

Utah Supreme Court's Task Force on Regulatory Reform

Approved Meeting Minutes
February 19, 2020
Scott M. Matheson Courthouse
Judicial Council Room, Suite N31
450 S. State Street
Salt Lake City, UT 84111
3:00 p.m. – 4:00 p.m.

Attendees:

Justice Deno Himonas, Co-Chair
John Lund, Co-Chair
Justice Christine Durham (Ret.)
Steven Johnson
Heidi Anderson
Brody Arishita
Nathanael Player
Lucy Ricca
Rebecca Sandefur
Gillian Hadfield

Excused:

Larissa Lee
Margaret Hagan
Heather Farnsworth
Dean Gordon Smith
Thomas Clarke

Staff:

Tyler Hubbard, Law Clerk, Supreme Court
Marina Kelaidis, Recording Secretary

1. Welcome and approval of February 5, 2020 minutes: (John Lund)

John Lund welcomed everyone to the meeting and asked for approval of the minutes. Steven Johnson recommended a few minor word changes to the February 5, 2020 minutes.

Steven Johnson moved to approve the February 5, 2020 minutes with the recommended changes. Justice Himonas seconded the motion, and it passed unanimously.

2. Discussion – New applicants/interest and suggested email updates: (Tyler Hubbard, Marina Kelaidis)

Tyler Hubbard reported he has a draft email update ready to send out to those who have signed up for updates from the website. Mr. Hubbard is currently waiting for the biographies of the new Task Force members to be posted to the website as well as a link to the recording of the recent Data Workshop before he sends the update email to the subscribers. Mr. Hubbard will circulate the draft email update to the members of the Task Force for any feedback before it is sent out.

Marina Kelaidis reported that as of this morning there are 25 individuals and/or groups who have expressed interest in participating in the sandbox and 69 individuals and/or groups who have signed up for updates via the website.

John Lund asked the committee to discuss a comment that was submitted via the website expressing concern of the effect of regulatory reform in current legal practices, particularly for small or solo practitioners. Justice Himonas reiterated the need for the Bar's Task Force to help educate the members of the Bar of the ways in which regulatory reform can be beneficial to the current practice of law and current lawyers to help address some of these concerns. Steven Johnson suggested that after Standing Order 15 goes out for comment, there will likely be more comments like this one expressing concern over the potential loss of practice. Justice Himonas reported that that Task Force will be presenting at the Bar's upcoming spring and summer conventions. By the summer convention, the comment period for the Standing Order will be concluded and the Task Force will be able to address some of the concerns received. Heidi Anderson will confirm that the automatic replies to the submissions received on the Connect tab are being generated successfully.

In order to help small and solo practitioners see the potential opportunities provided by regulatory reform, Gillian Hadfield suggested for the Task Force to encourage the new non-lawyer providers in the sandbox to communicate upcoming opportunities for partnerships, hiring, and service networks. Justice Himonas agreed that this could be a successful way to present opportunities for lawyers to expand their services and introduce upcoming opportunities with providers to help alleviate a lot of the concern among lawyers. Ms. Hadfield recommended that this should not be implemented by the Task Force itself, but can be implemented by workshops or panels with the Bar and by advertising or outreach efforts of the providers themselves. Justice Himonas suggested cultivating a workshop focused on addressing how regulatory reform can be utilized by lawyers. John Lund will connect with Heather Farnsworth to see about scheduling this kind of workshop for the summer Bar convention.

Nathanael Player reported he has been researching how to implement useful focus groups. From his research, Mr. Player reported that small focus groups of individuals from diverse professional backgrounds that often overlap with the law may be useful groups for gathering data. Justice Himonas recommended for Mr. Player to work with John Lund, Lucy Ricca and Walter Montgomery to develop these focus groups. Mr. Lund suggested also including the Bar on the focus groups. Mr. Player will compose an outline of how these focus groups will be implemented to be presented at a future Task Force meeting.

3. **Discussion – Update on rules and standing order:** (Justice Himonas, Lucy Ricca)

Justice Himonas reported that he is continuing to work on the draft Standing Order and will present it at the next Task Force meeting. Justice Himonas also reported that the Supreme Court reviewed the rules today at the Supreme Court conference and the overall response was positive. The Standing Order, rules 5.4A and 5.4B will go before the Supreme Court at their next conference on March 4, 2020 and then will go out for public comment.

Justice Himonas reported the Conference of Chief Justices voted unanimously for the courts to approach regulatory reform. The ABA also approved a resolution on regulatory reform. Justice Durham expressed that with this support, there will be an increase in support from many areas. Justice Himonas reported that the Chief Justice of the Florida Supreme Court recently appointed the chair of their own regulatory task force and other states are continuing to move in this direction.

With this momentum and the support of the ABA and Chief Justices, John Lund suggested that it may be worth considering a way for all of these groups to work together, perhaps in a summit or coalition format. Mr. Lund reported that IAALS and the National Center for State Courts have expressed interest in collaborating on a broader scale. Lucy Ricca reported that IAALS has been discussing when and what sort of convening they could partake in that will add value to a joint effort. IAALS may participate in an add-on at the Portland Conference of Chief Justices for the states that are interested in engaging in reform. Justice Durham suggested the National Center for State Courts may be a good resource for organizing such a coalition in the fall. Mr. Lund recommended starting with organizing a teleconference or webinar with the leaders of all of the existing state's task forces and those interested in participating in reform in the fall, organized by IAALS. Following the teleconference, organize a summit or conference later on down the road. Justice Durham recommended for each state to present an outline of their current regulatory reform initiatives and what questions they have at the webinar forum, as this would also provide a planning template for the summit or conference to follow. Lucy Ricca will present this recommendation to her team at IAALS.

4. **Discussion – Update on outreach efforts:** (Lucy Ricca, John Lund)

Lucy Ricca reported that she has a working outline for the media responses for the Task Force and she is still working on developing a Q&A. She is working with John Lund, Walter Montgomery, and Jason Solomon from Stanford Law School to develop a 60- to 90-day strategic communications plan. Ms. Ricca asked the Task Force members on the ground in Utah to begin thinking about their abilities to participate in speaking engagements and outreach opportunities to implement the 60- to 90-day communications plan.

John Lund expressed concern that the voice of the consumer will not be heard when the Standing Order goes out for public comment and only voices of Bar members will be expressed. Mr. Lund asked the Task Force to consider who or what groups in the community may be reached to weigh in on the value of these changes and the increased access to justice. Ms. Ricca suggested for the focus groups to include potential consumers as well as service providers. In addition, Justice Durham will reach out to these groups through her role in the Bar's Access to Justice Commission, especially nonlawyer participants. Ms. Ricca also proposed organizing an interview with John Lund and the nonlawyer members of the Bar's Task Force that can be developed into a published writing piece. Heidi Anderson reported that she is a board member to AIM and she will draft an outreach piece to be sent to CIOs across Utah, to be circulated to the Task Force before distribution.

Justice Himonas reported on a recent Deseret News article featuring a case in which a client was represented by a Licensed Paralegal Practitioner. Justice Himonas expressed that more stories featuring these benefits of regulatory reform would be a good way to increase the voice of a consumer who has received increased access to justice through models of reform.

5. **Discussion – Old business / new business:** (all)

Heidi Anderson reported that she is working on developing a decision tree form for the lawyer and nonlawyer answer selections of the application form. Once completed, she will connect with Ms. Ricca to test the form.

6. **Adjournment and next meeting:**

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