

## **Minutes of the Committee on Resources for Self-represented Parties**

June 12, 2015

### **Members Present**

Judge Marsha Thomas, Carol Frank (remotely), Jessica Van Buren, Virginia Sudbury, Chris Martinez, Leti Bentley, Sue Crismon, Lisa Collins, Eric Mittlestadt, Carl Hernandez, Judge Douglas Thomas

### **Members Excused**

Susan Griffith  
Jaclyn Howell-Powers  
Mary Jane Ciccarello  
Barbara Procarione  
Judge Ryan Evershed

### **Staff**

Nancy Sylvester

### **Guests**

Sean Toomey, Utah State Bar

### **(1) Welcome and approval of minutes.**

Judge Marsha Thomas welcomed everyone and asked that they introduce themselves to our guest, Sean Toomey. She then asked for a motion to approve the minutes. A motion was made and seconded. The March 2015 minutes were approved as written.

### **(2) Announcements**

Judge M. Thomas announced that Mary Jane Ciccarello became an official member as of May 1st. Ms. Sylvester then announced that Shaunda McNeill had been recommended by the Management Committee to the Judicial Council for appointment as the Bar Rep to the committee. Her appointment is still subject to confirmation by the Judicial Council.

Judge M. Thomas then discussed the presentation to the Judicial Council on the Strategic Plan. Judge Hornak gave feedback on the juvenile statistics, asking something to be included about them, along with some recommendations for helping pro se litigants in juvenile court. Judge M. Thomas looked into the statistics but found out that it is not well tracked within the courts' current programming. Ms. Van Buren indicated that the Self-Help Center was tracking statistics on people requesting help for the juvenile court in the Law Library and the Self Help Center. The percentage was around 2%. Judge M. Thomas said she would continue to find ways to incorporate juvenile court into the strategic plan, and since Judge Evershed is on the committee, he may be able to help with this.

### **(3) Affordable Attorneys for All**

Sean Toomey presented on Affordable Attorneys for All (AAA), which is a new task force, and also presented on the new web-based triage effort that's part of this committee's strategic plan. He thanked Senator Urquhart for the fire lit under the Bar in moving efforts like this forward. He reminded the committee about the recent legislation to permit the Supreme Court to only regulate those attorneys who practice in the courtroom. He noted how many efforts are being done to improve services for pro se litigants and those who need attorneys, but also noted that a lot of those efforts are not widely known. As such, the Bar has a timeline of the next legislative session to get a system put in place to increase the visibility of those efforts. The Bar is building a system around data that service providers can update. This will be one stop shopping for users. There are different paths based upon responses.

Several members expressed concerns relating to the need for the Bar to first populate the current directory. Mr. Toomey said this portal will replace the current Bar directory. He said he wasn't sure they would fix the old system before this rolled out. Ms. Crismon asked if this would replace Modest Means and Mr. Toomey confirmed that it probably would. Mr. Toomey's hope is that there will be at least 2500 attorneys offering at least one discounted service on this program. He gave the example of Open Legal Services—they do primarily discounted work, but will go up to 500% of federal poverty levels and charge a higher rate.

Mr. Martinez asked about those situations where people are willing to offer a discounted service only once a year, but once they give it, they don't want to be on the list anymore. Mr. Toomey said their hope is to give passwords to all service providers, including individual attorneys, and they will have the ability to update their information. The system will automatically send a reminder if they haven't logged in for a while.

Mr. Toomey said this is going to be like a marketplace. If you're a new attorney, you're going to have to scale back your rates in comparison to others. As you get more business, you will raise your prices. This will give new attorneys work, and help attorneys who are in a slump get work.

Ms. Bentley asked if a potential client doesn't have a social security if they are going to be excluded. Mr. Toomey said it will depend on the service provider. Mr. Mittlestadt noted that ULS has 30 questions it asks to determine if someone is really at 125% of poverty level and if they are legally in the country. Mr. Toomey said ULS can put this information in and have it link up with their own system. Ms. Van Buren brought up the language access issue, and Mr. Toomey said it should be bilingual and include the fact that attorneys speak other languages. .

Mr. Mittlestadt said this should be a mobile app and Mr. Toomey said that would be a great idea. Mr. Martinez asked if attorneys could market on the program. Mr. Toomey replied, no, this isn't a place to advertise. It will have very limited information, like the service and rate offered, and a link to their website.

Mr. Toomey said the Bar is also forming a AAA task force. Subcommittees are currently forming and the Bar Commission assigned chairs of the subcommittees today. The commission provided them with recommendations, but is letting the committee chairs pick who they want on their subcommittees.

Subcommittee 1: communications; they will promote whatever is built. This will be Mr. Toomey's job regardless. Mr. Toomey asked that the Bar double its advertising budget and participants.

Subcommittee 2: promote the Open Legal model. Ms. Crismon noted that Choice Legal in Provo is duplicating it.

Subcommittee 3: community lawyering, like setting up a booth in the park, for example. They will work on creating a framework for other people to duplicate the Tuesday Pro Se calendar, but work on how to charge, for example \$25/hour.

Subcommittee 4: legislative component; get support from the legislature, work on small claims rule and the law student practice rule; get funding from the legislature.

Subcommittee 5: law school component; how to help new attorneys coming out, doing internship programs differently.

Subcommittee 6: unbundled legal services.

Subcommittees should be chosen within about a week. Rob Rice and Angelina Tsu are over this (both future Bar presidents). Mr. Toomey said the hope is to engage critics of the Bar and get to a solution on some of the current problems.

#### **(4) Law Student Practice Rule**

Prof. Carl Hernandez presented on the Rules Subcommittee's project: revising Rule 14-807, the Law Student and Law Graduate Legal Assistance Rule. He said Utah's rule is the most restrictive in the nation. It poses problems for access to justice and puts students at a competitive disadvantage compared to other states. We have two of the best law schools in the nation right here in this state. There is a large movement toward experiential training, including a demand from students for the same. The revisions would make 2<sup>nd</sup> year law students eligible to participate in basically on the job training as long as they are enrolled in an externship or clinic and are supervised.

45 states allow students to participate in court, Prof. Hernandez said, but there is a division among the states on whether there is a need for personal supervision in civil and criminal cases. Nonetheless, the consensus in felony cases is that all of them require supervision. The Rules Subcommittee proposed to adopt what Arizona does there. In fact, most of the language is taken from either Arizona or California. The first part of the amendments is pulled from California's rule. What's done in the courts was pulled from Arizona's rule, Prof. Hernandez said. Arizona is a good comparison state because Arizona's schools are competitive with Utah's. The amendments, Prof. Hernandez said, identify where students can do unsupervised versus supervised work. But, he said, the courts will have ultimate say over whether a student can be supervised versus unsupervised. They inserted the same catchall phrase that Arizona uses to keep control over the process with the individual judges.

Ms. Sylvester will send out the amended rule to the committee for comment. Prof. Hernandez said 2 weeks for comment would be sufficient. Ms. Collins noted that they have gotten comments back from the Court of Appeals and they are also getting comments back from the Bar. Elizabeth Wright, Bar general counsel, is looking it over. She was concerned about the felony appearances, but 42 states allow

this, so by not allowing them, Utah would not remain competitive. Judge Thomas suggested that they may need to put more data together as more people weigh in. Prof. Hernandez said the law students have helped a lot with pulling together the data they have been using.

Mr. Martinez asked about the section of the rule dealing with law graduates who have applied to take the Bar exam. He wondered why it excluded those who wait until February to take the Bar exam. Prof. Hernandez suggested that perhaps the rule could be amended to include law graduates who are within their first year out of school.

## **(5) Self-Help Center/Law Library Updates**

Ms. Van Buren reported on a newly formed committee to study Limited License Legal Technicians, or LLLT's. This is a Supreme Court committee with Justice Himonas as chair. Ms. Ciccarello and Ms. Crismon are both on the committee. Mr. Toomey noted that this was an AAA priority and they asked the court to take it up.

Ms. Van Buren then reported that she and Ms. Ciccarello have been working with their technical people to get the Self-Help Center set up with Vidyo, or possibly Zoom.US, so that they can remotely and immediately communicate with partners around the state. Ms. Ciccarello saw this working well during a site visit to rural courts in northern California. The idea is that SHC staff are connected to the courts, as a pilot program, in Price and Richfield and also with Ms. Bentley in Moab at the Multicultural Center. Leti Bentley and Carol Frank are on board and Ms. Ciccarello is waiting still to hear from Barbara Procarione. They will start with Susan Vogel (SHC staff attorney who speaks Spanish) and Ms. Ciccarello being online constantly with these three locations. When someone there needs something, they will be ready to respond. The beauty of these systems is that the audio and video receptions are better than Skype and it is easy to share documents. In addition, there is no need to have to go through a telephone call system, which can be frequently busy. They will get this going as soon as the technology is in place.

Ms Van Buren reported that, additionally, she and Ms. Ciccarello will have a conference call later in June with former library colleague Joanne Vandestreek who is now with a county court system in Illinois. Her court has Justice Corps students and they will be asking her about how her law library and court established their program and what they might be able to replicate here.

Ms. Van Buren also reported that she was able to hire three wonderful college students around the state to do the courts' Access and Fairness surveys this summer. All three speak Spanish and were recruited through Latinos in Action through their local colleges. If this survey effort goes well, they are thinking that it might be helpful to continue to work with Latinos in Action to see if this group of college students might be available to work with them to start a pilot Justice Corps program, especially in conjunction with the state colleges in Cedar City and Logan, for example.

**(6) Timeline Development for Strategic Plan Priorities**

Regarding the timeline development, Judge M. Thomas said she will be contacting each committee member about working on subcommittee priorities. The committee will look at approving the strategic plan in September.

**(7) Other Business/Future Meetings**

The next committee meeting will be in September.

The meeting adjourned at 1:40 p.m.