

Agenda

Committee on Resources for Self-represented Parties

September 11, 2015
12:00 to 1:30 p.m.

Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Conference Room B, Suite W19

Welcome and Introductions		Judge Marsha Thomas – Chair
Approval of Minutes/ Announcements	Tab 1	Judge Marsha Thomas
Update on and adoption of Strategic Plan	Tab 2	Judge Marsha Thomas
Planning Session on Strategic Plan Priorities <ul style="list-style-type: none"> • Self-Help Center • Court Navigator Program • Forms • Law Student Practice Rule • Lawyer Directories, webpage triage efforts, referral sources • Malpractice Insurance • Virtual Services • Education 		
Other Business/Future Meetings		Judge Marsha Thomas

[Committee Web Page](#)

Proposed Quarterly Meeting Schedule: Matheson Courthouse, Judicial Council Room, 12:00 to 1:30 p.m. unless otherwise stated.

December 11, 2015
March 11, 2016
June 10, 2016

TAB 1

Minutes of the Committee on Resources for Self-represented Parties

June 12, 2015

Draft. Subject to approval

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.

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Minutes of the Committee on Resources for Self-represented Parties

June 12, 2015

Page 2

(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.

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Minutes of the Committee on Resources for Self-represented Parties

June 12, 2015

Page 3

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 2nd 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

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Minutes of the Committee on Resources for Self-represented Parties

June 12, 2015

Page 4

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.

Draft: Subject to approval

Minutes of the Committee on Resources for Self-represented Parties

June 12, 2015

Page 5

(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.

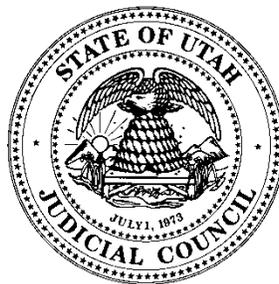
The meeting adjourned at 1:40 p.m.

TAB 2



Utah State Courts

Committee on Resources for Self-represented Parties



Strategic Plan
September 11, 2015

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

Table of Contents

(1) Executive Summary..... 3

(2) Committee History..... 3

(3) Self-Represented Parties in Utah 6

(4) Proposed future priorities 8

 (a) Continue support for the Self-Help Center. 8

 (b) Develop and implement a court navigator program..... 8

 (c) Continue to develop forms. 8

 (d) Analyze and improve the third year practice rule. 8

 (e) Encourage improvement of lawyer directories, webpage triage efforts, and referral sources..... 8

 (f) Support increasing availability of malpractice insurance for volunteer attorneys in all capacities. 9

 (g) Support the development and implementation of virtual services in rural areas. 9

 (h) Suggest opportunities for educating those who interact with self-represented parties..... 9

(5) Committee on Resources for Self-Represented Parties..... 10

(1) Executive Summary

The Committee on Resources for Self-represented Parties has been a standing committee of the Judicial Council since 2005. The committee completed two prior strategic plans in 2006 and 2011, and those plans have guided the direction of the committee to date. Just as in 2005, vast numbers of self-represented parties continue to patronize the Utah State Courts today.

In the current strategic plan, the committee recommends a) continued support including increased funding for the Self-Help Center; b) the development and implementation of a court navigator program; c) continued forms development; d) changes to the third year practice rule; e) improvement of lawyer directories and the development of a guided webpage for referral to legal services; f) increased availability of malpractice insurance for volunteer attorneys; g) support for the development of virtual legal services delivery; and h) increased education for those who interact with self-represented parties.

(2) Committee History

This committee was created to study and make policy recommendations to the Judicial Council concerning the needs of self-represented parties. [Rule 3-115 of the Utah Code of Judicial Administration](#) provides the charge for the committee and [CJA Rule 1-205 \(1\)\(B\)\(viii\)](#) sets the committee composition.

Rule 3-115 dictates that the committee shall provide leadership to identify the needs of self-represented parties, coordinate resources to meet those needs, assess available services, forms, and gaps in those forms; ensure court programs are integrated into the statewide planning for legal services; recommend measures for improving how the legal system serves self-represented parties, and develop an action plan for managing cases involving self-represented parties.

The committee began meeting in June 2005. Committee members first assessed self-represented parties' needs by use of a questionnaire. In 2006 those surveys were collected from 15 rural and urban district and justice courts. Self-represented parties, judges, clerk staff, and attorneys were surveyed.

The 2006 survey revealed that "self-represented parties require more time than represented parties, they expect court staff to provide advice they are not allowed to give, lack reasonable expectations about case outcomes, and fail to bring necessary witnesses and evidence to court and to understand procedural and evidentiary rules."

[The 2006 Strategic Plan](#)

Based on the results of the survey, the Committee presented a strategic plan to the Judicial Council in July 2006.¹ In that strategic plan, the Committee recommended the following goals for any programs developed to assist self-represented parties: ensure access to the legal system; increase education of court

¹ The 2006 strategic plain is available at <http://www.utcourts.gov/committees/ProSe/Strategic%20Plan%20Self%20Rep.pdf>

users, court personnel, and community organizations; clarify the court system so it is understandable by ordinary citizens; increase the efficiency and effectiveness of the court system by reducing the time required of judges to explain court procedures and, in turn, reduce the number of continuances; and increase understanding of court orders.

The overarching principle of the plan was that any services provided had to be equally available throughout Utah to all parties involved (defendants as well as plaintiffs); available regardless of income; and be designed to supplement and not to supplant legal representation.

The plan envisioned a web of services – some by the courts, some by community organizations, and some by lawyers. The 2006 plan gave specific recommendations including the creation of a self-help support center; development of materials and resources for clinics and workshops, and greater assistance from judicial support staff. The plan recommended 1) having the state law library educate and promote statewide access to legal information; 2) providing forms, instructions and information; 3) improving the court website, and 4) improving clerical and judicial training. The plan further recommended rule changes to allow clerical assistance with forms by a broader audience, support for unbundled legal services, and support for low- and no-fee representation.

[The 2011 Strategic Plan](#)

2011 saw the 2006 Strategic Plan updated with new recommendations and expanded prior recommendations.² The 2011 Strategic Plan recommended expanding the Self-Help Center service area to the entire state, continuing to develop forms, and preparing instructional videos. Additionally, the plan recommended developing improved working relationships with the Online Court Assistance Program (OCAP) committee and the Utah State Bar, and also the study of alternative processes for self-represented parties.

Accomplishments

Most of the recommendations from the two prior strategic plans have been completed.

- The [Self-Help Center](#) was created and is flourishing state wide.
- A forms subcommittee was created and they in turn have created (and created and created) many [forms](#).
- Instructional videos have been created and posted on the courts' [YouTube channel](#).
- The unauthorized practice of law rule, [Special Practice Rule 14-802\(c\)\(3\)](#), was changed to allow clerical assistance in completing a form when no fee is charged to do so.
- The [Utah Courts website](#) was redesigned to feature self-help resources.

² The 2011 strategic plan is available at <http://www.utcourts.gov/committees/ProSe/Strategic%20Plan%202011.pdf>

- The Utah State Courts Education Department now offers classes to court staff and judges on working with self-represented parties.
- And committee members, including John Baxter, Lowry Snow, Marsha Thomas, and others, have made presentations to judges on best practices in self-represented litigation.

(3) Self-Represented Parties in Utah

The following chart shows the percentages of self-represented parties in selected district court case types during fiscal year 2014.³

2014 Data

Case Type	Cases	Both Parties with Attorney	One Party with Attorney	No Party with Attorney	Self-Represented Petitioner	Self-Represented Respondent
Adoption	1,432	1%	75%	23%	23%	6%
Civil Stalking	973	8%	15%	77%	87%	83%
Conservatorship	153	1%	78%	21%	22%	3%
Contracts	2,853	20%	76%	4%	6%	77%
Custody and Support	1,314	11%	49%	40%	45%	84%
Debt Collection	66,717	1%	96%	2%	2%	98%
Divorce/Annulment	14,088	12%	29%	60%	64%	84%
Estate Personal Rep	2,077	0%	82%	18%	18%	0%
Eviction	7,770	3%	82%	16%	16%	97%
Guardianship	1,540	2%	32%	67%	68%	4%
Name Change	971	0%	17%	82%	82%	1%
Paternity	1,142	23%	43%	34%	40%	71%
Protective Orders	4,674	8%	20%	71%	84%	79%
Small Claim	5	20%	20%	60%	80%	60%
Temporary Separation	59	14%	25%	61%	61%	86%

By comparison, the following table was included in the 2006 Strategic Plan. The data is from 2005 and while it does not include the expansive amount of case types shown in the table above, in the cases types where there is overlap (such as divorce), the 2014 data reflects an overall increase in the number of cases where neither party is represented.

³ Provided by Kim Allard, Director of Court Services, in December 2014.

2005 Data

Case Type Cases	Percent w/2 Attorneys	Percent w/ 1 Attorney	Percent w/0 Attorneys	Percent Self- Represented Petitioners	Percent Self- Represented Respondents
Divorce 12,828	17%	36%	47%	49%	81%
Protective Orders 5,219	13%	33%	54%	59%	82%
Stalking 898	7%	17%	76%	84%	84%
Evictions 8,251	3%	79%	19%	19%	97%
Small Claims 15,692	0%	2%	98%	99%	99%
Debt Collections 56,733	2%	97%	1%	1%	97%
Guardianship 1,319	1%	41%	58%	59%	2%

(4) Proposed future priorities

(a) Continue support for the Self-Help Center.

The Self-Help Center serves thousands of self-represented parties each year. Due to the Judicial Council's commitment to continue its financial support of the Center, the Center, in turn, continues to increase the services it provides.

The committee supports additional funding for the Self-Help Center to allow expansion of the services they provide to self-represented parties, and also to increase educational efforts to judges, court staff, social services, government agency staff, and to self-represented parties.

(b) Develop and implement a court navigator program.

Building on successful models from other states, the Utah State Courts could design a program whereby AmeriCorps/JusticeCorps members and/or court clerks could provide procedural and navigational assistance to self-represented court patrons.

The committee recommends investigating how other states have developed these programs, and if feasible, supports implementation of a pilot program.

(c) Continue to develop forms.

A forms subcommittee meets regularly to review forms and forms-related issues, and also create new forms and informational web pages. Proposed forms are forwarded to appropriate judicial leadership for review, and once finalized, are posted on the Utah courts' website and used extensively.

The committee recommends continuing the forms subcommittee and process.

(d) Analyze and improve the third year practice rule.

The purpose of the 'third year practice rule' ([Rule 14-807 of the Utah Code of Judicial Administration](#)) is "to provide eligible law school students and recent law school graduates with supervised practical training in the practice of law for a limited period of time and to assist the Bar and the judiciary to discharge their responsibilities to help create a legal system which helps provide access to those individuals of limited means."

The committee recommends analyzing and suggesting changes to the third year practice rule in order to increase valuable skills-building opportunities for law students and also increase access to legal services for individuals of limited means.

(e) Encourage improvement of lawyer directories, webpage triage efforts, and referral sources.

The Utah State Bar provides directories for lawyer referral services and it is also in the process of creating a guided referral webpage to direct consumers and social service providers to the appropriate legal resources.

The committee recognizes the importance of these directories, guiding webpages and referral sources for self-represented parties. The committee

recommends supporting these efforts and increasing collaboration between the providers and users of these directories and webpages so that the end result is comprehensive and beneficial to all users.

(f) Support increasing availability of malpractice insurance for volunteer attorneys in all capacities.

The Utah State Bar and some legal service providers currently provide malpractice insurance for volunteer attorneys, but generally the attorneys must take on a full case to be covered. So there is still a gap in coverage for volunteer attorneys that provide legal services other than those requiring an appearance to be entered, such as simple legal advice and document preparation.

The committee recommends that this area be studied and that recommendations be made to close this gap and enable more attorneys, including non-traditional attorneys, to volunteer.

(g) Support the development and implementation of virtual services in rural areas.

The delivery of legal services to rural communities is often the first thing to be impacted when non-profit legal service organizations' funds are cut. But new technology is now changing how and in what circumstances legal services can be provided to these communities. Virtual services, such as remote document preparation, offer new hope for self-represented litigants who are isolated by geography and a lack of meaningful access to legal services.

The committee supports the increased use of technology to provide virtual legal services delivery to self-represented parties, especially to those in rural communities. Both Utah Legal Services and Timpanogos Legal Clinic are currently working on rural virtual service delivery projects and the committee supports their efforts and those like them.

(h) Suggest opportunities for educating those who interact with self-represented parties.

The responsibility for educating those who interact with self-represented parties is shared among many organizations.

The committee recognizes and promotes the importance of efficiently announcing new resources for self-represented litigants to those stakeholders who educate judges, court staff, law school personnel, and social service providers.

(5) Committee on Resources for Self-Represented Parties

Judge Marsha C. Thomas	Chair, City of Taylorsville Municipal Justice Court
Nancy Sylvester	Staff Attorney, Administrative Office of the Courts
Leti Bentley	Director, Moab Valley Multicultural Center
Mary Jane Ciccarello	Director, Self-Help Center
Sue Crismon	Attorney, Utah Legal Services
Lisa Collins	Clerk of Court, Utah Court of Appeals
Judge Michael DiReda	Second District Court
Judge Ryan Evershed	Eighth District Juvenile Court
Carol Frank	Judicial Case Manager, Sixth District Court
Susan Griffith	Executive Director, Timpanogos Legal Center
	Adjunct Professor, BYU J. Reuben Clark Law School
Carl Hernandez	Associate Professor, BYU J. Reuben Clark Law School
Jaclyn Howell-Powers	Career Counselor
	University of Utah S. J. Quinney College of Law
Chris Martinez	Attorney, Legal Aid Society of Salt Lake City
Eric Mittelstadt	Deputy Director, Utah Legal Services
Barbara Procarione	Judicial Team Manager, Seventh District Court
Virginia Sudbury	Attorney, Law Office of Virginia Sudbury
Judge Doug Thomas	Seventh District Court
Shaunda McNeill	Utah State Bar Representative
Jessica Van Buren	Director, Utah State Law Library