

## UTAH SUPREME COURT'S TASK FORCE ON REGULATORY REFORM

### Agenda

Location: Judicial Council Room  
Scott M. Matheson Courthouse, 450 S. State St., Salt Lake City, UT 84111

Date: February 5, 2020

Time: 3:00 to 4:30 p.m.

<b>Action:</b> Welcome, introduce new members, and approve January 22, 2020 minutes	Tab 1	John Lund, Co-Chair
<b>Discussion:</b> Update on applicants/interest		Larissa Lee
<b>Discussion &amp; Action:</b> Notice and Application Form drafts	Tab 2	Lucy Ricca, Tom Clarke, Becky Sandefur
<b>Discussion:</b> Update on rules, standing order, legislative efforts, and AZ poll results	Tab 3	Justice Deno Himonas, Lucy Ricca
<b>Discussion:</b> Update on the data workshop and other outreach efforts		Lucy Ricca, John Lund
<b>Discussion:</b> Update on grant proposal	Tab 4	Larissa Lee, Mike Harmond

[Sandbox website](#)

[Committee website](#)

#### Meeting Schedule:

February 19, 2020  
March 4, 2020  
March 18, 2020  
April 1, 2020  
April 15, 2020  
April 29, 2020  
May 13, 2020

May 27, 2020  
June 10, 2020  
June 24, 2020  
July 8, 2020  
July 22, 2020  
August 5, 2020  
August 19, 2020

September 2, 2020  
September 16, 2020  
September 30, 2020  
October 14, 2020  
November 25, 2020  
December 9, 2020  
December 23, 2020

Tab 1

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

## **Meeting Minutes DRAFT**

January 22, 2020

Scott M. Matheson Courthouse

Café Meeting Room, W18A

450 S. State Street

Salt Lake City, UT 84111

3:00 p.m. – 4:30 p.m.

### **Attendees:**

Justice Deno Himonas, Co-Chair

Justice Christine Durham (Ret.)

Larissa Lee

Steven Johnson

Thomas Clarke

Lucy Ricca

Gillian Hadfield

Rebecca Sandefur

Margaret Hagen

Dean Gordon Smith

Heather Farnsworth

### **Excused:**

John Lund, Co-Chair

### **Staff:**

Tyler Hubbard, Staff

Marina Kelaidis, Recording Secretary, Staff

### **Guests:**

Mike Harmond, Law Clerk, Supreme Court

## **1. Welcome and approval of January 8, 2020 minutes:** (Justice Deno Himonas)

Justice Himonas welcomed everyone to the meeting and asked for approval of the minutes.

*Gillian Hadfield moved to approve the January 8, 2020 minutes. Thomas Clarke seconded the motion, and it passed unanimously.*

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

Larissa Lee reported that there has not been a significant amount of interest since the last committee meeting; however, there were a few more parties that expressed interest in participating in the sandbox. Dean Gordon Smith asked the committee when the Task Force will begin accepting sandbox applications. Justice Himonas gave a brief overview of the timeline of steps that need to be taken before the committee can begin accepting and reviewing sandbox applications. After the Supreme Court reviews all of the relevant rule changes and draft Standing Order No. 15, the rules and standing order will go out for public comment for a period for 90 days. After final approval of the rule changes by the

Supreme Court and receipt of funding, they can begin accepting applications likely by June 2020.

Heather Farnsworth asked the committee if the names of the sandbox participant applicants will be published for public knowledge, or available to the Utah State Bar. Gillian Hadfield suggested for the Task Force to not publish the names of any applicants until after they have been approved to be a sandbox participant, to which Lucy Ricca and Steve Johnson agreed. Justice Himonas offered that the Task Force will need to do further research to determine what information is required to be public knowledge at which point in the process before making a determination.

Ms. Farnsworth also asked the committee what the procedure will be if there is a conflict of interest between a sandbox applicant and a member of the Task Force. Justice Durham suggested for the Task Force to make it very clear that recusal of the Task Force member would be necessary in such an event. Justice Himonas responded that conflicts and recusal should be addressed in the proposed Standing Order No. 15.

3. **Discussion—Grant proposal:** (Justice Himonas, Mike Harmond, Larissa Lee)

Justice Himonas reported that the draft grant proposal for the State Justice Institute is nearly completed. There is a telephone conference scheduled shortly after this meeting to complete the review process of the proposal. Justice Himonas anticipated that the final proposal will be circulated to the Task Force by the end of the week. Justice Himonas informed the committee that the deadline for the grant proposal's submission is February 1, 2020 and then it will go before the SJI board in March 2020. If approved, the grant will then be available to the Task Force by June 2020.

4. **Discussion—Minimum tech standards for sandbox participants and technical requirements:** (Tom Clarke and Lucy Ricca)

Thomas Clarke presented revisions to the technical standards requirement document. Mr. Clarke informed the committee that the standards outlined in this document are subject to change, as the Task Force gains knowledge about the potential barriers to access these requirements may incur for sandbox participants. In addition, Mr. Clarke informed the committee that more research and knowledge is needed before publishing formal technical standards to the website, so this document is suggested to be used for internal reference at this time.

5. **Discussion—Revisions to data scope document:** (Tom Clarke)

Mr. Clark reported that he has added a bullet point addressing Justice Durham's recommendation for benchmark data to be included in the suggestive list of data collection strategies and data sets. In addition, a footnote has been added to the document defining benchmark data with some examples listed.

The committee discussed rewording the first sentence of the first paragraph of the document to accurately reflect the strategy of the sandbox administrator. Justice Durham suggested to replace the phrase “regulatory strategy” with “role”. The committee agreed with Justice Durham’s recommendation and Larissa Lee will make the change to the document on the sandbox website.

*Steve Johnson moved to approve and adopt the proposed addition of the benchmark data point and footnote, and revise the first sentence of the document. Dean Gordon Smith seconded the motion and it passed unanimously.*

**6. Other Business:** (all members)

Justice Himonas asked the committee to review the proposed changes to the sandbox website, which include the addition of links to the IAALS and NCSC websites on the homepage. The committee was pleased with these additions to the website and no other recommendations were made.

Steve Johnson reminded the committee that the scope document will need to be amended once the changes to Rule 5.4 have been approved by the Supreme Court.

Lucy Ricca reported that the first data workshop is scheduled for February 3, 2020 at the State Bar building. Attendance for the workshop will be handled on a first come, first served basis with a maximum of 30 participants. The next workshop will be scheduled for the end of February or early March.

**7. Adjournment and next meeting:**

The meeting adjourned at 3:40 p.m. The next meeting will be held on February 5, 2020 from 3:00-4:30 p.m. in the Judicial Council Room at Matheson Courthouse.

Tab 2

# DRAFT Task Force Application Form

The following types of entities are required to notify the Task Force of their proposed business/service/product:

1. Conventional 100% lawyer-owned, managed, and financed law partnerships, professional law corporations, legal services non-profits, or individual lawyers with an active UT law license:
  - a. Offering legal service options not previously authorized, whether directly or via a joint-venture, subsidiary, or other corporate structure.
  - b. Partnering (fee-sharing) with a non-lawyer owned entity that has not been approved to offer legal services by the Task Force.
2. Conventional law partnership or professional law corporation with less than 100% lawyer ownership, management, or financing.
3. Non-lawyer owned legal services provider (for profit or non-profit):
  - a. Practicing law via technology platforms (using AI etc.) or lawyer and/or non-lawyer staff or through purchase of a law firm.
  - b. Practicing law through business partnership or contract with individual lawyers or firms in which the services are advertised as part of the provider's brand and in which the contract for services is between the entity (not the lawyer or the firm) and the consumer.

\* Required

## Provider Information

### 1. Entity or Individual Provider Name \*

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### 2. Principal Business Address \*

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### 3. Mailing Address (if different from business address)

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### 4. Contact Employee Name \*

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**5. Telephone Contact Number \***

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**6. Email \***

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**7. Please indicate your legal status (if applicable):***Mark only one oval.*

- ☐ Law firm partnership or professional corporation
- ☐ Legal services nonprofit
- ☐ For profit corporation (privately held)
- ☐ For profit corporation (publicly held)
- ☐ Nonprofit (not legal services)
- ☐ Other: 

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**8. If you are an individual provider, please indicate your professional identity below:***Mark only one oval.*

- ☐ Lawyer with UT law license in good standing
- ☐ Licensed Paralegal Professional with UT license in good standing
- ☐ Lawyer with law license from another American state in good standing
- ☐ Professional (e.g. doctor, accountant, social worker) with active professional license in good standing
- ☐ Business
- ☐ Other: 

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**9. Please provide any professional license identification numbers as applicable (noting the licencing authority alongside as well):**

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**Tell us about your proposed legal services offering:**



**10. Please select the most applicable category for your proposed business, service, or product. Please refer to the categories outlined in the introduction of this form. \***

*Mark only one oval.*

- ☐ 1(a)
- ☐ 1(b)
- ☐ 2
- ☐ 3(a)
- ☐ 3(b)
- ☐ Other: \_\_\_\_\_

**11. If you answered "Other" above, please explain:**

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**12. Please provide a brief description of your proposed business, service, or product.**

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**13. Please select your target market:**

*Mark only one oval.*

- ☐ Individual consumers
- ☐ Corporate consumers
- ☐ Other

**14. Please indicate which kinds of services you will offer (all that apply):**

*Check all that apply.*

- ☐ Consultation for legal advice or the review of documents (e.g. wills, leases, and agreements).ion
- 1
- ☐ Mediation to help disputing parties to reach a mutually agreeable settlement.
- ☐ Arbitration to make a binding decision to settle a dispute.
- ☐ Preparation of legal documents.
- ☐ Representation of clients in negotiations, court, or arbitration.
- ☐ Other: \_\_\_\_\_

15. If you selected "Other" above, please give a brief explanation:

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16. Please indicate who / what will be providing the services you checked above (select all that apply)

*Check all that apply.*

- ☐ Lawyers with active Utah law license
- ☐ Nonlawyers (e.g. paralegals, social workers, etc.)
- ☐ Technology platform (e.g. chatbot, document completion software, etc.)
- ☐ Other: \_\_\_\_\_

17. If you selected "Other" above, please give a brief explanation:

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**18. Please identify the legal practice areas of your offering (as many as applicable):***Check all that apply.*

- ☐ Arbitration / Alternative Dispute Resolution
- ☐ Bankruptcy
- ☐ Benefits (public / private)
- ☐ Civil rights (non-employment)
- ☐ Commercial / corporate work for corporate clients
- ☐ Consumer class action
- ☐ Criminal
- ☐ Debt collection
- ☐ Employment (individual plaintiff or class action)
- ☐ Family law (marriage, divorce, support, custody)
- ☐ Immigration, citizenship, ID
- ☐ Intellectual property (patent, trademark, copyright)
- ☐ Land use / zoning
- ☐ Litigation
- ☐ Medical negligence
- ☐ Personal injury
- ☐ Real estate (commercial)
- ☐ Real estate (individual)
- ☐ Rental housing problems
- ☐ Small business assistance (e.g. incorporation, contracts, employment, IP)
- ☐ Tax
- ☐ Wills, trusts, and estates
- ☐ Other: \_\_\_\_\_

**19. Please identify the management team of the proposed offering. If they are lawyers, provide Bar numbers. If they have other professional licenses, please note and identify.**


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**Risk Assessment**

This Sandbox operates under an oversight system guided by the assessment and measurement of risk to consumers of legal services. The Utah Supreme Court has identified three central risks of consumer harm with which we are primarily concerned:

1. Consumer achieves an inaccurate or inappropriate legal result.
2. Consumer fails to exercise legal rights through ignorance or bad advice.
3. Consumer purchases an unnecessary or inappropriate legal service.

In this section, you should explain how your proposed offering may implicate these risks, what structures

and controls you will have to mitigate the risks and how mitigation will work. You should also identify any other material risks to consumers in your proposed offering along with mitigation structures and controls.

- 20. Please explain whether and how consumers may be at risk of achieving an inaccurate or inappropriate legal result through use of your legal service offering.**

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- 21. Please explain (be specific) how you plan to identify whether the risk of consumers achieving an inaccurate or inappropriate legal result is occurring and how you plan mitigate this risk.**

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- 22. Please explain whether and how consumers may be at risk of failing to exercise legal rights through ignorance or bad advice.**

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- 23. Please explain (be specific) how you plan to identify whether the risk of consumers failing to exercise legal rights through ignorance or bad advice is occurring and how you plan to mitigate this risk.**

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24. Please explain whether and how consumers may be at risk of purchasing an unnecessary or inappropriate legal service.

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25. Please explain (be specific) how you plan to identify whether the risk of consumers purchasing an unnecessary or inappropriate legal service is occurring and how you plan to mitigate this risk.

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26. Please identify any other potential material risks your proposed legal service offering may hold for targeted consumers and explain specifically how you propose to identify and control for those risks. To consider, if applicable and not already addressed: risks around holding of client money, risks around data protection and cybersecurity, risks around money laundering, and risks around real or perceived conflicts of interest.

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27. The Oversight Office will be collecting data on risks and harms to inform the regulation of the sandbox. Please indicate which categories of data you will be able to provide at regular intervals to the Oversight Office;

*Check all that apply.*

- ☐ Non-financial outcome data (legal result achieved)
- ☐ Financial outcome data (monetary benefits received or penalties prevented)
- ☐ Output data (number of consumers served, case filings in areas where service leads to litigation)
- ☐ Returns for error fixes
- ☐ Consumer satisfaction survey data
- ☐ Consumer demographic data
- ☐ Price data
- ☐ Consumer complaint data
- ☐ Other: \_\_\_\_\_

**28. Please describe your consumer complaint process:**

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**Benefits to Utah Consumers**

In line with the Regulatory Objective, the Oversight Office is also assessing the potential benefits of proposed offerings to the Utah legal market.

**29. Will your service contribute to having more legal services for Utah consumers? Please explain how.**

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**30. Will your service contribute to having better legal services for Utah consumers? Please explain how.**

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**31. Will your service contribute to having less expensive legal service options available to Utah consumers? Please explain how.**

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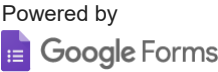
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**What else should we know?**

32. Is there anything else you want us to know about your proposed legal service?



# Draft Task Force Notification Form

The following types of entities are required to notify the Task Force of their proposed business/service/product:

1. Conventional 100% lawyer-owned, managed, and financed law partnerships, professional law corporations, legal services non-profits, or individual lawyers with an active UT law license:
  - a. Offering legal service options not previously authorized, whether directly or via a joint-venture, subsidiary, or other corporate structure.
  - b. Partnering (fee-sharing) with a non-lawyer owned entity that has not been approved to offer legal services by the Task Force.
2. Conventional law partnership or professional law corporation with less than 100% lawyer ownership, management, or financing.
3. Non-lawyer owned legal services provider (for profit or non-profit):
  - a. Practicing law via technology platforms (using AI etc.) or lawyer and/or non-lawyer staff or through purchase of a law firm.
  - b. Practicing law through business partnership or contract with individual lawyers or firms in which the services are advertised as part of the provider's brand and in which the contract for services is between the entity (not the lawyer or the firm) and the consumer.

Notification is a simple requirement that helps the Task Force keep track of innovative offerings developing in the Utah legal market. Once you have submitted your notification form, the Task Force will respond within \_\_\_\_ days to inform you of next steps.

Your email address ([Iricca@law.stanford.edu](mailto:Iricca@law.stanford.edu)) will be recorded when you submit this form. Not Iricca?

[Sign out](#)

\* Required

## Provider Information

### 1. Entity or Individual Provider Name \*

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### 2. Principal Business Address \*

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**3. Mailing Address (if different from business address)**

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**4. Contact Employee Name**

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**5. Telephone Contact Number \***

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**6. Email \***

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**7. Please indicate your legal status (if applicable):***Mark only one oval.*

- ☐ Law firm partnership or professional corporation
- ☐ Legal services nonprofit
- ☐ For profit corporation (privately held)
- ☐ For profit corporation (publicly held)
- ☐ Nonprofit (not legal services)
- ☐ Other: \_\_\_\_\_

**8. If you are an individual provider, please indicate your professional identity below:***Mark only one oval.*

- ☐ Lawyer with UT law license in good standing
- ☐ Licensed Paralegal Professional with UT license in good standing
- ☐ Lawyer with law license from another American state in good standing
- ☐ Professional (e.g. doctor, accountant, social worker) with active professional license in good standing
- ☐ Business
- ☐ Other: \_\_\_\_\_

**Tell us about your proposed offering**

**9. Please select the most applicable category for your proposed business, service, or product. Please refer to the categories outlined in the introduction of this form. \***

*Mark only one oval.*

- ☐ 1 (a)
- ☐ 1(b)
- ☐ 2
- ☐ 3(a)
- ☐ 3(b)
- ☐ Other: \_\_\_\_\_

**10. Please provide a brief description of your proposed business, service, or product.**

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**11. Please select your target market:**

*Mark only one oval.*

- ☐ Individual consumers
- ☐ Corporate consumers
- ☐ Other

A copy of your responses will be emailed to [lracca@law.stanford.edu](mailto:lracca@law.stanford.edu)

Tab 3

**Rule 5.4A. Professional Independence of a Lawyer.**

(a) A lawyer or law firm may provide legal services pursuant to sections (b) and (c) of this Rule only if there is at all times no interference with the lawyer's:

(1) professional independence of judgment,

(2) duty of loyalty to a client, and

(3) protection of client confidences.

~~(b) A lawyer or law firm may share legal fees with a nonlawyer. A lawyer or law firm shall not share legal fees with a nonlawyer, except that:~~

~~(1) an agreement by a lawyer with the lawyer's firm, partner or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;~~

~~(2)(i) a lawyer who purchases the practice of a deceased, disabled or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price; and~~

~~(2)(ii) a lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer; and~~

~~(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit sharing arrangement.~~

~~(bc) A lawyer may permit a person to recommend, employ, or pay the lawyer to render legal services for another. A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.~~

~~(ed) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law. A lawyer shall not permit a person who recommends, employs or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.~~

~~(de) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:~~

~~(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;~~

(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

(ef) A lawyer may practice in a non-profit corporation which is established to serve the public interest provided that the nonlawyer directors and officers of such corporation do not interfere with the independent professional judgment of the lawyer.

#### Comment

[1] ~~The provisions of this Rule express traditional limitations on sharing fees. These limitations are to protect the lawyer's professional independence of judgment. The provisions of this Rule are to protect the lawyer's professional independence of judgment, to assure that the lawyer is loyal to the needs of the client, and to protect clients from the disclosure of their confidential information.~~ Where someone other than the client pays the lawyer's fee or salary, or recommends employment of the lawyer, that arrangement does not modify the lawyer's obligation to the client and may not interfere with the lawyer's professional judgment. ~~As stated in paragraph (c), such arrangements should not interfere with the lawyer's professional judgment.~~

[2] Whether in accepting referrals, fee sharing, or working in a firm where nonlawyers own an interest in the firm or otherwise manage the firm, the lawyer must make certain that the professional core values of protecting the lawyer's professional judgment, ensuring the lawyer's loyalty to the client, and protecting client confidences are not compromised in any way. It may be impossible for a lawyer to work in a firm where a nonlawyer owner or manager has a duty to disclose client information to third parties, as the lawyer's duty to maintain client confidences would be compromised. ~~The Rule also expresses traditional limitations on permitting a third party to direct or regulate the lawyer's professional judgment in rendering legal services to another. See also Rule 1.8(f) (lawyer may accept compensation from a third party as long as there is no interference with the lawyer's independent professional judgment and the client gives informed consent)~~

[2a] This Rule is different from the ABA Model Rule.

~~[a] Paragraph (a)(4) of the ABA Model Rule was not adopted because it is inconsistent with the provisions of Rule 7.2(b), which prohibit the sharing of attorney's fees. Rule 5.4(e) addresses a lawyer practicing in a non-profit corporation that serves the public interest. There is no similar provision in the ABA Model Rules.~~

**Rule 5.4B. Professional Independence of a Lawyer**

(a) Notwithstanding Rule 5.4A, and subject to Utah Supreme Court Standing Order No. 15, a lawyer may provide legal services pursuant to section (b) of this Rule only if there is at all times no interference with the lawyer's:

(1) professional independence of judgment,

(2) duty of loyalty to a client, and

(3) protection of client confidences.

(b) A lawyer may practice law in an organization in which a financial interest is held or managerial authority is exercised by a one or more persons who are nonlawyers, provided that the lawyer shall:

(1) before accepting a representation, provide written notice to a prospective client that one or more nonlawyers holds a financial interest in the organization in which the lawyer practices or that one or more nonlawyers exercises managerial authority over the lawyer; and

(2) set forth in writing to a client the financial and managerial structure of the organization in which the lawyer practices.

**Comments**

[1] The provisions of this Rule are to protect the lawyer's professional independence of judgment, to assure that the lawyer is loyal to the needs of the client, and to protect clients from the disclosure of their confidential information. Where someone other than the client pays the lawyer's fee or salary, manages the lawyer's work, or recommends employment of the lawyer, that arrangement does not modify the lawyer's obligation to the client. As stated in paragraph (a), such arrangements should not interfere with the lawyer's professional judgment. See also Rule 1.8(f) (lawyer may accept compensation from a third party as long as there is no interference with the lawyer's independent professional judgment and the client gives informed consent). This Rule does not lessen a lawyer's obligation to adhere to the Rules of Professional Conduct and does not authorize a nonlawyer to practice law by virtue of partnering with a lawyer.

[2] The Rule also expresses traditional limitations on permitting a third party to direct or regulate the lawyer's professional judgment in rendering legal services to another. See also Rule 1.8(f) (lawyer may accept compensation from a third party as long as there is no interference with the lawyer's independent professional judgment and the client gives informed consent).

**Rule 1.5. Fees.**

(a) A lawyer shall not make an agreement for, charge or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

(a)(1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly;

(a)(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(a)(3) the fee customarily charged in the locality for similar legal services;

(a)(4) the amount involved and the results obtained;

(a)(5) the time limitations imposed by the client or by the circumstances;

(a)(6) the nature and length of the professional relationship with the client;

(a)(7) the experience, reputation and ability of the lawyer or lawyers performing the services; and

(a)(8) whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(d) A lawyer shall not enter into an arrangement for, charge or collect:

(d)(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof; or

(d)(2) a contingent fee for representing a defendant in a criminal case.

~~(e) A division of a fee between lawyers who are not in the same firm may be made only if:~~  
~~(e)(1) the division is in proportion to the services performed by each lawyer or each~~  
~~lawyer assumes joint responsibility for the representation;~~  
~~(e)(2) the client agrees to the arrangement, including the share each lawyer will receive,~~  
~~and the agreement is confirmed in writing; and (e)(3) the total fee is reasonable.~~

## Comment

### Reasonableness of Fee and Expenses

[1] Paragraph (a) requires that lawyers charge fees that are reasonable under the circumstances. The factors specified in (a)(1) through (a)(8) are not exclusive. Nor will each factor be relevant in each instance. Paragraph (a) also requires that expenses for which the client will be charged must be reasonable. A lawyer may seek reimbursement for the cost of services performed in-house, such as copying, or for other expenses incurred in-house, such as telephone charges, either by charging a reasonable amount to which the client has agreed in advance or by charging an amount that reasonably reflects the cost incurred by the lawyer.

### Basis or Rate of Fee

[2] When the lawyer has regularly represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee and the expenses for which the client will be responsible. In a new client-lawyer relationship, however, an understanding as to fees and expenses must be promptly established. Generally, it is desirable to furnish the client with at least a simple memorandum or copy of the lawyer's customary fee arrangements that states the general nature of the legal services to be provided, the basis, rate or total amount of the fee and whether and to what extent the client will be responsible for any costs, expenses or disbursements in the course of the representation. A written statement concerning the terms of the engagement reduces the possibility of misunderstanding.

[3] Contingent fees, like any other fees, are subject to the reasonableness standard of paragraph (a) of this Rule. In determining whether a particular contingent fee is reasonable, or whether it is reasonable to charge any form of contingent fee, a lawyer must consider the factors that are relevant under the circumstances. Applicable law may impose limitations on contingent fees, such as a ceiling on the percentage allowable, or may require a lawyer to offer clients an alternative basis for the fee. Applicable law also may apply to situations other than a contingent fee, for example, government regulations regarding fees in certain tax matters.

### Terms of Payment

[4] A lawyer may require advance payment of a fee but is obligated to return any unearned portion. See Rule 1.16(d). A lawyer may accept property in payment for services, such as an ownership interest in an enterprise, providing this does not involve acquisition of a proprietary interest in the cause of action or subject matter of the litigation contrary to Rule 1.8(i). However, a fee paid in property instead of money may be subject to the



requirements of Rule 1.8(a) because such fees often have the essential qualities of a business transaction with the client.

[5] An agreement may not be made whose terms might induce the lawyer improperly to curtail services for the client or perform them in a way contrary to the client's interest. For example, a lawyer should not enter into an agreement whereby services are to be provided only up to a stated amount when it is foreseeable that more extensive services probably will be required, unless the situation is adequately explained to the client. Otherwise, the client might have to bargain for further assistance in the midst of a proceeding or transaction. However, it is proper to define the extent of services in light of the client's ability to pay. A lawyer should not exploit a fee arrangement based primarily on hourly charges by using wasteful procedures.

#### Prohibited Contingent Fees

[6] Paragraph (d) prohibits a lawyer from charging a contingent fee in a domestic relations matter when payment is contingent upon the securing of a divorce or upon the amount of alimony or support or property settlement to be obtained. This provision does not preclude a contract for a contingent fee for legal representation in connection with the recovery of post-judgment balances due under support, alimony or other financial orders because such contracts do not implicate the same policy concerns.

#### ~~Division of Fees~~

~~[7] A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist. Paragraph (e) permits the lawyers to divide a fee either on the basis of the proportion of services they render or if each lawyer assumes responsibility for the representation as a whole. In addition, the client must agree to the arrangement, including the share that each lawyer is to receive, and the agreement must be confirmed in writing. Contingent fee agreements must be in a writing signed by the client and must otherwise comply with paragraph (c) of this Rule. Joint responsibility for the representation entails financial and ethical responsibility for the representation as if the lawyers were associated in a partnership. A lawyer should only refer a matter to a lawyer whom the referring lawyer reasonably believes is competent to handle the matter. See Rule 1.1.~~

~~[8] Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.~~

#### Disputes over Fees

~~[9]~~ [7] If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by the Bar, the lawyer must comply with the procedure when it is mandatory, and, even when it is voluntary, the lawyer should conscientiously consider submitting to it. Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled

118 to such a fee and a lawyer representing another party concerned with the fee should  
119 comply with the prescribed procedure.

**Rule 7.1. Communications Concerning a Lawyer's Services.**

(a) A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:

(ai) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

(bii) is likely to create an unjustified or unreasonable expectation about results the lawyer can achieve or has achieved; or

(eiii) contains a testimonial or endorsement that violates any portion of this Rule.

(b) A lawyer shall not interact with a prospective client in a manner that involves coercion, duress, or harassment.

Comment

[1] This Rule governs all communications about a lawyer's services, ~~including advertising permitted by Rule 7.2.~~ Whatever means are used to make known a lawyer's services, statements about them must be truthful.

[2] Truthful statements that are misleading are also prohibited by this Rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is also misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation.

[3] This Rule permits public dissemination of information concerning a lawyer's name or firm name, address, email address, website, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; the use of actors or dramatizations to portray the lawyer, law firm, client, or events; the courts or jurisdictions where the lawyer is permitted to practice, and other information that might invite the attention of those seeking legal assistance.

[4] An advertisement that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case. Similarly, an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other lawyers may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison can be substantiated. The inclusion of an appropriate disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead the public.

[4] ~~See also Rule 8.4(e) for the prohibition against stating or implying an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.~~ [5] A lawyer may claim to be certified as a specialist in a field of law if such certification is issued by an American Bar Association-accredited certification program. ~~granted by an organization approved by an appropriate state authority or accredited by the American Bar Association or another organization, such as the Utah State Bar, that has been approved by the state authority to~~

**Comment [NS1]:** Supreme Court voted for Option 1 but the fees issue needs to be dealt with. Eliminate 7.2(b) or bring substantive comment up into the rule. A lot in comment is operative regulatory language. DONE

~~accredit organizations that certify lawyers as specialists.~~ Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations may be expected to apply standards of experience, knowledge, and proficiency to ensure that a lawyer's recognition as a specialist is meaningful and reliable. In order to ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification. A lawyer can communicate practice areas and can state that he or she "specializes" in a field based on experience, training, and education, subject to the "false or misleading" standard set forth in this Rule. ~~Also, a lawyer can communicate about patent and trademark and admiralty practice.~~

**Comment [NS2]:** Rewrite this since Utah doesn't have a state authority. DONE

~~[6] There is a potential for abuse when a lawyer, seeking pecuniary gain, contacts a person known to be in need of legal services, especially if the contact is in person or otherwise "live." Unrequested contact may subject a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult to fully evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon an immediate response. The situation is fraught with the possibility of undue influence, intimidation, and over-reaching. In order to avoid coercion, duress, or harassment, a lawyer should proceed with caution and appropriate boundaries when initiating contact with someone in need of legal services, especially when the contact is "live," whether that be in-person, face-to-face, live telephone and other real-time visual or auditory person-to-person communications, where the person is subject to a direct personal encounter without time for reflection.~~

**Comment [NS3]:** Rewrite this. The negative implication of this sentence is odd. DONE. Language added to comment 3 re courts or jurisdictions where the lawyer is permitted to practice.

[7] Firm names, letterhead and professional designations are communications concerning a lawyer's services. A firm may be designated by the names of all or some of its current members, by the names of deceased or retired members where there has been a succession in the firm's identity or by a trade name if it is not false or misleading. A lawyer or law firm also may be designated by a distinctive website address, social media username or comparable professional designation that is not misleading. A law firm name or designation is misleading if it implies a connection with a government agency, with a deceased lawyer who was not a former member of the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or with a public or charitable legal services organization. If a firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

**Comment [NS4]:** Eliminate comment? DONE. Eliminated first part of comment. Last part of comment clarifies 7.1(b).

[8] A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction.

[9] Lawyers may not imply or hold themselves out as practicing together in one firm when they are not a firm, as defined in Rule 1.0(d), because to do so would be false and misleading.

[10] It is misleading to use the name of a lawyer holding public office in the name of a law firm, or in communications on the law firm's behalf, during any substantial period in which the lawyer is not

78 practicing with the firm. A firm may continue to use in its firm name the name of a lawyer who is serving  
79 in Utah's part-time legislature as long as that lawyer is still associated with the firm.  
80 [11] See Rules 5.3 (duties of lawyers and law firms with respect to the conduct of non-lawyers); Rule  
81 8.4(a) (duty to avoid violating the Rules through the acts of another); and ~~See also Rule 8.4(e) for the~~  
82 (prohibition against stating or implying an ability to influence improperly a government agency or official or  
83 to achieve results by means that violate the Rules of Professional Conduct or other law).  
84 [4a12] ~~The Utah Rule is different~~This Rule differs from the ABA Model Rule. Subsections (b), (c), and  
85 ~~(ed)~~ are added to the Rule to give further guidance as to which communications are false or  
86 misleading. Additional changes have been made to the comments.

**Rule 7.2. Advertising.**

(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written recorded or electronic communication, including public media

(b) If the advertisement uses any actors to portray a lawyer, members of the law firm, or clients or utilizes depictions of fictionalized events or scenes, the same must be disclosed.

(c) All advertisements disseminated pursuant to these Rules shall include the name and office address of at least one lawyer or law firm responsible for their content.

(d) Every advertisement indicating that the charging of a fee is contingent on outcome or that the fee will be a percentage of the recovery shall set forth clearly the client's responsibility for the payment of costs and other expenses.

(e) A lawyer who advertises a specific fee or range of fees shall include all relevant charges and fees, and the duration such fees are in effect.

(f) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may give nominal gifts as an expression of appreciation that are neither intended nor reasonably expected to be a form of compensation for recommending lawyer's services

(g) A lawyer may pay the reasonable cost of advertising permitted by these Rules and may pay the usual charges of a lawyer referral service or other legal service plan.

**Comment**

[1] To assist the public in learning about and obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's need to know about legal services can be fulfilled in part through advertising. This need is particularly acute in the case of persons of moderate means who have not made extensive use of legal services. The interest in expanding public information about legal services ought to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk of practices that are misleading or overreaching.

[2] This Rule permits public dissemination of information concerning a lawyer's name or firm name, address, email address, website and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; a lawyer's foreign language ability; names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance.

[3] Questions of effectiveness and taste in advertising are matters of speculation and subjective judgment. Some jurisdictions have had extensive prohibitions against television and other forms of advertising, against advertising going beyond specified facts about a lawyer or against "undignified" advertising. Television, the Internet and other forms of electronic communication are now among the most powerful media for getting information to the public, particularly persons of low and moderate income; prohibiting television, Internet, and other forms of electronic advertising, therefore, would

impede the flow of information about legal services to many sectors of the public. Limiting the information that may be advertised has a similar effect and assumes that the Bar can accurately forecast the kind of information that the public would regard as relevant. But see Rule 7.3(a) for the prohibition against a solicitation through a real time electronic exchange initiated by the lawyer.

[4] Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as notice to members of a class in class action litigation.

#### ~~Paying Others to Recommend a Lawyer~~

[5] Except as permitted by Paragraph (f) ~~this rule~~, lawyers are not permitted to pay others for recommending the lawyer's services or for channeling professional work. For guidance, a gift or pattern of gifts with a fair market value of more than \$100.00, whether an item, a service, cash, a discount, or otherwise may be deemed to be greater than nominal.

[2] Nothing in a manner that violates Rule 7.3. A communication contains a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, character, or other professional qualities. Paragraph (f), however, allows a lawyer to pay for advertising and communications permitted by this Rule, including the costs of print directory listings, on-line directory listings, newspaper ads, television and radio airtime, domain name registrations, sponsorship fees, Internet-based advertisements and group advertising. A lawyer may compensate ~~this Rule is intended to prohibit a lawyer from compensating~~ employees, agents, and vendors who are engaged to provide marketing or client development services, such as publicists, public relations personnel, business development staff and website designers. Moreover, a lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator does not recommend the lawyer, and any payment to the lead generator is consistent with the lawyer's obligations under these rules. To comply with this Rule 7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. See Rule 5.3 (duties of lawyers and law firms with respect to the conduct of non-lawyers); Rule 8.4(a) (duty to avoid violating the Rules through the acts of another).

[63] A lawyer may pay the usual charges of a legal service plan or a lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar delivery system that assists prospective clients to secure legal representation. A lawyer referral service, on the other hand, is an organization that holds itself out to the public to provide referrals to lawyers with appropriate experience in the subject matter of the representation. No fee-generating referral may be made to any lawyer or firm that has an ownership interest in, or who operates or is employed by, the lawyer referral service, or who is associated with a firm that has an ownership interest in, or operates or is employed by, the lawyer referral service.

[74] A lawyer who accepts assignments or referral from a legal service plan or referrals from a lawyer referral service must act reasonably to assure that the activities of the plan or service are compatible with the lawyer's professional obligations. See Rule 5.3. Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these Rules. Thus, advertising must not be false or misleading, as would be the case if the communications of a group

advertising program or a group legal services plan would mislead the public to think that it was a lawyer referral service sponsored by a state agency or bar association. Nor could the lawyer allow in-person, telephonic, or real-time contacts that would violate Rule 7.3 ~~the Rules.~~

~~[85] For the disciplinary authority and choice of law provisions applicable to advertising, see Rule 8.5.~~

~~[8a] This Rule differs from the ABA Model Rule in that it defines "advertisement" and places some limitations on advertisements. Utah Rule 7.2(b)(2) also differs from the ABA Model Rule by permitting a lawyer to pay the usual charges of any lawyer referral service. This is not limited to not-for-profit services.~~

~~Comment [6] to the Utah rule is modified accordingly.~~

~~This Rule differs from the ABA Model Rule.~~

Reserved.



**Rule 7.3. Solicitation of Clients.**

~~(a) A lawyer shall not by in person, live telephone or real time electronic contact solicit professional employment from a prospective client when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted:~~

~~(a)(1) is a lawyer;~~

~~(a)(2) has a family, close personal, or prior professional relationship with the lawyer, or~~

~~(a)(3) is unable to make personal contact with a lawyer and the lawyer's contact with the prospective client has been initiated by a third party on behalf of the prospective client. Reserved.~~

~~(b) A lawyer shall not solicit professional employment by written, recorded or electronic communication or by in person, live telephone or real time electronic contact even when not otherwise prohibited by paragraph (a), if:~~

~~(b)(1) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or~~

~~(b)(2) the solicitation involves coercion, duress or harassment.~~

~~(c) Every written, recorded or electronic communication from a lawyer soliciting professional employment from anyone known to be in need of legal services in a particular matter shall include the words "Advertising Material" on the outside envelope, if any, and at the beginning of any recorded or electronic communication, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2). For the purposes of this subsection, "written communication" does not include advertisement through public media, including but not limited to a telephone directory, legal directory, newspaper or other periodical, outdoor advertising, radio, television or webpage.~~

~~(d) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in-person or other real time communication to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.~~

**Comment**

~~[1] A solicitation is a targeted communication initiated by the lawyer that is directed to a specific person and that offers to provide, or can reasonably be understood as offering to provide, legal services. In contrast, a lawyer's communication typically does not constitute a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website or a television commercial, or if it is in response to a request for information or is automatically generated in response to Internet searches.~~

~~[2] There is a potential for abuse when a solicitation involves direct in person, live telephone or real time electronic contact by a lawyer with someone known to need legal services. These forms of contact subject a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult fully to evaluate all available alternatives with reasoned judgment and appropriate self interest in the face of the lawyer's presence and insistence upon being retained~~

immediately. The situation is fraught with the possibility of undue influence, intimidation, and over-reaching.

[3] This potential for abuse inherent in direct in-person, live telephone or real-time electronic solicitation justifies its prohibition, particularly since lawyers have alternative means of conveying necessary information to those who may be in need of legal services. In particular, communications can be mailed or transmitted by email or other electronic means that do not involve real-time contact and do not violate other laws governing solicitations. These forms of communications and solicitations make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to direct in-person, live telephone or real-time electronic persuasion that may overwhelm a person's judgment.

[4] The use of general advertising and written, recorded or electronic communications to transmit information from lawyer to the public, rather than direct in-person or other real-time communications, will help to ensure that the information flows cleanly as well as freely. The contents of advertisements and communications permitted under Rule 7.2 can be permanently recorded so that they cannot be disputed and may be shared with others who know the lawyer. This potential for informal review is itself likely to help guard against statements and claims that might constitute false and misleading communications in violation of Rule 7.1. The contents of direct in-person, live telephone or real-time electronic contact can be disputed and may not be subject to third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.

[5] There is far less likelihood that a lawyer would engage in abusive practices against a former client, or a person with whom the lawyer has a close personal or family relationship, or where the lawyer has been asked by a third party to contact a prospective client who is unable to contact a lawyer, for example when the prospective client is incarcerated and is unable to place a call, or is mentally incapacitated and unable to appreciate the need for legal counsel. Nor is there a serious potential for abuse in situations where the lawyer is motivated by considerations other than the lawyer's pecuniary gain, or when the person contacted is also a lawyer. This rule is not intended to prohibit a lawyer from applying for employment with an entity, for example, as in-house counsel. Consequently, the general prohibition in Rule 7.3(a) and the requirements of Rule 7.3(c) are not applicable in those situations. Also, paragraph (a) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal service organizations or bona fide political, social, civic, fraternal, employee or trade organizations whose purposes include providing or recommending legal services to their members or beneficiaries.

[5a] Utah's Rule 7.3(a) differs from the ABA Model Rule by authorizing in-person or other real-time contact by a lawyer with a prospective client when that prospective client is unable to make personal contact with a lawyer, but a third party initiates contact with a lawyer on behalf of the prospective client and the lawyer then contacts the prospective client.

[6] But even permitted forms of solicitation can be abused. Thus, any solicitation which contains information that is false or misleading within the meaning of Rule 7.1, that involves coercion, duress or

harassment within the meaning of Rule 7.3(b)(2), or that involves contact with someone who has made known to the lawyer a desire not to be solicited by the lawyer within the meaning of Rule 7.3(b)(1) is prohibited. Moreover, if after sending a letter or other communication as permitted by Rule 7.2 the lawyer receives no response, any further effort to communicate with the recipient of the communication may violate the provisions of Rule 7.3(b).

[7] This Rule is not intended to prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries or other third parties for the purpose of informing such entities of the availability of and the details concerning the plan or arrangement which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to people who are seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. Under these circumstances, the activity which the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under Rule 7.2.

[8] The requirement in Rule 7.3(c) that certain communications be marked "Advertising Material" does not apply to communications sent in response to requests of potential clients or their spokespersons or sponsors. General announcements by lawyers, including changes in personnel or office location, do not constitute communications soliciting professional employment from a client known to be in need of legal services within the meaning of this Rule.

[8a] Utah Rule 7.3(c) requires the words "Advertising Material" to be marked on the outside of an envelope, if any, and at the beginning of any recorded or electronic communication, but not at the end as the ABA Model Rule requires. Lawyer solicitations in public media that regularly contain advertisements do not need the "Advertising Material" notice because persons who view or hear such media usually recognize the nature of the communications.

[9] Paragraph (d) of this Rule permits a lawyer to participate with an organization that uses personal contact to solicit members for its group or prepaid legal service plan, provided that the personal contact is not undertaken by any lawyer who would be a provider of legal services through the plan. The organization must not be owned by or directed (whether as manager or otherwise) by any lawyer or law firm that participates in the plan. For example, paragraph (d) would not permit a lawyer to create an organization controlled directly or indirectly by the lawyer and use the organization for the in-person or telephone, live person-to-person contacts or other real-time electronic solicitation of legal employment of the lawyer through memberships in the plan or otherwise. The communication permitted by these organizations also must not be directed to a person known to need legal services in a particular matter, but is to be designed to inform potential plan members generally of another means of affordable legal services. Lawyers who participate in a legal service plan must reasonably assure that the plan sponsors are in compliance with Rules 7.1, 7.2 and 7.3(b). See Rule 8.4(a). Reserved.

**Rule 7.4. Communication of Fields of Practice.**

~~(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.~~

~~(b) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation.~~

~~(c) A lawyer engaged in Admiralty practice may use the designation "Admiralty," "Proctor in Admiralty" or substantially similar designation.~~

~~(d) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:~~

~~(d)(1) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate state authority or that has been accredited by the American Bar Association; and~~

~~(d)(2) the name of the certifying organization is clearly identified in the communication.~~

**Comment**

~~[1] Paragraph (a) of this Rule permits a lawyer to indicate areas of practice in communications about the lawyer's services. If a lawyer practices only in certain fields or will not accept matters except in a specified field or fields, the lawyer is permitted to so indicate. A lawyer is generally permitted to state that the lawyer is a "specialist," practices a "specialty" or "specializes in" particular fields, but such communications are subject to the "false and misleading" standard applied in Rule 7.1 to communications concerning a lawyer's services.~~

~~[2] Paragraph (b) recognizes the long-established policy of the Patent and Trademark Office for the designation of lawyers practicing before the Office. Paragraph (c) recognizes that designation of Admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.~~

~~[3] Paragraph (d) permits a lawyer to state that the lawyer is certified as a specialist in a field of law if such certification is granted by an organization approved by an appropriate state authority or accredited by the American Bar Association or another organization, such as a state bar association, that has been approved by the state authority to accredit organizations that certify lawyers as specialists. Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations may be expected to apply standards of experience, knowledge and proficiency to insure that a lawyer's recognition as a specialist is meaningful and reliable. In order to insure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification. Reserved.~~

**Rule 7.5. Firm Names and Letterheads.**

~~(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.~~

~~(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.~~

Reserved.

~~(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.~~

~~(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.~~

**Comment**

~~[1] A firm may be designated by the names of all or some of its members, by the names of deceased or retired members where there has been a continuing succession in the firm's identity or by a trade name such as the "ABC Legal Clinic." A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation. Although the United States Supreme Court has held that legislation may prohibit the use of trade names in professional practice, use of such names in law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express disclaimer that it is not a public legal aid agency may be required to avoid a misleading implication. It may be observed that any firm name including the name of a deceased or retired partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer who has not been associated with the firm or a predecessor of the firm, or the name of a nonlawyer.~~

~~[2] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for that title suggests that they are practicing law together in a firm.~~

~~Effective December 19, 2018~~

Tab 4



Larissa Lee  
Appellate Court Administrator

Nicole J. Gray  
Clerk of Court

**Supreme Court of Utah**  
450 South State Street  
P.O. Box 140210  
Salt Lake City, Utah 84114-0210

Appellate Clerks' Office  
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Matthew B. Durrant	Chief Justice
Thomas R. Lee	Associate Chief Justice
Deno G. Himonas	Justice
John A. Pearce	Justice
Paige Petersen	Justice

State Justice Institute  
Attn: Jonathan D. Mattiello  
11951 Freedom Dr., Suite 1029  
Reston, VA 20190

January 28, 2020

***Re: Strategic Initiatives Grant for Piloting Utah's Legal Services Oversight Office  
and Regulatory Sandbox***

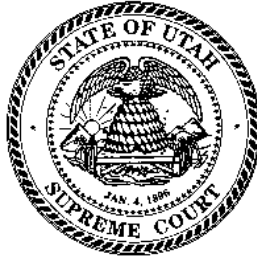
Dear Mr. Mattiello,

Enclosed is a proposal respectfully requesting SJI's support with piloting Utah's new Legal Services Oversight Office and Regulatory Sandbox. Please feel free to contact me if you have any questions or need any additional information.

Sincerely,

Larissa Lee  
Utah Appellate Court Administrator

Enclosures



## **Grant Proposal:**

### **Piloting Utah’s Legal Service Oversight Office and Regulatory Sandbox**

#### **Project Abstract**

The Utah Supreme Court respectfully requests support for its effort to pilot a “regulatory sandbox” for legal services. This sandbox is an innovative policy tool that will allow new players in the legal market to test cutting-edge products and services in a safe and controlled environment, with the ultimate goal of leveraging new technologies and business models to increase access to justice. The Court is also creating a new regulatory entity – the Legal Service Provider Oversight Office – to oversee the sandbox and ensure the project’s success.

As it pilots this new regulatory approach, the Court specifically requests support from the State Justice Institute for the following four tasks: 1) standing up the sandbox and Oversight Office, 2) evaluating which service providers it should allow into the sandbox, 3) evaluating the performance of sandbox participants, and 4) measuring the sandbox’s impact on Utah’s legal market. As a pilot project, the Court envisions that this first iteration of the sandbox will run for at least two years, and seeks SJI’s assistance for the first eighteen months. With SJI’s help, the Court believes this new regulatory strategy will make significant progress toward closing the access-to-justice gap in Utah and serve as a model of reform for other states.

#### **Project Narrative**

##### **Introduction**

The United States currently is in the midst of a well-documented “access-to-justice” crisis. In 2019, America’s civil justice system was tied for 99<sup>th</sup> out of 126 countries in terms of access and affordability,<sup>1</sup> down from 65<sup>th</sup> out of 102 countries in 2015,<sup>2</sup> and 94<sup>th</sup> out of 112

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<sup>1</sup> WORLD JUSTICE PROJECT, *Rule of Law Index 2019*, [https://worldjusticeproject.org/sites/default/files/documents/WJP\\_RuleofLawIndex\\_2019\\_Website\\_reduced.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP_RuleofLawIndex_2019_Website_reduced.pdf) (last visited Aug. 12, 2019).

<sup>2</sup> WORLD JUSTICE PROJECT, *Rule of Law Index 2015*, [https://worldjusticeproject.org/sites/default/files/documents/roli\\_2015\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/roli_2015_0.pdf) (last visited Aug. 12, 2019).



countries in 2016, 2017, and 2018.<sup>3</sup> Many Americans must “go it alone without legal representation in disputes where they risk losing their job, their livelihood, their home, or children, or seek a restraining order against an abuser.”<sup>4</sup> Data from Utah’s third judicial district suggest that Utah’s courts track this national pattern. In 2018, at least one party was unrepresented throughout the entirety of their lawsuit in 93% of all civil and family law disputes.<sup>5</sup>

To address this crisis, the Utah Supreme Court formed a task force to explore optimizing the regulatory structure for the practice of law. As part of its mandate, the task force studied the possibility of loosening certain regulations to allow for new, innovative, and cost-effective legal services. And in August 2019, the task force ultimately proposed creating a new regulatory entity for legal services in Utah – the Legal Service Provider Oversight Office – and directing it to run a “regulatory sandbox” to pilot innovate new offerings. Now the Court has formed a plan to launch these efforts in June 2020, and respectfully requests help from the State Justice Institute with financing the infrastructure and staff necessary to operate this potentially game-changing regulatory strategy.

### **Program Objective**

The objective of this program is to launch a new regulatory entity, the Legal Service Provider Oversight Office, which will meaningfully address the access-to-justice crisis, primarily through the operation of a regulatory sandbox that allows providers to experiment with innovative legal services in a safe and controlled environment.

### **Program Areas Covered**

The Utah Supreme Court makes this request under the **Strategic Initiative** category for the priority investment areas of Self-Represented Litigation and State Court Reengineering.

**Self-represented litigants:** This project will benefit self-represented litigants by experimenting with potentially innovative and cost-effective new legal services. A 2015 study by the National Center for State Courts (NCSC) examined the non-domestic civil caseloads in 152 courts in 10 urban counties and found that at least one party was self-represented in 76% of all

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<sup>3</sup> WORLD JUSTICE PROJECT, *Rule of Law Index 2016*, [https://worldjusticeproject.org/sites/default/files/documents/RoLI\\_Final-Digital\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/RoLI_Final-Digital_0.pdf) (last visited Aug. 12, 2019); WORLD JUSTICE PROJECT, *Rule of Law Index 2017–2018*, [https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2018-June-Online-Edition\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2018-June-Online-Edition_0.pdf) (last visited Aug. 12, 2019).

<sup>4</sup> LEGAL SERVICES CORPORATION, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans* (June 2017), <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf> (last visited Aug. 12, 2019).

<sup>5</sup> For purposes of this statistic, the third judicial district includes all adult courts, including justice courts, in Salt Lake, Summit, and Tooele Counties.

cases.<sup>6</sup> And internal data from Utah’s third judicial district shows that, in 2018, at least one party was unrepresented throughout the entirety of their lawsuit in 93% of all civil and family law disputes. The goal of the proposed regulatory sandbox is to facilitate a market for the unmet legal needs of this extraordinary number of self-represented litigants.

This project will also contribute to SJI’s state court reengineering efforts by helping the Utah Supreme Court increase access to justice. NCSC’s 2018 State of the State Courts-Survey found that a “broad majority (59%)” of respondents believed “state courts are not doing enough to empower regular people to navigate the court system without an attorney,” while only “a third (33%) believe courts are providing the information to do so.”<sup>7</sup> The Utah Supreme Court is attempting to address these concerns by reengineering legal regulation to encourage the development of flexible and low-cost services. The goal of this reengineering effort is to empower unrepresented litigants and reduce the number of cases resolved by default or by failure to comply with required court processes.

### **Need for Funding**

One driving force behind the access-to-justice crisis is how states currently regulate the practice of law. Outmoded regulations severely constrain courts, nonprofits, and for-profit organizations from innovating in ways that would significantly increase both the availability and affordability of legal services and correspondingly level both the in-court and out-of-court legal playing fields and simultaneously reduce demands on the courts. Even lawyers, who have a monopoly on legal-service delivery, face numerous advertising, marketing, ethical conduct codes, training requirements, ownership restrictions, and other rules that keep them from testing innovations that might provide significant access-to-justice benefits. Beyond this restrictiveness, the current regulatory approach relies heavily on conceptual harms to consumers that have not been empirically verified.

These regulations no longer make sense in an age where disruptive technological innovation happens constantly. The precipitous rise in self-represented litigants and the unaffordability of lawyers has driven a new market for groundbreaking, cost-effective legal services. And the potential access-to-justice benefits from these new services are significant. If providers can serve litigants and those with potential legal problems in more cost-effective ways, true access to justice becomes possible for millions who currently receive no help.

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<sup>6</sup> Civil Justice Initiative, *The Landscape of Civil Litigation in State Courts*, NAT’L CENTER FOR STATE COURTS, <https://www.ncsc.org/~media/Files/PDF/Research/CivilJusticeReport-2015.ashx> (last visited Aug. 12, 2019).

<sup>7</sup> Memorandum from GBA Strategies to NCSC, 5 (Dec. 3, 2018), [https://www.ncsc.org/~media/Files/PDF/Topics/Public%20Trust%20and%20Confidence/SoSC\\_2018\\_Survey\\_Analysis.ashx](https://www.ncsc.org/~media/Files/PDF/Topics/Public%20Trust%20and%20Confidence/SoSC_2018_Survey_Analysis.ashx) (last visited Jan. 16, 2020).

With this opportunity in mind, Utah has undertaken significant regulatory reform in its legal-services industry. At the heart of this reform is a cutting-edge policy tool known as a “regulatory sandbox,” which will allow new players in the legal market to test new products and services while ensuring they are consistent, cost-effective, and safe. And to ensure its success, the Court has established a new regulatory entity to run the sandbox – the Legal Service Provider Oversight Office – which will, at least during the pilot period,<sup>8</sup> function alongside the Utah State Bar as a regulator of the practice of law in Utah.

Unfortunately, the Utah Supreme Court cannot fund this effort on its own. Although the Court expects the new Oversight Office to eventually have an operating budget made up of fees paid by sandbox participants and others, it requests funding from SJI to finance a discrete set of start-up costs during the Office’s first eighteen months of operation.

### **Tasks, Methods, and Evaluations**

Launching the proposed regulatory sandbox involves four tasks: 1) standing up the sandbox, 2) processing the sandbox applicants, 3) assessing the sandbox participants, and 4) assessing the sandbox itself. A special Implementation Task Force, comprised of leaders from Utah’s legal community and national experts in the access-to-justice field, will oversee each of these tasks. And in keeping with the innovative spirit driving this regulatory-test effort, the sandbox and the Oversight Office itself will be entirely virtual, existing primarily through a website ([www.sandbox.utcourts.gov](http://www.sandbox.utcourts.gov)), a part-time staff working remotely, and a volunteer Oversight Board that meets on a regular basis at the Administrative Office of the Utah Courts.<sup>9</sup>

#### ***Task 1 – Stand Up the Regulatory Sandbox***

**June – July 2020**

Standing up the sandbox requires accomplishing three objectives: 1) expanding the sandbox website, 2) building a case-management system, and 3) staffing the Oversight Office with three part-time, contract positions: an economist, a data-analyst, and a project manager. The Court envisions meeting these objectives between June and July 2020.

#### **Website and Case-Management System**

Given its virtual character, it is critical that the Court expand the Oversight Office’s existing website and establish a case-management system to maintain information about sandbox participants and program data. The first step is expanding the Oversight Office’s website, which will serve as the primary interface for legal service providers to submit sandbox applications and

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<sup>8</sup> The specific design and business processes of this new regulatory entity are ultimately subject to the evaluation of this pilot period.

<sup>9</sup> The Court notes, of course, that the launch of the sandbox and Oversight Office is still subject to final approval under the Court’s formal rule-promulgation process. Through spring and early summer of 2020, the Court will promulgate a set of rules and a Standing Order that will govern the sandbox and Oversight Office, and solicit public comment on the Order. Following the comment period, the Court will take a final vote to formally establish the sandbox and Oversight Office along the parameters set forth in the Order.

for those accepted into the sandbox to submit quarterly data reports. Building out this interface requires revamping the existing website so it can:

- Receive, store, and track documents uploaded by sandbox participants (including solicitations from applicants)
- Receive, store, and retrieve participant data, and track the status of internal process steps for applicants and participants
- Support communication with participants via website forms, email, and text
- Receive, process, and track participant fees and fines
- If enough funding is available, carry out consumer surveys and receive, store, and track consumer complaints

Along with this expanded website, standing up the sandbox also requires a case-management system to store and analyze participant data. Tracking, storing, and assessing this participant data is critical, as it will provide the basis for the Oversight Office to evaluate and report on the sandbox's progress to the Court and the public. A successful case-management system requires the ability to:

- Store data gathered from sandbox participants
- Generate reports on data gathered from participants and on the market as a whole
- Access data remotely to ensure the Oversight Office can remain virtual
- Secure all data held by the Oversight Office

If funded, the Task Force will hire contractors to build out this website and case-management infrastructure. The Court anticipates that these contractors will include a Web Developer to expand the website, a Programmer to create the case-management system, and a Business Analyst / Project Manager to oversee development and document business processes. The Court will also leverage its existing IT resources – such as its contracts with Google for email and productivity tools, and Amazon for web hosting services – to keep the costs of this build-out as low as possible.

#### Initial Oversight Office Positions

The Court also requests funding for three contract positions: an economist, a data analyst, and a business analyst / project manager, all of whom will be hired on a part-time basis. During the first portion of the stand-up phase, through December 2020, the business of the Oversight Office will be conducted by these three positions, with assistance from Task Force members Lucy Ricca (courtesy of an in-kind contribution of up to \$50,000 from the Institute for the Advancement of the American Legal System) and Tom Clarke (courtesy of a \$50,000 in-kind contribution from the National Center for State Courts). After that first portion, there may be some adjustments to this staffing model. The Court also envisions that members of the Administrative Office of the Utah Courts, chiefly Larissa Lee, Appellate Court Administrator,

will continue to be involved with and provide significant support to the Task Force. And while we have not separately quantified this contribution, we anticipate it will exceed \$25,000 dollars.

Once the website and case-management system are complete, this launch-group, along with the Oversight Board, will begin soliciting and accepting sandbox applications (subject to final approval by the Court). As service providers operate in the sandbox, this launch-group will collect and analyze data to provide an ongoing assessment of consumer harms and benefits. This assessment will proceed under the supervision of the Oversight Board and the Court.

This stand-up phase will last approximately eighteen months, after which this initial staffing model will transition to a new model comprised of an Oversight Office Director (appointed by the Oversight Board with final approval by the Court), a contract economist, and a contract data analyst. Importantly, SJI funds will only be used to fund contract positions during the stand-up phase. After the first eighteen months, and prior to the expiration of the pilot phase, the project will need to be self-sustaining or obtain funds from alternative sources. Thereafter, the operating budget must be made up of fees paid by sandbox participants and others.

#### ***Task 2 – Process Sandbox Applicants***

**June 2020 – November 2021**

After standing up the sandbox, the Oversight Office will begin processing sandbox applicants. During this period, the launch-group staff and Oversight Board will solicit applicants for the sandbox, assess each application, and either accept a pilot phase or reject the applicant. Processing sandbox applicants will proceed in three steps:

- 1. The Oversight Office calls for applications.** This call will clearly identify the types of innovations the Court will accept into the sandbox, which regulations it will relax or remove, the data and evaluation metrics participants must prepare, and the safeguards against regulation and enforcement that participants will receive.
- 2. Service providers submit applications.** Applicants must detail exactly what their new offering is, how it will benefit the public, what risks or harms they expect might arise, how they will deploy it, and which regulations must be relaxed to allow their offering.
- 3. The Oversight Office invites promising applications into the sandbox.** After receiving applications, the Oversight Office and Board will review proposals and, with final approval from the Court, accept those that demonstrate an innovative new offering, a strong assessment plan, and a strong potential for public benefit. The Oversight Office and Court will then invite and work with approved participants to establish protocols for data-sharing, auditing, and evaluation. Participants who agree to these terms will receive a non-enforcement guarantee allowing them to deliver their proposed offering without running afoul of existing regulations. It is anticipated that participants will also pay a fee for their participation, which will form a portion of all the bases of the Office's operating budget after the eighteen-month launch period.

During this step, the economist and data analyst will analyze sandbox applications for potential risks and benefits to consumers. After concluding this analysis, they will issue recommendations to the Oversight Board on whether to accept or reject each applicant. Throughout this process, the project manager will coordinate the review of applications and manage communications between the staff, the Oversight Board, and the Court.

### ***Task 3 – Assess Sandbox Participants***

**June 2020 – November 2021**

After accepting participants, the Court envisions running the proposed sandbox for at least two years, with SJI funding being sought for the first eighteen months. During this time, participants must submit quarterly reports, which the data analyst and economist will use to conduct ongoing evaluations on the risks and benefits to consumers of each offering. The project manager will coordinate this process by monitoring the website and database for quarterly reports, consumer feedback, and consumer complaints, and will manage communications with the staff, the Oversight Board, and the Court. This assessment period will proceed in two steps:

- 1. Sandbox runs and rolling evaluation beings.** During this time, participants will develop their offerings, put them on the market, and collect data on their performance. Participants must conspicuously disclose their involvement in the sandbox and refer consumers to the Oversight Office for feedback and complaints. The Office will observe participants' performance to see if the public uses the proposed offerings, if the offerings benefit the public, and if any expected or unexpected harms result. The Office can suspend a participant's non-enforcement guarantee if it fails to perform according to its agreement or its offerings result in harms above what the entity deems acceptable.
- 2. Sandbox ends and company and Office (potentially) continue on.** At the end of the two-year sandbox period, the Oversight Office will allow participants to continue with their approved offerings (subject to Supreme Court approval) with the non-enforcement guarantee still intact. The Office will also use participants' offerings and data to decide if it should 1) call for another round of applications or 2) permanently relax or change certain regulations.

### ***Task 4 – Assess Sandbox Pilot***

**November – December 2021**

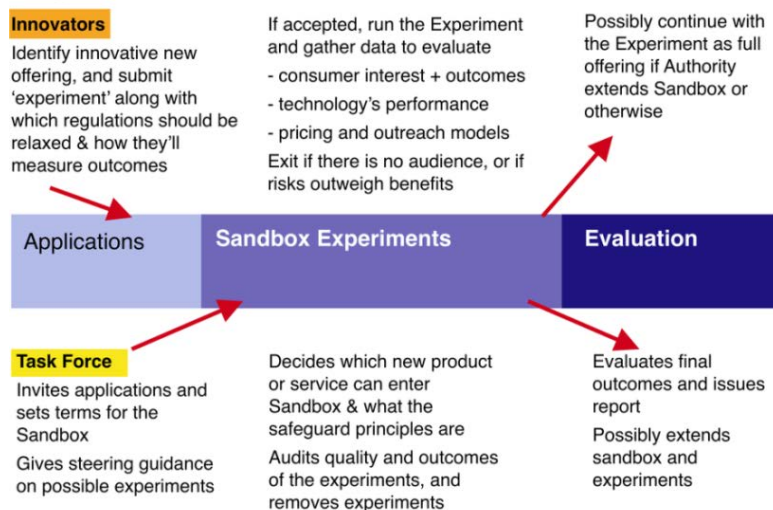
In the final months of the grant period, the Oversight Office will conduct an internal assessment of the sandbox and report the results back to the Oversight Board and the Court. The Court and Oversight Board will then determine whether the pilot period has been a success and what they should do in response. If the Court deems the sandbox successful, it will decide whether to engage in another round of applications and whether to permanently ease or eliminate certain regulations. The Court also envisions conducting an independent audit of the sandbox's performance, which would occur outside of SJI-funded activity.

During this task, the data analyst and economist will evaluate the sandbox for:

- Its effect on the overall competitiveness of the legal-services market
- Its impact on access to justice and innovation in legal services
- The type and affordability of new legal services, and whether those services are reaching underserved populations

Overall, the tasks required to implement the sandbox can be summarized as follows:

### Legal Innovation Sandbox



### Project Management

To accomplish the tasks identified above, the Utah Supreme Court has established an Implementation Task Force, which is ultimately responsible for managing the launch of the Oversight Office and accompanying sandbox. This task force is comprised of leaders in Utah's legal community and several national experts in the regulatory and access-to-justice fields. All task force members serve on a volunteer basis, except for Lucy Ricca and Tom Clarke, whose participation is provided through an in-kind donation of staff time from IAALS and NCSC.

#### ***Task Force Leadership***

##### *Justice Deno Himonas (Co-Chair)*

Justice Himonas was appointed to the Utah Supreme Court in 2015. For the decade prior, he served as a district judge, where he tried hundreds of criminal, civil, and family law cases and ran a felony drug court. He is deeply involved in the access-to-justice movement and can often be found speaking about access-to-justice around the country. In addition to co-chairing the Implementation Task Force, he also chairs the Utah Supreme Court's task forces on licensed paralegal practitioners and online dispute resolution.

##### *John Lund (Co-Chair)*

John Lund is a shareholder with the Salt Lake City law firm of Parsons Behle & Latimer and immediate past president of the Utah State Bar. Mr. Lund has been involved in leadership of the Utah Bar for over a decade, including by co-chairing the Utah Bar's 2015 Futures Commission, and the Utah Supreme Court's task forces on licensed paralegal practitioners and attorney-discipline reform. He was also instrumental in establishing Utah's newly formed Access to Justice Commission.

### ***Task Force Membership***

#### **Tom Clarke, National Center for State Courts**

Tom Clarke has served for fourteen years as the Vice President for Research and Technology at the National Center for State Courts. Before that, Tom worked for ten years with the Washington State Administrative Office of the Courts as the research manager and then as CIO. He has consulted frequently on topics relating to the redesign of court systems, access to justice strategies, and program evaluation approaches.

#### **Lucy Ricca**

Lucy is a Fellow and former Executive Director of the Stanford Center on the Legal Profession at Stanford Law School and a Special Project Advisor of the Institute for the Advancement of the American Legal System. She was a lecturer at Stanford Law School and has written on the regulation of the profession and the changing practice of law. As Executive Director, she was responsible for developing the direction and goals for the Center and overseeing operations, publications, programs, research, and other interdisciplinary projects.

Other Task Force Members include:

- Justice Christine Durham (Ret.), former Chief Justice of the Utah Supreme Court
- Gillian Hadfield, J.D., M.A. Ph.D (Economics), Schwartz Reisman Chair in Technology and Society, Professor of Law and Strategic Management at the University of Toronto
- Margaret Hagan, J.D., Director of the Legal Design Lab at Stanford University and lecturer in the Institute of Design
- Rebecca Sandefur, Professor of Social and Family Dynamics at Arizona State University and Faculty Fellow at the American Bar Foundation
- D. Gordon Smith, Dean and Glen L. Farr Professor of Law of the J. Reuben Clark Law School at Brigham Young University
- Larissa Lee, Utah Appellate Court Administrator
- Heather Farnsworth, J.D.



- Steven G. Johnson, J.D.

The full biographies and qualifications of all task-force members can be found at <http://sandbox.utcourts.gov/about>. After standing up the sandbox, the Implementation Task Force will transition into the Oversight Board, and the Utah Supreme Court will appoint John Lund as chair.

## **Products**

The specific product for which funding is sought is a regulatory sandbox that will allow participants to test high-quality, innovative legal services without running afoul of current regulations. Through this sandbox, the Oversight Office will solicit nontraditional sources of legal services, including non-lawyers and technology companies, and allow them to test innovative services. The goal of the sandbox is to allow aspiring innovators to develop new offerings that could benefit the public, instill confidence in these new offerings, and allow the Oversight Office to understand how regulations should be selectively or permanently relaxed to permit these and other innovations.

### *Key Features*

After reviewing the approach to regulatory sandboxes taken by other countries and jurisdictions, the Utah Supreme Court has identified three key features that it plans to incorporate into the proposed sandbox:

- 1. Testing out what innovations are possible.** Relaxing regulations in a controlled sandbox environment will allow the Court to observe what kinds of innovations are possible and what risks they might present.
- 2. Tailored evaluation plans focused on risk.** In exchange for participating in the sandbox, providers must self-assess and share with the new regulatory entity the benefits, harms, and risks of their services to customers.
- 3. New sources of data on what regulation works best.** Currently legal regulations are so restrictive in part because they are based on concerns that have not been empirically validated. By gathering data from sandbox participants, the new regulatory entity can pivot to a data-driven and evidence-backed regulatory approach

### *Regulatory Scope*

Prior to standing up the sandbox, the Utah Supreme Court will promulgate a rule or court order defining the types of new ventures that must be offered through the sandbox before entering the mainstream legal market.

## **Type 1 – Ventures Operated by Conventional Law Firms and Lawyers**

Conventional 100% lawyer-owned, managed, and financed law firms and individual lawyers with an active law license must use the sandbox to engage in the following activities:

- 1. Subtype 1:** Ventures offering legal service options not previously authorized, whether directly or via a joint-venture, subsidiary, or other corporate structure
  - **Example:** Attorneys-at-Law LLP, an old Salt Lake firm, offers an online tool providing information and guidance, including legal advice via chatbot, around corporate formation
  - **Example:** HousingHelp, a legal services nonprofit, offers an online tool providing guidance, form completion, and legal advice on eviction defense via its website
- 2. Subtype 2:** Partnering (fee-sharing) with a non-lawyer owned entity that has not been approved to offer legal services by the Utah Supreme Court
  - **Example:** Attorneys-at-Law LLP enters into an agreement with SavMart Big Box Store to offer legal services in their stores. The agreement specifies that the firm will lease space and pay a certain percent of revenue generated by in-store engagements to SavMart. Firm advertises services leveraging SavMart's brand and SavMart advertises that legal services are available in the store from firm. Fees are earned through engagement between firm and customer. SavMart has not been approved to offer legal services by the Task Force.

## **Type 2 – Ventures Operated by Conventional Law Firms and Lawyers with Less than 100% Lawyer Ownership, Management, or Financing**

The Utah Rules of Professional Conduct currently prohibit non-lawyers from owning, managing, or financing law firms and other legal-services organizations. Organizations with non-lawyer ownership, management, or financing may, however, apply to pilot services through the sandbox.

- **Example:** Attorneys-at-Law LLP takes on financing from a private equity firm
- **Example:** Attorneys-at-law LLP finances a tech subsidiary via venture capital funding

## **Type 3 – Ventures Operated by Non-lawyer Owned Legal Services Providers (For-Profit and Non-Profit)**

Non-lawyer owned legal services providers must pilot the following ventures through the sandbox:

- 1. Subtype 1:** Practice law via technology platforms, through lawyer and/or non-lawyer staff, or through the purchase of a law firm

Example: LawSwoosh, an online legal platform offering services to the public, including legal assistance from lawyers, non-lawyer experts, and technology platforms

Example: SavMart, a big box retailer offering flat-fee legal services for consumers via lawyers, non-lawyer experts, and technology platforms in its stores and online

Example: Women's Shelter, a domestic violence non-profit, offers legal assistance to its clients through its non-lawyer staff, including assistance with protective orders, divorces, and custody proceedings

- 2. Subtype 2:** Practicing law through a business partnership or contract with individual lawyers or firms in which the services are advertised as part of the provider's brand and in which the contract for services is between the entity (not the lawyer or the firm) and the consumer.

Example: Bank enters into business partnership with Attorneys-at-Law LLP or individual lawyer in which Bank advertises legal help as part of its services/products. Fees are earned through a contract for services between Bank and customer.

Example: SavMart enters into a joint-venture with Attorneys-at-Law, LLP through which the firm's attorneys offer legal services to SavMart's customers, either in their stores or via online platforms. The services are advertised under SavMart's brand and fees are earned through a contract for services between SavMart and the consumer.

Conventional 100% lawyer-owned, managed, and financed law partnerships, professional law corporations, and individual lawyers with an active Utah license may continue their traditional law practice without interacting with the sandbox or Oversight Office.

### *Incentivizing Access to Justice*

Finally, in order to ensure the sandbox meaningfully addresses the access-to-justice crisis, the Oversight Office will also experiment with several features that ensure sandbox offerings meet the needs of low-income consumers, including:

1. Obligating providers to give free licenses, software, or other access to people who cannot afford their innovative services
2. Encouraging more access-oriented participants by bringing together innovative providers and professionals who serve low-income communities (such as legal-aid lawyers or social workers), and offering incentives and training to participants focused on low-income consumers
3. Specifically soliciting access-oriented services when the sandbox is announced and pre-identifying technologies and business models that experts have identified as promoting access to justice

## Budget Narrative

### **Task 1 – Stand Up Regulatory Sandbox**

Standing up the sandbox requires expanding the sandbox website, building a case-management system, and documenting the sandbox's business processes and internal operating procedures.

- Expand sandbox website: 1 Web Developer @ \$40.00 / hr x 100 hours = \$4,000.00
- Build case-management system: 1 Programmer @ \$40.00 / hr x 119 hours = \$4,760.00
- Documenting business processes: 1 Project Manager @ \$50.00 / hr x 39 hrs = \$1,950.00

*Total Cost: \$10,710.00*

*Schedule:* Standing up the regulatory sandbox will take approximately one-to-two months and will take place during June and July 2020.

### **Task 2 – Process Sandbox Applicants**

Processing applicants involves assessing potential participants' applications and setting conditions for the participation of those applicants who are accepted into the sandbox. During the assessment period, the Economist, Data Analyst, and Project Manager, along with the Oversight Board and initial staff members Lucy Ricca and Tom Clarke, will examine all submitted proposals and, with final approval from the Utah Supreme Court, accept those that demonstrate an innovative new offering, a strong assessment plan, and a strong potential for public benefit.

During the assessment period, the Project Manager will coordinate communication between applicants, the Oversight Office, the Oversight Board, and the Court. The Economist and Data Analyst will use their expertise to assess each applicant for potential risks and benefits to consumers and the market as a whole, and determine the effectiveness of the applicant's proposed assessment plan. The Web Developer and Programmer who expanded the sandbox website and case-management system will remain involved on a contract basis to assist the Oversight Office in evaluating the technological feasibility of proposed offerings, provide technical support, and address problems encountered by applicants or the other contract positions.

- Assess applications:
  - Economist @ \$75.00 / hr x 67 hours = \$5,025.00
  - Data analyst @ \$50.00 / hr x 100 hours = \$5,000.00
  - Project Manager @ \$50.00 / hr x 100 hours = \$5,000.00
  - Web Developer @ \$40.00 / hr x 81.5 hrs = \$3,260.00
  - Programmer @ \$40.00 / hr x 47 hrs = \$1,880.00
  - ***Subtotal: \$20,165.00***

Participants who are accepted into the sandbox will then work with the Economist, Data Analyst, and Project Manager to establish protocols for data-sharing, auditing, and evaluation. The Project Manager will coordinate communication between approved participants and the Oversight Office. The Economist and Data Analyst will use their expertise to identify and fashion unique and effective protocols for each individual participant.

- Set participant conditions
  - Economist @ \$75.00 / hr x 149 hours = \$11,175.00
  - Data Analyst @ \$50.00 / hr x 111.77 hours = \$5,600.00
  - Project Manager @ \$50.00 / hr x 447.09 hours = \$22,350.00
  - **Subtotal: \$39,125.00**

**Total Cost: \$59,290.00**

*Schedule:* Processing sandbox applicants will take approximately 16 months and occur between July 2020 and November 2021

### **Task 3 – Assess Sandbox Participants**

Sandbox participants must submit quarterly reports throughout the pilot period. The Data Analyst and Economist will use these reports to conduct ongoing evaluations of the risks and benefits to consumers of each offering. The Project Manager will coordinate this process by monitoring the website and database for quarterly reports, consumer feedback, consumer complaints, and will manage communications with participants, the other two positions, the Oversight Board, and the Court.

- Evaluate participant data
  - Economist @ \$75.00 / hr x 75 hours = \$5,625.00
  - Data Analyst @ \$50.00 / hr x 447 hours = \$6,650.00
  - Project Manager @ \$50.00 / hr x 112 hours = 5,600.00
  - **Subtotal: \$33,575.00**

During or at the end of the sandbox pilot, the Economist and Data Analyst will use their expertise to conduct a risk and benefit assessment of the individual participant's overall performance. This assessment will form the basis of a recommendation they will submit to the Oversight Board and Court about whether each individual participant should be allowed to continue with their offering after the sandbox concludes, and which (if any) regulations should be permanently relaxed or revised. During this time, the Project Manager will continue to coordinate information and communications with the other two positions, the Oversight Board, and the Court.

- Determine whether participants can continue
  - Economist @ \$75.00 / hr x 354 hours = 26,550.00

- Data Analyst @ \$50.00 / hr x 133 hours = \$6,650.00
- Project Manager @ \$50.00 / hr x 265 hours = \$13,250.00
- ***Subtotal: \$46,450.00***

***Total Cost: \$80,025.00***

***Schedule:*** Assessing sandbox participants will take approximately 16 months and occur between July 2020 and November 2021

#### **Task 4 – Assess Sandbox Pilot**

In the final months of the grant period, the Economist and Data Analyst will conduct an internal assessment of the sandbox and report the results to the Oversight Board and the Court. The Project Manager will coordinate this assessment, managing information and communication between the other two positions, the Oversight Board, and the Court.

***Total Cost: \$49,975.00***

***Schedule:*** Assessing the sandbox will take approximately one-to-two months and will take place during November and December 2021.

**Total Requested from SJI: \$200,000**

#### **In-Kind Match**

The National Center for State Courts and the Institute for the Advancement of the American Legal System have both made in-kind contributions through the assistance of Lucy Ricca and Tom Clarke, respectfully, in standing up the sandbox. Lucy and Tom will play a critical advisory role in standing up the sandbox, onboarding the Project Manager, Economist, and Data Analyst, and providing technical expertise and institutional knowledge as the sandbox begins accepting and assessing participants. Furthermore, members of the Administrative Office of the Utah Courts, chiefly Larissa Lee, Appellate Court Administrator, will continue to be involved with and provide significant support to the Task Force. And while we have not separately quantified this contribution, we anticipate it will exceed \$25,000 dollars.

- ***Institute for the Advancement of the American Legal System: up to \$50,000 (Lucy Ricca)***
  - Task 1: up to \$20,000.00
  - Task 2: up to \$10,000.00
  - Task 3: up to \$30,000.00
  - Task 4: \$0.00
  - ***Subtotal: \$50,000***
- ***National Center for State Courts: \$50,000 (Tom Clarke)***
  - Task 1: \$10,000.00
  - Task 2: \$20,000.00

- Task 3: \$20,000.00
- Task 4: \$0
- ***Subtotal: \$50,000***

***Total In-Kind Match: \$100,000+***

***Total Project Cost: \$300,000***

# STATE JUSTICE INSTITUTE APPLICATION

<b>1. APPLICANT</b> a. Organization Name <u>Utah Supreme Court</u> b. Street/P.O. Box <u>450 S. State St.</u> c. City <u>Salt Lake City</u> d. State <u>UT</u> e. Zip Code <u>84111</u> f. Phone Number <u>(801) 578-3900</u> g. Fax Number _____ h. Web Site Address <u>https://www.utcourts.gov/courts/sup/</u> i. Name & Phone Number of Contact Person <u>Larissa Lee, 801-578-3834</u> j. Title <u>Appellate Court Administrator</u> k. E-Mail Address <u>larissal@utcourts.gov</u>	<b>2. TYPE OF APPLICANT</b> (Check appropriate box) <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <input checked="" type="checkbox"/> State Court  <input type="checkbox"/> National organization operating in conjunction with State court  <input type="checkbox"/> National State court support organization  <input type="checkbox"/> College or university             </div> <div style="width: 35%;"> <input type="checkbox"/> Other non-profit organization or agency  <input type="checkbox"/> Individual  <input type="checkbox"/> Corporation or partnership  <input type="checkbox"/> Other unit of government  <input type="checkbox"/> Other _____                  (Specify) _____             </div> </div>
<b>3. PROPOSED START DATE</b> _____ <u>June 1, 2020</u>	
<b>4. PROJECT DURATION</b> (months) <u>18 months</u>	
<b>5. APPLICANT FINANCIAL CONTACT</b> a. Organization Name <u>Utah State Courts - Administrative Office of the Courts</u> b. Street/P.O. Box <u>450 S. State St.</u> c. City <u>Salt Lake City</u> d. State <u>UT</u> e. Zip Code <u>84111</u> f. Phone Number _____ g. Fax Number _____ h. Web Site Address _____ i. Name & Phone Number of Contact Person <u>Milton Margaritis, (801) 578-3863</u> j. Title <u>Grant Coordinator</u> k. E-Mail Address <u>miltonm@utcourts.gov</u> l. Organization EIN <u>876000545</u>	
<b>6. IF THIS APPLICATION HAS BEEN SUBMITTED TO OTHER FUNDING SOURCES, PLEASE PROVIDE THE FOLLOWING INFORMATION:</b> Source <u>N/A</u> Date Submitted _____ Amount Requested _____ Disposition (if any) or Current Status _____ _____	
<b>7. a. AMOUNT REQUESTED FROM SJI</b> \$ <u>200,000</u> <b>b. AMOUNT OF MATCH</b> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div>             Cash Match \$ _____              In-kind Match \$ <u>100,000</u> </div> <div> <b>c. TOTAL MATCH</b> \$ _____  <b>d. OTHER CASH</b> \$ _____  <b>e. TOTAL PROJECT COST</b> \$ <u>300,000</u> </div> </div>	
<b>8. TITLE OF PROPOSED PROJECT</b> <u>Piloting Utah's Legal Services Oversight Office and Regulatory Sandbox</u>	
<b>9. CONGRESSIONAL DISTRICT OF:</b> <u>Rep. Chris Stewart, UT-02</u> <span style="float: right;"><u>Statewide</u></span> <div style="display: flex; justify-content: space-between; font-size: small;"> <span>Name of Representative; District Number</span> <span>Project location (if different from applicant location): Name of Representative; District Number</span> </div>	
<b>10. CERTIFICATION</b> On behalf of the applicant, I hereby certify that to the best of my knowledge the information in this application is true and complete. I have read the attached assurances (Form D) and understand that if this application is approved for funding, the award will be subject to those assurances. I certify that the applicant will comply with the assurances if the application is approved, and that I am lawfully authorized to make these representations on the behalf of the applicant.	
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 40%;">               SIGNATURE OF RESPONSIBLE OFFICIAL  <small>(For applications from State and local courts, Form B - Certificate of State Approval, must be attached)</small> </div> <div style="width: 30%; text-align: center;"> <u>Appellate Court Administrator</u>              TITLE           </div> <div style="width: 20%; text-align: center;"> <u>Jan. 30, 2020</u>              DATE           </div> </div>	



STATE JUSTICE INSTITUTE

Certificate of State Approval

The Utah Supreme Court

Name of State Supreme Court or Designated Agency or Council

has reviewed the application entitled Piloting Utah's Legal Services Oversight Office and Regulatory Sandbox

prepared by Larissa Lee, Appellate Court Administrator

Name of Applicant

approves its submission to the State Justice Institute, and

☒

agrees to receive and administer and be accountable for all funds awarded by SJI pursuant to the application;

☐


herby requests consideration of a reduction in cash match as requested by the applicant (**NOTE: only applicable to Project Grant applications**);

☐

designates

\_\_\_\_\_  
Name of Trial or Appellate Court or Agency

as the entity to receive, administer, and be accountable for all funds awarded by SJI pursuant to the application.

  
Signature

January 28, 2019

Date

Matthew B. Durrant

Name

Chief Justice, Utah Supreme Court

Title

# STATE JUSTICE INSTITUTE

## PROJECT BUDGET

(TABULAR FORMAT)

**Applicant:** Utah Supreme Court

**Project Title:** Piloting Utah's Legal Services Oversight Office and Regulatory Sandbox

**For Project Activity from** 06/01/2020 **to** 05/31/2021

**Total Amount Requested for Project from SJI \$** 107,214.06

RESET

ITEM	SJI FUNDS	STATE FUNDS	FEDERAL FUNDS	APPLICANT FUNDS	OTHER FUNDS	IN-KIND SUPPORT	TOTAL
Personnel							0.00
Fringe Benefits							0.00
Consultant / Contractual	107,214.06					100,000.00	207,214.06
Travel							0.00
Equipment							0.00
Supplies							0.00
Telephone							0.00
Postage							0.00
Printing / Photocopying							0.00
Audit							0.00
Other (specify)							0.00
<b>Subtotal, Direct Costs</b>	<b>107,214.06</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>100,000.00</b>	<b>207,214.06</b>
<b>Indirect Costs</b>							0.00
<b>Grand Total</b>	<b>107,214.06</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>100,000.00</b>	<b>207,214.06</b>

**Remarks:**

RESET

# STATE JUSTICE INSTITUTE

## PROJECT BUDGET

(TABULAR FORMAT)

**Applicant:** Utah Supreme Court

**Project Title:** Piloting Utah's Legal Services Oversight Office and Regulatory Sandbox

**For Project Activity from** 06/01/2021 **to** 12/31/2021

**Total Amount Requested for Project from SJI \$** 92,785.94

RESET

ITEM	SJI FUNDS	STATE FUNDS	FEDERAL FUNDS	APPLICANT FUNDS	OTHER FUNDS	IN-KIND SUPPORT	TOTAL
Personnel							0.00
Fringe Benefits							0.00
Consultant / Contractual	92,785.94					0.00	92,785.94
Travel							0.00
Equipment							0.00
Supplies							0.00
Telephone							0.00
Postage							0.00
Printing / Photocopying							0.00
Audit							0.00
Other (specify)							0.00
<b>Subtotal, Direct Costs</b>	<b>92,785.94</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>92,785.94</b>
<b>Indirect Costs</b>							0.00
<b>Grand Total</b>	<b>92,785.94</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>92,785.94</b>

**Remarks:**

RESET

# STATE JUSTICE INSTITUTE

## PROJECT BUDGET

(TABULAR FORMAT)

**Applicant:** Utah Supreme Court

**Project Title:** Piloting Utah's Legal Services Oversight Office and Regulatory Sandbox

**For Project Activity from** 06/01/2020 **to** 12/31/2021

**Total Amount Requested for Project from SJI \$** 200,000.00

RESET

ITEM	SJI FUNDS	STATE FUNDS	FEDERAL FUNDS	APPLICANT FUNDS	OTHER FUNDS	IN-KIND SUPPORT	TOTAL
Personnel							0.00
Fringe Benefits							0.00
Consultant / Contractual	200,000.00					100,000.00	300,000.00
Travel							0.00
Equipment							0.00
Supplies							0.00
Telephone							0.00
Postage							0.00
Printing / Photocopying							0.00
Audit							0.00
Other (specify)							0.00
<b>Subtotal, Direct Costs</b>	<b>200,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>100,000.00</b>	<b>300,000.00</b>
<b>Indirect Costs</b>							0.00
<b>Grand Total</b>	<b>200,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>100,000.00</b>	<b>300,000.00</b>

**Remarks:**

RESET

## **STATE JUSTICE INSTITUTE ASSURANCES**

The applicant hereby assures and certifies that it possesses legal authority to apply for the grant, and that if funds are awarded by the State Justice Institute pursuant to this application, it will comply with all applicable provisions of law and the regulations, policies, guidelines and requirements of SJI as they relate to the acceptance and use of SJI funds pursuant to this application. The applicant further assures and certifies with respect to this application, that:

1. No person will, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by SJI funds, and that the applicant will immediately take any measures necessary to effectuate this assurance.
2. In accordance with 42 U.S.C. 10706(a), funds awarded to the applicant by SJI will not be used, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by federal, state or local agencies, or to influence the passage or defeat of any legislation or constitutional amendment by any federal, state or local legislative body.
3. In accordance with 42 U.S.C. 10706(a) and 10707(c):
  - a. It will not contribute or make available SJI funds, project personnel, or equipment to any political party or association, to the campaign of any candidate for public or party office, or to influence the passage or defeat of any ballot measure, initiative, or referendum;
  - b. No officer or employee of the applicant will intentionally identify SJI or applicant with any partisan or nonpartisan political activity or the campaign of any candidate for public or party office; and,
  - c. No officer or employee of the applicant will engage in partisan political activity while engaged in work supported in whole or in part by SJI.
4. In accordance with 42 U.S.C. 10706(b), no funds awarded by SJI will be used to support or conduct training programs for the purpose of advocating particular non-judicial public policies or encouraging non-judicial political activities.
5. In accordance with 42 U.S.C. 10706(d), no funds awarded by SJI will be used to supplant state or local funds supporting a program or activity; to construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or to solely purchase equipment for a court system.
6. It will provide for an annual fiscal audit of the project.
7. It will give the Institute, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award.
8. In accordance with 42 U.S.C. 10708(b) (as amended), research or statistical information that is furnished during the course of the project and that is identifiable to any specific individual, shall not be used or revealed for any purpose other than the purpose for which it was obtained. Such information and copies thereof shall be immune from legal process, and shall not be offered as

evidence or used for any purpose in any action suit, or other judicial, legislative, or administrative proceeding without the consent of the person who furnished the information.

9. All research involving human subjects will be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it, unless such procedures and safeguards would make the research impractical. In such instances, the Institute must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and to minimize or eliminate risk or harm to those subjects due to their participation.
10. All products prepared as the result of the project will be originally-developed material unless otherwise specifically provided for in the award documents, and that material not originally developed that is included in such projects must be properly identified, whether the material is in a verbatim or extensive paraphrase format.
11. No funds will be obligated for publication or reproduction of a final product developed with Institute funds without the written approval of the Institute. The recipient will submit a final draft of each such product to the Institute for review and approval prior to submitting that product for publication or reproduction.
12. The following statement will be prominently displayed on all products prepared as a result of the project: "This [document, website, film, videotape, etc.] was developed under a [grant, cooperative agreement, contract] from the State Justice Institute. Points of view expressed herein are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute."
13. The "SJI" logo will appear on the front cover of a written product or in the opening frames of a video production produced with Institute funds, unless another placement is approved in writing by the Institute.
14. Except as otherwise provided in the terms and conditions of a SJI award, the recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.
15. It will submit quarterly progress and financial reports within 30 days of the close of each calendar quarter during the funding period (that is, no later than January 30, April 30, July 30, and October 30); that progress reports will include a narrative description of the project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period,; and that financial reports will contain the information required.
16. At the conclusion of the project, title to all expendable and non-expendable personal property purchased with SJI funds shall vest in the court, organization, or individual that purchased the property if certification is made to the Institute that the property will continue to be used for the authorized purposes of SJI-funded project or other purposes consistent with the State Justice Institute Act, as approved by SJI. If such certification is not made or SJI disapproves such certification, title to all such property with an aggregate or individual value of \$1,000 or more shall vest in SJI, which will direct the disposition of the property.

17. The person signing the application is authorized to do so on behalf of the applicant, and to obligate the applicant to comply with the assurances enumerated above.