials will be needed, and detailing distribution efforts. They plan to move forward with Walter's recommendations while working alongside the court's Communications Director, Geoff Fattah. Justice Himonas recommended for the committee to review the communications strategy recommendations at a future meeting when Mr. Fattah can attend. John Lund expressed that the committee should address the communications strategy in a couple months' time when the Task Force will have more communications material to include and disseminate.

Justice Himonas asked Lucy Ricca if she could send the committee her report on The Corporate Legal Services Market in California. Justice Himonas offered that this report is a good example of legal regulatory reforms happening outside of Utah as well as how the definition of the practice of law is changing. Gillian Hadfield asked the committee if the Task Force should include a link this report, which is featured on the IAALS website. Justice Durham agreed that this report, as well as any other salient and informative reports should be linked on the Task Force's website for increased access to outside research. John Lund asked for the committee to clarify if they are interested in building their own knowledge base on the Task Force's website, or just a link to the IAALS knowledge base. Justice Himonas suggested only including only a small number of curated publications on the website with language directing viewers to IAALS and the Stanford Center on the Legal Profession websites for additional research publications on legal regulatory reform. Lucy Ricca echoed Justice Himonas' suggestion and added that Walter Montgomery can assist the committee in determining which publications to include on the website.

**5. Discussion – Grant application update:** (Larissa Lee)

Mike Harmond, law clerk for Chief Justice Durrant, will be assisting with writing the

grant proposal and grant application for the State Justice Institute. Justice Himonas suggested for Mr. Harmond to connect with Thomas Clarke and Lucy Ricca to work on the specific aspects of the grant application to include budget specifics, project management, etc. Mr. Harmond and Ms. Lee will present the grant proposal application at the next committee meeting.

**6. Other business – (All members)**

John Lund reminded the committee members to continue to send Ms. Lee their upcoming speaking engagements to be added to the Events tab of the website.

Larissa Lee reported that she has sent an email to all of the interested groups and individuals from the Task Force's website, which included the two recently approved documents and a link to the committee meeting page on the court's website. John Lund asked the committee to discuss how often or what materials should be sent out to those that have signed up for updates. Ms. Lee suggested to send an email update once the Events tab has been completed and proposed some sort of monthly update to send out each month.

Jason Velez suggested for the committee to consider imposing a technological standards requirement for sandbox participants. Mr. Clark agreed that this idea would be very beneficial for the Task Force to consider. Mr. Clark will present a technical standards document for sandbox participants document at the next meeting.

**7. Adjournment and next meeting:**

The meeting adjourned at 4:00 p.m. The next meeting will be held on January 22, 2020 from 3:00 – 4:30 p.m. in the Judicial Council Room at Matheson Courthouse.