

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, June 17, 2021 - 12:00 to 2:00 p.m.

Attended			Not Present	
Judge Keith Kelly	Rob Ence	Alan Ormsby	Judge David Connors	Danaka Robles
Judge James Brady	Leslie Francis	Andrew Riggle	Shane Bahr	Nancy Sylvester
Deborah Brown	Nels Holmgren	Shonna Thomas	Xia Erickson	James Toledo
Brant Christiansen	Camille McBride	Katie Thomson	Wendy Fayles	Todd Weiler
Tantalisa Clayton	Michelle Miranda	Michelle Wilkes	Nan Mendenhall	
Rob Denton	Daniel Musto	Kaye Lynn Wootton		

Agenda			
	Topic	Presenter	Materials
12:00	Meeting begins		
	<ul style="list-style-type: none"> Housekeeping Minutes 	Judge Kelly	<i>WINGS Minutes (April 2021 – draft)</i>
12:10	<ul style="list-style-type: none"> Updates from GRAMP <ul style="list-style-type: none"> Summer Intern Guardianship Signature Program Funding for Court Visitor Program 	Shonna Thomas	
12:25	<ul style="list-style-type: none"> Judicial Council committee – proposal 	Judge Kelly Shonna Thomas	<i>Rule 1-205 and WINGS rule</i>
12:45	<ul style="list-style-type: none"> Virtual hearings post-COVID 	Judge Kelly Michelle Wilkes	
1:15	<ul style="list-style-type: none"> Rule 6-501 update <ul style="list-style-type: none"> Coversheet Limited guardianship of a minor 	Nancy Sylvester Brant Christiansen Shonna Thomas	<i>CJA Rule 6-501 (draft)</i>
1:30	<ul style="list-style-type: none"> Rule 6-507 - amendments 	Nancy Sylvester Michelle Wilkes	<i>CJA Rule 6-507 (draft)</i>
1:40	<ul style="list-style-type: none"> Guardianship manuals - update 	Shonna Thomas	<i>Case Management - Adult Guardianship and Conservatorship Basic Guidelines - Guardians and Conservators</i>
1:45	Other Business: <ul style="list-style-type: none"> Nancy’s new position Future projects 	Judge Kelly Shonna Thomas	
2:00	Meeting adjourned		

Next meeting:	August 19, 2021 (via WebEx)
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1. Housekeeping

- Meeting began at 12:05pm.
- A motion was made to approve the minutes from the previous meeting (April 15, 2020). The motion was seconded and approved.
- The Committee thanked Nancy Sylvester for her service on WINGS. Nancy will be moving to a new position with the Utah State Bar.
- Meeting adjourned at 1:53pm.

2. Updates from GRAMP

Summer Intern

- GRAMP has hired a summer intern, Camille McBride. Camille is a graduate from BYU and plans to start law school at the University of Utah in the fall. Camille will be in the position through August.
- The GRAMP Summer Intern position involves working on a variety of tasks, including helping with the Guardianship Signature Program tracking and request fulfillment, completing action items for WINGS, and working on cases through Court Visitor Program.
- GRAMP intends to bring on a new intern every summer.

Guardianship Signature Program

- It was recently discovered that the email group lists that send requests to participating attorneys were not getting through to recipients. The emails appear to go through, and internal court staff have been receiving them, but no one with an external address receives the emailed requests.
- GRAMP is working with the IT department to get the issue fixed.

Funding for Court Visitor program

- Guardianship cases are increasing, and the Court Visitor Program is receiving cases that are more complex. These increases are stretching the available resources of the program.
- The Court Visitor program has struggled to recruit new Court Visitors, because of time constraints and COVID. In 2017, the program had 60+ volunteers; at present, the program has approximately 30 volunteers, with only 12-15 Court Visitors who take cases on a regular basis.
- GRAMP has started the process to try to get funding from the Judicial Council and Legislature for an additional Court Visitor Program Coordinator.

3. Judicial Council Committee

Becoming a formal committee of the Judicial Council affords a certain status and provides a clear succession plan and appointment for judges serving on WINGS. It also allows a greater rotation of individuals in the court to be involved in the committee. However, there is concern about losing some of the flexibility WINGS has enjoyed in welcoming new stakeholders and receiving input from individuals interested and involved in guardianship processes.

It is recommended that WINGS develop a proposal with a consensus from committee members. The provided draft of Rule 1-205 gives a suggestion of how WINGS would handle stakeholder representation.

Rule 1-205 requires specific numbers of members. However, many Judicial Council committees also have standing invitation members, which allows others to participate beyond the exact numbers stated in the rule. The rule does not preclude the committee from stakeholder participation that exceeds that minimum.

Some committees also develop a separate rule, which states the committee's purpose. This would allow the committee to keep parts of the current bylaws language, as seen in the provided draft.

Decisions made –

- Shonna Thomas will research how difficult it might be to change Rule 1-205 once it is place, should additional stakeholder categories be identified down the road.
- WINGS members will review the draft Rule 1-205 and WINGS rule and provide feedback on suggested changes, concerns, and their agreement of disagreement with pursuing Judicial Council committee status.
- This item will remain on the WINGS agenda.

4. Virtual Hearings Post-COVID

Building on the discussion from the April meeting, this item was on the agenda for the Executive Committee meeting in May. In determining the next steps, the committee looked at ways to balance the need for the respondent to have personal attention during the guardianship hearing with the flexibility and access to justice that comes from participating in hearings remotely.

Discussion –

- Can the calendar in 3rd district, which sees the highest number of guardianship cases, be adjusted to include either a separate time for stipulated guardianships, a way to group those cases at the end of the day, or something similar?

One issue with trying to set contested cases on a separate calendar or different time is that it is not always known in advance that they are contested, especially with pro se parties.

3rd district is starting a new practice in July where the calendars will be capped to no more than 10 cases each. This should help ease some of the congestion experienced in this district.

Judge Faust is also going to start each day by announcing that it is a consent calendar and not the time to argue objections, and if there are objections, it will go to the assigned judge.

- Virtual hearings have provided greater access for respondents to attend, especially those in facilities. However, there has been an increased issue with respondents not being present, and a Court Visitor was not assigned, which is not compliant with 75-5-303.
- WebEx may be a substitution for in-person if a judge determines it is adequate. However, not appearing is not an alternative unless the requirements of the statute are met.
- The language in the statute leans toward in-person presence in court. Improved access to justice is an important factor in determining whether the language in the statute should be modified.
- One suggestion is to update the form with a checkbox to consent to appear remotely, rather than requesting to be excused from the hearing. However, this may lead to undue influence.
- Is there a way to determine how often respondents are excused from appearing and the reasons for that waiver? If a statutory change is needed with the legislature, data may help in getting changes approved.

Many pro se petitioners check boxes for a Court Visitor and attorney out of lack of understanding. Probate staff ask follow up questions to determine whether the petitioner truly

intended to make those requests. The majority of the time, once a petitioner learns that WebEx attendance is a possibility, they no longer ask to waive the respondent's presence.

Decisions made –

- Shonna will look at ways to gather data on how often respondents are excused from hearing attendance, and reach out to Katie Thomson and Leslie Francis for assistance as needed.
- WINGS members who also sit on the probate subcommittee will share WINGS recommendations with the subcommittee.
- This item will remain on the WINGS agenda.

5. Rule 6-501 - update

The probate subcommittee is nearing completion on the recommended changes to Rule 6-501. The subcommittee received some additional feedback from the Elder Law section of the Bar. They plan to meet next Monday to review those comments and make final revisions.

In preparation for the rule receiving approval, Camille McBride completed a search of the court webpages to find any references to limited guardianships of a minor and guardianship for school purposes only. GRAMP will work on making updates to the web material coinciding with the final approval of Rule 6-501.

Decisions made –

- The current draft of the rule was included in the meeting materials. If WINGS stakeholders want to give any final input, send comments to Shonna before Monday, June 21st @ 12pm.
- This item will remain on the WINGS agenda.

6. Rule 6-507 - amendments

Rule 6-507 went into effect in November 2020, codifying the Court Visitor Program. After using the rule for six months, some amendments are needed to add clarifying language and address gaps in the rule.

Michelle Wilkes, Nancy, and Shonna drafted preliminary recommended changes (included in the meeting materials). The next step is to present these recommendations to the probate subcommittee and work on getting a final draft ready for approval.

Decisions made –

- If WINGS stakeholders want to give any input on the recommended revisions, send comments to Shonna.
- This item will remain on the WINGS agenda.

7. Guardianship Manuals

This long-time project of WINGS is essentially finished. Camille incorporated the suggested changes and additions to the Resource page in the Basic Guidelines manual. She also completed a final review for format and general content in both manuals, and any found errors have been corrected.

The revised manuals will go into circulation after Rules 6-501 and 6-507 are approved, as these rules are both referenced in the manuals, including the use of the new coversheet for annual reports. However, the WINGS committee's work on this project is complete.

8. Other Business

Nancy's new position

WINGS has greatly benefited from having Nancy Sylvester as a member. As she moves on to a new position with the Utah State Bar, we encourage WINGS members to reach out to express your appreciation of her time and efforts on not just this committee, but several others whose work impacts guardianship and probate matters. Nancy's final day with the courts is June 30th.

Future projects

As WINGS wraps up several ongoing projects, this is a good time to identify and suggest new projects for the committee to tackle.

Group Brainstorm & Discussion –

- Access to justice. Remote hearings and incorporating a tiered system.
- Limited guardianships. Education of attorneys, parents, community on the statute supporting limited guardianships.
 - Some petitioners/attorneys mark limited guardianship on the petition, but list every items as necessary, requesting essentially a full guardianship in disguise.
 - Are the resources in place for judges and court staff sufficient (e.g., bench card, checklist) or other there other things WINGS can do to enhance the existing available resources?
 - Can a revised version of the contents of the bench card and checklists be made available to the public, specifically pro se petitioners? This may help resolve misunderstandings between limited and full guardianships at the front end.
- Entities encouraging guardianship when unnecessary.
 - Schools encouraging guardianship with the mistaken belief that they cannot speak to parents after the individual has turned 18 years old.
 - Medical professionals believing that guardianship is the only option for parents to continue being involved in their adult child's medical care.
- Update to the Medical Evaluation report.
 - It can sometimes be difficult for doctors to detail the respondent's capabilities and limitations. Updating the form to include checkboxes and language that match the definition and parameters of a limited guardianship might provide medical professionals with better direction.
 - Improving resources for medical professionals to communicate better the type of information and the kind of detail judges needs when determining the scope of the guardianship.
- Education for judges.
 - Is there a way to survey judges to find out what they know, what tools they use, what would be helpful for them? Perhaps an annual survey to judges to determine gaps.
 - Presenting to judges during the district court judges conference. When they put sessions together for these conferences, is a survey sent asking what topics would they find most helpful or they are interested in? If that is something the training department does, this may be an easy way to gauge how much interest there is, or to plant the seed that this is a topic worth learning more about.

Decisions made –

- This item will be added to the WINGS agenda.

Private insurance article

Rob Denton is still trying to track down the article on private insurance coverage and guardianships. Norm Foster may be listed as the lead author if other stakeholders want to do a search to see if they have a copy. It may have been published in the Utah Medical Association magazine. Kent Alderman or Norm Foster may still have copies as well.

Action Items

<ul style="list-style-type: none"> – Research how difficult it might be to change Rule 1-205 once it is place. – Review Rule 1-205. Provide feedback and indicate agreement or disagreement with becoming a Judicial Council committee. 	<p style="text-align: center;">Shonna Thomas WINGS Stakeholders</p>
<ul style="list-style-type: none"> – Look at how possible it is to gather data on how often respondents are excused from hearing attendance. 	<p style="text-align: center;">Shonna Thomas</p>
<ul style="list-style-type: none"> – Provide any final input on Rule 6-501 before Monday, June 21st @ 12pm. – Provide any final input on Rule 6-507 changes, if desired. 	<p style="text-align: center;">WINGS Stakeholders</p>

Deferred / Continuing Items

<ul style="list-style-type: none"> – Judicial Council committee – proposal – Virtual Hearings post-COVID – Rules 6-501 and 6-507 updates – Future projects brainstorm

Upcoming Meetings:

- August 19, 2021
- October 21, 2021
- December 16, 2021
- January 20, 2022
- March 17, 2022