

Agenda

Committee on Resources for Self-represented Parties

December 14, 2007
12:00 to 1:30 p.m.

Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Judicial Council Room, Suite N31

Approval of minutes	Tab 1	Judge John Baxter
Report from Education Subcommittee	Tab 2	Pat Bartholomew Joe Derring Chris James
Report on attorney pilot program		Jessica Van Buren Mary Jane Ciccarello
Report on Harvard Conference		Judge John Baxter Judge James Shumate Marianne O'Brien Kris Prince
Public Education and Outreach		Mary Jane Ciccarello Linda Smith Jessica Van Buren
Brochures	Tab 3	Marianne O'Brien

Committee Web Page: <http://www.utcourts.gov/committees/ProSe/>

Meeting Schedule: Matheson Courthouse, 12:00 to 1:30, Judicial Council Room

January 11, 2008
February 8, 2008
March 14, 2008
April 11, 2008
May 9, 2008
June 13, 2008

July 11, 2008
August 8, 2008
September 12, 2008
October 10, 2008
November 14, 2008
December 12, 2008

Tab 1

**STANDING COMMITTEE ON
RESOURCES FOR SELF-REPRESENTED PARTIES
Meeting Minutes**

**October 12, 2007
Matheson Courthouse
Salt Lake City, Utah**

Members Present: Hon. John L. Baxter, Chair; Fred Anderson; Pat Bartholomew; Mary Jane Ciccarello; Joe Derring; Hon. Christine S. Decker; Chris James; Robert Jeffs; Jay Kessler; Hon. Rodney Page; Stewart Ralphs; Hon. James Shumate; Jessica Van Buren.

Members Excused: Prof. James H. Backman; Rep. Neil Hansen; Prof. Linda Smith; James Upton.

Guests Present: Kristine Prince

Staff Present: Mary Boudreau; Marianne O'Brien; Carolyn Carpenter

WELCOME AND REVIEW OF 8/10//07 MEETING MINUTES

Judge Baxter welcomed all present. A motion by Stewart Ralphs to approve the minutes of 8/10/07 as amended was seconded and approved unanimously.

INTRODUCTION OF ROBERT JEFFS

Judge Baxter introduced new committee member, Robert Jeffs, who is replacing V. Lowry Snow on the committee as a representative of the Utah Bar. Committee members introduced themselves to Mr. Jeffs. Mr. Jeffs indicated he is looking forward to serving on the committee.

REPORT FROM EDUCATION SUBCOMMITTEE

Pat Bartholomew indicated the first draft of the Legal Information vs. Legal Advice document is completed. Samples of documents from other states were used in preparing this document. The idea was to keep the document basic and user-friendly. Ms. Bartholomew reviewed the draft with the group. She asked that comments be sent to her or other members of the subcommittee for further discussion. She also requested that Judge Decker review the document from the perspective of the juvenile court and provide suggestions if she has any.

Judge Shumate asked about juvenile probation officers. He wondered if, since they deal with people on a face-to-face basis, probation officers could use this information. Judge Decker indicated that probation officers are well trained. They meet with every juvenile before court. They go through the juveniles' rights with them. Probation officers would not necessarily need this information.

Mary Boudreau asked if an attribution in the document will be given to Arizona, since the document draws heavily from their document. Ms. Bartholomew responded since some substantial modifications have been made to the Arizona document, and she has been advised this may not be necessary, but a final decision has not been made. The group agreed that a note of appreciation in the document would be appropriate.

Mary Jane Ciccarello noted that the tip given at the bottom of the page stating that clerks “should be familiar with the court rules” causes her to wonder how clerks access the court rules regarding pro se litigants. Ms. Bartholomew responded that changes made in the court rules can be accessed on the website.

Chris James indicated that the training for clerks is done area by area and clerks are told they can look up any questions on the court’s website. Ms. Bartholomew added that supervisors are responsible for giving clerks this information when they are training.

Judge Page suggested this document be vetted with the clerks of court. The group agreed, and Ms. Bartholomew will contact Kim Allard.

REPORT ON ATTORNEY PILOT PROGRAM

Jessica Van Buren reported the self-help line was opened the week of September 17. That week there were numerous phone problems. The second week the phone lines worked and a couple of calls were received. So far, about ten service contacts have been completed that includes call-ins and return calls from Ms. Boudreau.

The direct dial phones in 2nd district are set up. A person can pick up the phone and it immediately dials the self-help number. In the beginning, people thought it was a public phone so when they picked it up and got Ms. Boudreau, they were confused.

In the first two weeks, Ms. Boudreau provided 10 hours of open phone line availability, the 3rd week it was expanded to 20 hours. The current schedule, which could change depending on demand, is: Monday and Wednesday from 9-11 and 1-5; and Tuesday and Thursday from 1-5.

Judge Baxter expressed concern that there may not be substantial numbers of people calling in to justify funding from the legislature.

Ms. Boudreau said this was discussed with Dan Becker a few weeks ago. It was agreed that this position includes 20 hours of open phone line, 10 hours for research, call-backs, etc; and 10 hours for administrative time such clerk training programs, preparing materials for the program, etc. To this point, any calls that would have come in would have been taken, even if it was not during the specified call hours.

Ms. Van Buren stated a log is being kept by clerks of how many people they refer to the self-help program, as well as comments from people using the program. The system will measure the calls that are lost as well as those that are received. This will help determine if more than one person is needed to do the self-help work in the future.

Mr. Anderson indicated that the first year, the free legal clinic in Brigham City averaged 3.3 people per clinic, had one clinic per month, and it was a walk-in clinic. Over time, that evolved to about six people per month. Over time, the word goes out and people come.

Mr. Kessler added to this that he gets 20 people a month now at St. Vincent's because people are aware the service is there. Mr. Kessler suggested there could be advertisements for the program.

Judge Page expressed the program is in its very early stages, and the committee should wait until January to see if the number of calls increases. He is confident the Council will give the pilot self-help program two years to see if it will work. They know it takes a few months to get up and running. Judge Page stated he has great confidence the project will be approved for funding.

Ms. Van Buren noted the next area Ms. Boudreau will add is small claims. Invitations will be sent to the justice courts in the pilot districts to join in the project. Getting justice courts to send people to the self-help program will help.

STRATEGIC PLAN – NEXT STEPS

Judge Baxter indicated that he, Marianne O'Brien, Judge Shumate, and Kris Prince are going to Harvard for a national conference on access to the courts for self-represented parties. The group may come back with some ideas to add to the strategic plan. Upon return, some broad-based training will be done, including training-the-trainers to present at judges' conferences, etc. Some of what is learned may be presented to some legal organizations, libraries, etc.

Judge Shumate said he, Adam Caldwell, and an out-of-state person will be in a break-out session at the Bar's fall forum on Nov. 16th to present information gleaned from the Harvard conference, as well as anything else this committee would like to be presented.

Ms. Boudreau asked if there is any possibility that Bar members could be encouraged to sign up for limited legal services at the fall forum. Judge Shumate responded that at some point there would need to be a central clearinghouse for those willing to provide limited legal services, make limited appearances in cases, do ghost-writing, etc. Those people need to receive the benefit of having their name on a list so a clerk anywhere in the state can provide that list to a self-represented party. Judge Shumate said he would like to pass a sign-up sheet during his presentation for those interested in signing up. The list can be given to the Bar Commission, which will help them assemble the kind of service they want to have.

Mr. Jeffs indicated this is a critical time for doing that because the Bar is doing away with the legal match system it is using. The Bar is designing a new referral system and limited legal services will be part of the system. It will be ready to be put into place when the contract with Legal Match expires in March, 2008.

Judge Page indicated that Lowry Snow is meeting with the Davis County Bar next week about providing limited legal services. The reason it worked in 5th district was because some attorneys

took it in hand with encouragement from Judge Shumate and Mr. Snow. That is the key – working with the local bars to get the list going and then coordinating it.

Ms. Boudreau asked if consideration could be given to sending a letter to the attorneys in 8th district about the session at the fall forum and the pilot project that has just started, and asking for their participation. Mr. Jeffs indicated he will be meeting with John Baldwin but there is not a commission meeting between now and the fall forum. John Baldwin could likely do something specifically geared toward 8th district. Mr. Anderson stated the letter should focus on the demand for limited legal services as per the survey done by the courts because in certain areas there will be a high percentage of requests for attorneys.

Judge Baxter indicated a good job of outreach to the Bar and to judges is being done. Through the next year more of that will be done through educational planning for judicial conferences. He expressed concern that people who are looking for lawyer services most often have no idea there are limited legal services available. One of the next steps for this committee is to think about a public education campaign.

Ms. Ciccarello suggested a public education subcommittee be formed to start planning outreach activities. The group agreed. Judge Baxter asked Jessica Van Buren, Mary Jane Ciccarello, Mary Boudreau, and Linda Smith to be on the public education subcommittee.

Judge Shumate suggested a speaker's bureau could also be asked to present at places like the boards of senior citizen centers, etc. Judge Baxter asked everyone to assemble a list of suggestions for public outreach to be reviewed at the next committee meeting.

Mr. Jeffs asked if this group has considered an educational packet to be provided to pro-se litigants by the clerks. He indicated a pro se litigant opposed him in a matter this week and the judge ruled against the pro se litigant because he had never responded to any of the motions that Mr. Jeff's office filed in the case. The pro-se litigant's complaint was that he got a motion for summary judgment, but it did not tell him when he needed to respond. He said he did not know what the rules were that he was supposed to be following. If someone told pro se litigants at the time they filed, things like "this is what the clerk's office can and cannot do, these are the rules that will govern your participation in the court process, this is where you can find the rules, "etc., it would be helpful to the pro-se litigants. Even though there are legal clinics that can give legal advice, the public may not know they are available. They know they got a summons and have to file something with the court, and if they were given a little information when they file an answer with the court, it would be helpful to them. It could include resources for them.

Mr. Anderson said most of the district courthouses in the state have legal service pamphlets for pro se clinics and should be giving those out.

Judge Baxter stated the group going to the Harvard conference may return with a video or a pamphlet that can be adapted.

Ms. Boudreau suggested a question could also be sent out to the national list-serve for self-rep services asking if any have a pamphlet that is given to people who are thinking about

representing themselves. Judge Baxter asked Marianne O'Brien to pursue the question with the national list serve for self-represented services.

Ms. Van Buren said much of the information needed by self-rep parties is on the court's website. Joe Derring added most of this is already on the OCAP web site. Mr. Anderson said that most people do not read the instructions regardless. The free legal clinics are an invaluable link. The clerks do tell self-reps to go to the clinics to get their questions answered.

Mr. Jeffs expressed it is assumed that everyone is computer literate and that is not the case. Self-rep people in particular are often not computer literate. It would be a mistake to focus all efforts on computer access alone.

Judge Baxter thanked those who attended the CLE, and Linda Smith for putting the session together at the University of Utah for Richard Zorza to speak.

A November meeting by the committee will not be held. The next meeting will be on December 14.

The meeting was adjourned.

Tab 2

Legal Information vs. Legal Advice

**Guidelines and Instructions for Court Staff
Who Work With Self-Represented Litigants
in Utah's State Courts**

**Prepared by the Education Subcommittee of the
Utah Judicial Council
Standing Committee on Resources for Self-Represented Parties**

November 2007

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Introduction

Each year thousands of people represent themselves in Utah's courts. It is crucial that you understand how to help the self-represented without giving legal advice. This manual will help you understand where the line between legal information and legal advice is.

You are the face of justice in Utah. How you respond to questions affects how people feel about justice, as well as their access to justice. If someone does not understand how to use the court system, and you do not provide available and needed information, that person is denied access to the courts and justice.

This manual can't anticipate all the possible questions that self-represented parties might ask. If you are unsure whether responding to a question would be giving legal advice, refer to this manual. You can also check with your supervisor.

The law is complicated and confusing. Encourage people to talk to a lawyer about their situation. The *Resources for Self-Represented Parties* section of this manual describes a variety of ways people can get the help of an attorney.

The subcommittee thanks the Arizona Supreme Court Task Force on Legal Advice - Legal Information Guidelines for its permission to use material from its guide.

Roles and Responsibilities of Court Staff

PROVIDE ACCESS TO THE COURTS

- o Access to justice is effectively denied if court customers do not know how to use the system, and the court does not tell them.
- o The court has an obligation to explain court processes and procedures to provide quality customer service and to provide accurate information to all court customers.
- o Your training on what information you can provide to the public will significantly affect access to the courts and the administration of justice.
- o One of the basic principles of the American justice system is that the doors of our courthouses are open to everyone.
- o Most members of the public, however, are not familiar with courts and court procedures and require some level of assistance.

PROVIDE CUSTOMER SERVICE WITH ACCURATE INFORMATION

- o You are responsible for giving court customers the help they need and deserve by providing accurate information as requested in a competent, cooperative and timely manner.
- o You often are the first and only contact the public has with the judicial system, and your responses have an impact on how court customers view their court experience.
- o The court should treat all court customers equally: attorneys, defendants, self-represented litigants and others.
- o Learn the rules about *ex parte*, or one-sided, communication with the judge, and do not let court customers use you or other staff to circumvent that principle.
- o By providing effective customer service, you may reduce the number of times court customers must come to court and, thus, reduce stress on the court system.
- o Accessibility to the judicial system is affected by the accuracy of information that the court provides to court customers, along with the manner in which it is presented.
- o You must provide accurate information because even seemingly small mistakes can affect people's lives or the outcome of court cases. It is better to be honest and say "I don't know" than to give incorrect information.

REMEMBER: It is not up to you to determine who needs information. It is your responsibility to provide appropriate help to anyone who asks for it.

Why Court Staff May Not Give Legal Advice, But Should Provide Legal Information

REMAIN NEUTRAL

- o You must remain neutral and cannot promote or recommend a particular course of action to court customers.
- o You may have processed many similar types of cases, but you do not know what is in a court customer's best interest. Only the court customers or their attorneys can make that determination.

BE IMPARTIAL

- o Impartiality is similar to neutrality, but focuses on equal treatment of court customers.
- o You often have considerable knowledge about the way the court functions and so must never give advice or information favoring one court customer over another.
- o Court knowledge must be shared fairly.
- o You must not disclose confidential information or become involved in or facilitate an *ex parte* communication.

DON'T ENGAGE IN THE UNAUTHORIZED PRACTICE OF LAW

- o You must not engage in the unauthorized practice of law by providing legal advice.
- o Only attorneys licensed to practice by the Supreme Court can give legal advice.
- o Even court staff who are attorneys may not give legal advice to court customers because it violates the principles of neutrality and impartiality.

What Is Legal Advice?

Court customers are asking for legal advice when they ask whether or not they should proceed in a certain fashion. Telling a court customer “what to do” rather than “how to do it” may constitute giving legal advice.

Legal advice is a written or oral statement that:

- o Interprets some aspect of the law, court rules, or court procedures, or recommends a specific course of conduct a person should take in an actual or potential legal proceeding,
- o Applies the law to the individual person’s specific factual circumstances, or
- o Requires the person giving advice to have knowledge of the law and legal principles beyond familiarity with court requirements and procedures.

What is Legal Information?

Court staff may:

- o Provide public information contained in dockets, calendars, case files, indexes, and other reports as long as they are public.
- o Recite common, routinely employed court rules, court procedures, administrative practices, and local rules, and explain generally how the court and judges function.
- o Refer self-represented litigants to a law library or the court’s website for statutes and court rules.
- o Explain the meaning of terms and documents used in the court process.
- o Answer questions concerning deadlines or due dates (without calculating due dates).
- o Identify and refer self-represented litigants to court forms. Note: the Supreme Court recently amended Rule 14-802 (c)(3) of the Supreme Court Rules of Professional Practice to allow court staff and others to provide clerical assistance to fill out court forms.

Rule 14-802. Authorization to practice law.

(c) Whether or not it constitutes the practice of law, the following activity by a non-lawyer, who is not otherwise claiming to be a lawyer or to be able to practice law, is permitted:

(c)(3) Providing clerical assistance to another to complete a form provided by a municipal, state, or federal court located in the State of Utah when no fee is charged to do so.

Court staff may not:

- o Recommend whether to file a certain pleading.
- o Recommend wording or content for a pleading.
- o Recommend specific people against whom to file pleadings.
- o Recommend specific claims or arguments to assert at trial.
- o Recommend what type of damages to seek or from whom to seek them.
- o Recommend techniques for presenting evidence in pleadings or at trial.
- o Recommend which objections to raise or which motions to file.
- o Recommend whether a party should ask for a continuance.
- o Recommend whether or not parties should try to settle their dispute prior to trial.
- o Interpret applications of the statutes.
- o Perform legal research for a party.
- o Predict the outcome of a case.

REMEMBER: If you are unsure about the answer to a question, direct the customer to the appropriate court staff or other publicly available source of information.

What is *Ex Parte* Communication?

Black's Law Dictionary defines *ex parte* as “on one side only; by or for one party; done for one party only.” *Ex parte* refers to situations in which only one party appears before a judge or communicates with a judge. These kinds of communications are forbidden unless they are expressly authorized.

With few exceptions, the court rules require that all documents filed with the court be given to all other parties in the case so that the other parties have an opportunity to respond. Thus, it is improper for you to transmit information to the judge unless that information has been provided to the other parties in the case.

If a party submits a written communication for a judge, you should deliver it to the judge, who will decide the appropriate action. Check with your supervisor for local policies on this issue.

If a party asks to talk to a judge, suggest that they write down what they want to say and file it with the court. This written communication should:

- o Include a proper heading, including the case number
- o Be dated and signed, with the name printed under signature
- o Include their address and telephone number over the heading
- o Be copied to the opposing party or counsel following Utah Court Rules

The original should be submitted to the clerk and the party should keep a copy for their records

If the party has an emergency situation and there isn't time to submit a written request, you may communicate with the judge by following local rules. The party should be warned that the request may not be granted.

Quality Customer Service: Strategies for Answering Difficult Questions

It is not always clear whether or not you can answer a question. However, there are several things that staff can do to assist court customers and make it easier to identify whether the question is asking for legal information or legal advice.

LISTEN CLOSELY and ASK QUESTIONS

- o Let court customers ask their questions and listen carefully to what they are asking.
- o Be an active listener and respond reflectively. If necessary, repeat or rephrase the question to state what you think they are asking.
- o Take the time to clarify what court customers need. If someone does not ask a question in the right way, ask follow-up questions to clarify what they mean.
- o Ask court customers if they have completely read any paperwork they may have.

EXPLAIN YOUR ANSWERS AND REASONS AND BE PATIENT

- o Put yourself in the customer's position and think of how much you would appreciate it if someone took the time to answer your questions and explain an unfamiliar process.
- o Coming to court can be stressful, confusing and intimidating, so take the time to welcome and greet court customers.
- o You may have been asked for the same information many times before, but remember that this is the first time for this particular court customer.
- o Remain calm even when the court customer is not. Your attitude is key. Some customers may just need to vent. Take it professionally, not personally. **Keep smiling!**
- o Providing the reasons why you cannot give certain information helps minimize customers' frustration and increases their understanding of the court system. If you cannot answer a question or provide assistance, explain why by telling the court customer how important it is that you remain **neutral and impartial**. Always be clear and concise when providing information. Ask how they would feel if the clerk gave legal advice to the other side?
- o The phrase "I can't give legal advice" should never be used as an excuse not to provide service. Politely state that you cannot explain or interpret the law or say how it would apply to their case because that constitutes giving legal advice. Also, explain that clerks are not legally trained and if the clerk tries to give information about which they are not completely informed, it might jeopardize the outcome of the case for the party.
- o If you cannot answer a question, try to give a good referral such as to a legal clinic, the court's website, or the State Bar. Remember: you **may not** recommend attorneys because you must remain neutral and impartial at all times.

Procedural Explanations vs. Procedural Recommendations

You *should* provide procedural information and explanations on how to accomplish various actions within the court system. Explaining various procedures increases the public's understanding of the court system and provides customers with greater access to the courts.

You *should not* make any recommendation to the customer that would indicate a direct advantage or disadvantage of a particular procedure. It is not appropriate for staff to tell court customers what is the best course of action for them to take, nor is it appropriate to give opinions about the probable outcome of a case.

CAN PROVIDE Procedural Explanations	CANNOT PROVIDE Procedural Recommendations
<p>Question: Can you tell me how to file a small claims action?</p> <p>Response: Yes. You need to fill out a small claims complaint and then file it with the clerk's office. At the time you file the complaint, you will have to pay a filing fee. The clerk will issue you a case number and give you copies of the paperwork. You will need to mail one copy to the defendant via certified return receipt mail. These forms are available on the court website.</p>	<p>Question: Can you tell me whether it would be better for me to file a small claims action or a civil claim action?</p> <p>Response: I cannot tell you which process would be best for your situation because I cannot give you legal advice. You may want to talk to an attorney about this issue to determine which process best fits your situation. You may also contact other legal resource organizations in your area, or you may research at the local law library.</p>

Tip: Have a list of legal resource agencies available to hand to the customer. If you are talking to someone on the telephone, give the customer several of the options on the list from which to choose.

General Information About Court Operations vs. Confidential or Restricted Information About Court Operations

Generally, you can answer questions about court policies and procedures. However, there is some information that could be inappropriately used to affect the status or outcome of a case, such as case assignment procedures, adjournment policies and scheduling practices. It is important for us not to disclose information that would allow one party or another to have an unfair advantage.

As a general rule, it is appropriate for us to provide information on how to do something, but it is not appropriate to answer the “how” question when it involves the disclosure of **confidential** or **restricted** information.

CAN PROVIDE General Information About Court Operations	CANNOT PROVIDE Confidential or Restricted Information About Court Operations
<p>Question: When will my divorce go to court?</p> <p>Response: This time frame may be altered depending on the type of service in the case. Hearings are only needed on contested cases and it will depend upon the status of the pleadings as to when it is set. There are general instructions and appropriate forms for uncontested divorce on the court’s website, or you may wish to obtain legal help if your case is going to go to trial.</p>	<p>Question: I don’t want Judge Doe assigned to my case. Can you tell me when he will be on vacation so that he doesn’t get assigned to it?</p> <p>Response: I’m sorry, but the judge’s schedule will not affect the case assignment. This is done randomly by the court’s computer.</p>

**Tip: You should be familiar with the court rules governing
your specific area of the court.
You are *not* responsible for reciting, researching or
interpreting the rules for the customer.**

Explaining Legal Terms vs. Providing Legal Interpretations

You should help customers understand legal terms to provide access to the court and to help them understand the court system. While it is appropriate to explain legal terms, it is not appropriate to provide legal interpretations.

CAN PROVIDE Legal Definition	CANNOT PROVIDE Legal Interpretation
<p>Question: What does “proof of service” mean?</p> <p>Response: The rules require parties to file proof with the court that they complied with the requirement to serve other parties. This proof is called “proof of service”. Proof of service can be by a certificate of service or by acceptance of service. The rules require parties to give copies of any document filed with the court to all other parties in the case. The service options you have are outlined in court rules and state statutes, in particular you may wish to look at URCP Rules 4 to 6. The rules are available on the court’s website.</p>	<p>Question: My neighbors leave their kids at home all day without supervision. Isn’t that child neglected?</p> <p>Response: I am not an attorney or a judge and cannot make that legal determination. I can, however, refer you to Child Protective Services who may be able to help you. If you feel that the children are in any kind of danger, you can always contact law enforcement.</p>

Tip: Utah Court Rules, the Utah Code, and a Finding Legal Help section are available on the court’s website: <http://www.utcourts.gov>

Providing Forms and Approved Instructions vs. Filling out Forms

Another important way to facilitate access to the court is by providing forms and assistance where resources allow. It is important that you know what forms and written instructions are available from the court and other agencies. Often court customers will not know what forms to request in order to bring their matters before the court. When this happens, staff should direct customers to available resources for forms such as the court’s website, law libraries, and legal clinics.

You can answer procedural questions about how to complete court papers and forms. For example, staff can tell a customer whether a form needs to be notarized or what factual information the form is asking for. Staff cannot, however, tell a court customer what words to put on the forms. If someone asks what to say in a form, staff should tell the customer to use his or her own words. Due to time and resource constraints, you should suggest that customers fill out as much of their form as possible before asking for assistance.

The Americans with Disabilities Act (ADA) requires you to provide reasonable accommodation to people with disabilities, which may include helping them fill out forms. Some legal clinics and legal service agencies will help people with disabilities fill out forms.

When helping a court customer fill out forms, write down exactly what the person dictates, word for word. Do not correct the person’s grammar, and do not paraphrase or edit what the person says. This can be considered giving legal advice, and threatens the court’s impartiality. Once you’ve filled out the form, read it back to the party to confirm that what you have written is correct. Write or stamp “dictated by court customer, written verbatim by court staff,” and your name or initials in the margin, and why the assistance was necessary.

CAN PROVIDE Providing Forms and Approved Instructions	CANNOT PROVIDE Filling Out Forms
<p>Question: I need to file for divorce and I have no idea where to begin. Is there some place I can go to find out how to get started?</p> <p>Response: Sure. The Court’s website has interactive forms and instructions for uncontested divorces called OCAP. There is a \$20.00 fee for using these forms, which will be charged upon filing of your case.</p>	<p>Question: The self-help divorce petition says I can ask for spousal support if my spouse contributed to my educational opportunities. Since my husband stayed home to watch the children while I took night classes, should I mark that box on the form?</p> <p>Response: I can explain what the form is asking, but I cannot help you decide what information to enter. If you have questions about what information is appropriate to enter on the forms, you can ask an attorney or visit a legal clinic. Information about legal clinics is available on the court’s website.</p>

Public Case Information vs. Confidential Case Information

Some documents or entire cases are confidential and you cannot disclose the information. Be sure to ask your supervisor if you do not know what records or cases are public and what are not.

Access to internal memoranda legal notes or preliminary drafts prepared by or under the direction of any judicial officer that relate to the adjudication, resolution or disposition of any past, present or future case, controversy or legal issue is limited to court staff for case processing purposes only.

You must not disclose the outcome of a matter submitted to a judge for decision until the outcome is part of the public record or the judge directs disclosure of the matter.

You must not speculate on the possible outcome of a matter submitted to a judge or a jury until the outcome is part of the public record. This also applies in cases when a matter has not yet been submitted to the court.

Generally, there are three categories of records designated confidential by statute, court rule or court order. These records are designated as **private, protected, or sealed**.

Private/Protected Records

Unless otherwise ordered by the court, only the following people may be given access to confidential records (for example: un-finalized adoptions, custody evaluations, home studies)

- o Parties to the action
- o Counsel of record
- o Individuals with a written order from the court authorizing access
- o Court staff - for case processing purposes only. There are also some additional exceptions (see UCJA 4-202.03 or talk to your supervisor).

You should not read private or protected records unless necessary to do your job. Private or protected records contain highly personal information about parties, and it is inappropriate for you to read these records unless required for your work.

Sealed Records

Access to these records is restricted to the judge. After a record is sealed, not even court staff may open the record without permission from the court. Clerks may acknowledge existence of the case and a case number but nothing more (for example: finalized adoptions and wills).

<p align="center">CAN PROVIDE Public Case Information</p>	<p align="center">CANNOT PROVIDE Confidential Case Information</p>
<p>Question: My mother died four months ago and I lost my paperwork regarding her probate case. Can you give me the case number, and can I get copies of the pertinent documents?</p> <p>Response: Yes. I need to know her name. I'll check our records and give you the case number. Then, you can visit our courthouse and view the file, or you may purchase copies over the phone using a credit card.</p>	<p>Question: I think there is a mental health case for my uncle in your court. His name is John Smith. Can you tell me anything about his case?</p> <p>Response: Yes, I can look to see if a mental health record exists. What that means is that I will be able to look up this case on our computer system and give you a case number if there is one. Any information other than that is confidential and you would have to have permission from the judge to view the file.</p>

Options vs. Opinions

You can provide information on the various procedural options that are available and what the differences are between the options. It is important for staff to explain options because the customer is often not aware of those options. By explaining options, you provide customers with better access to the courts. It is also important that staff advise customers of all appropriate options. Providing only some of the options may indirectly influence a decision by limiting the customer's choices.

You cannot give an opinion about what specific remedies to seek or which option the customer should use or otherwise advise someone on whether to bring the problem before the court. Staff must remain neutral and cannot take a position that will encourage or discourage a particular course of action.

CAN PROVIDE Options	CANNOT PROVIDE Opinions
<p>Question: What can I do if I cannot afford to pay the filing fee?</p> <p>Response: You can request a waiver of fee form, which allows you to open your case without paying the fee. At the end of your case, you may also qualify for a full waiver of your fees. The forms are available on the court's website.</p>	<p>Question: My ex-husband hasn't paid the debts that he agreed to pay in our divorce settlement. Now he's filed for bankruptcy. The creditors are coming after me. This is ruining my credit. I don't live in Utah anymore. What can I do? He had an agreement and he's not following it. Can I be made responsible for this debt?</p> <p>Response: I can't advise you what you can do because I cannot give you legal advice. The bankruptcy filing further complicates this matter. I strongly recommend that you consult an attorney. You may want to contact your local court to find out if there are any free legal advice clinics that you could attend to get further information, or see the court's Finding Legal Help web page.</p>

Tip: Always make it clear to court customers that they may have other options available to them that you are not aware of.

Citing Statutes, Court Rules and Ordinances vs. Researching Statutes, Court Rules and Ordinances

You will often know statutory and court rule citations, especially as they apply to procedures, and it is appropriate for you to share this information. However, it is not appropriate for you to conduct legal research. There are two factors that help distinguish between the two:

- o If the information is something staff should know as a part of their job, then it is not considered legal research, even if staff has to look it up in the statute book.
- o If the information is readily available and does not have to be compiled, then it probably would not be considered legal research. If the information has to be compiled, then it probably is legal research.

CAN PROVIDE Cites of Statutes, Court Rules and Ordinances	CANNOT PROVIDE Research of Statutes, Court Rules and Ordinances
<p>Question: Can I get a copy of a document from a case? Is it a public record?</p> <p>Response: Court records and documents are public record unless categorized as private, sealed or protected (see UCJA Rule 4.202.03) The law requires that we charge a 25¢ per page copying fee. If the document needs to be certified there is a \$4.00 service fee and 50¢ per page copy fee.</p>	<p>Question: Can you tell me what laws govern tort claims?</p> <p>Response: I cannot perform legal research for you, but you can do that research yourself or you can contact an attorney to assist you. The statutes, rules and ordinances are available online and at the law library. You can contact the State Law Library for help getting started in your research.</p>

General Referrals vs. Subjective or Biased Referrals

Because the court and court staff must remain impartial in all matters, you cannot make referrals to a specific lawyer, law firm or paralegal service. You can refer customers to the court's website, the State Bar, or the yellow pages of the telephone book

It is also helpful to keep lists of contact information for local government agencies and departments where you frequently refer customers, so you can point people in the right direction. Sometimes it is appropriate to make a call to the referred agency or department (if time permits) to make sure it can accommodate the person before sending them there.

CAN PROVIDE General Referral	CANNOT PROVIDE Subjective or Biased Referral
<p>Question: I need a process server. Where do I find one?</p> <p>Response: Here is a list of process servers. (Check to see if a list from your district is available) You may also check in the phone book or internet in your area for licensed process servers.</p>	<p>Question: Can you recommend a good process server?</p> <p>Response: I'm sorry, but the court must remain impartial. I cannot recommend a specific process server, but I can suggest that you check the phone book or the internet in your area for a licensed process server.</p>

Tip: Develop and have available a list of general resources and referrals to give customers. Good general referrals include the yellow pages and the Internet.

Permissible vs. Impermissible Forms of *Ex Parte* Communication

As discussed earlier, you may not transmit information to a judge unless that information has been provided to the other parties in the case. To uphold this principle, you should follow these guidelines:

- o Do not communicate to the judge case information that you know through personal knowledge, that you have read in the newspaper or heard on the radio, or that someone told you.
- o Do not transmit verbal information to a judge on behalf of a party or attorney concerning a case unless it involves scheduling or other administrative matters.
- o Screen all calls to a judge. Do not transfer phone calls to a judge from parties or attorneys without learning what the caller wants to talk to the judge about and whether it is associated with a case before the judge, and then ask the judge if he/she wants to take the call.
- o Communications about scheduling or other administrative matters are permitted because they do not deal with the litigation’s substance or merits, and no party gains an advantage as a result of the *ex parte* contact.

CAN PROVIDE Permissible Forms of <i>Ex Parte</i> Communication	CANNOT PROVIDE Impermissible Forms of <i>Ex Parte</i> Communication
<p>Question: Has the judge ruled on the motion to dismiss yet?</p> <p>Response: No, the judge has not ruled on the motion yet. It is still under advisement.</p>	<p>Question: I am a prosecutor in the DUI case today. Please tell the judge that I don’t think we’re going to have the trial today because the defendant has already admitted he was drunk.</p> <p>Response: I cannot tell the judge information about potential evidence in the case because it would be an impermissible <i>ex parte</i> communication. I can relay to the judge that the prosecutor states the trial will not go forward, or I can ask the judge if he would be willing to speak to you.</p>

Tip: Remember that *Black’s Law Dictionary* defines *ex parte* as “one side only; by or for one party; done for one party only.”

Resources for Self-Represented Parties

Utah State Courts’ Self Help Web Page
<http://www.utcourts.gov/howto/>

The Utah State Courts' Self Help web page has resources for people trying to do their own legal work, and makes it easier for public library staff to direct them to that information. Topics offered on the Self Help page include:

- Appeals
- Civil Cases
- Criminal Cases
- Estate Planning & Probate
- Families & Children
- Forms & Instructions
- Juvenile Cases
- Landlord-Tenant
- Mediation
- Protection from Abuse
- Seniors
- Spanish Resources
- Traffic Matters

Alternative Dispute Resolution **<http://www.utcourts.gov/mediation>**

Going to court – litigation – is not always the best way to resolve a problem. Alternative dispute resolution (ADR) is one way to work out an agreement. Mediation and arbitration, for example, both involve neutral, third party representatives who guide the resolution process or reach a settlement. Specific ADR programs are available for many types of cases, including child welfare, co-parenting, divorce, probate, victim-offender and appeals.

Government Agency or Non-Profit Help **<http://www.utcourts.gov/howto/legalassist/#3>**

Information about government agencies and non-profit organizations which investigate complaints and work with parties to resolve differences. Areas include consumer protection, landlord-tenant, complaints about people in trades or professions (such as an electrician or doctor), securities fraud, and utility companies.

Legal Assistance Agencies and Organizations **<http://www.utcourts.gov/howto/legalclinics/#2>**

Descriptions of and contact information for Utah agencies and organizations such as the American Civil Liberties Union, Disability Law Center, DNA People's Legal Services (Navajo Nation), immigration law resources, Legal Aid Society of Salt Lake, Multicultural Legal Center, Small Claims Mediation Programs, Utah Dispute Resolution, and Utah Legal Services.

Finding an Attorney

LegalMatch is a free service provided by the Utah State Bar to help people find an attorney. A person can confidentially post information about their legal issue and interested attorneys will respond. Attorneys can be compared by experience, ratings, offers, and fees. Access LegalMatch on the Utah Bar Association website: go to <http://www.utahbar.org/> and select *Find a Lawyer* from the left column.

Other resources include the telephone yellow pages and asking friends to recommend a good attorney. You cannot provide lawyer referrals.

Another resource is [martindale.com](http://www.martindale.com), an online version of the print lawyer directory Martindale-Hubbell. Can be searched by location and subject specialty, and provides information about a lawyer's education and experience, as well as the ratings other lawyers give them.

Limited Legal Help

Many people can not afford to hire an attorney. Limited legal help, also known as "limited scope legal representation" or "unbundled services" is an alternative way to get legal help. Under this kind of arrangement, an attorney and client agree that the attorney will provide specific services for a predetermined fee.

For example, the attorney and client could agree that the attorney:

- o will only advise the client about the strength of the case, or
- o help draft a document, or
- o review a document the client has drafted, or
- o coach the client for a negotiation, or
- o help with the discovery process, or
- o coach the client for a hearing, or
- o appear in court on behalf of the client for one hearing only, or
- o any combination of these kinds of services

Hiring an attorney to handle part of a case can be an affordable alternative to hiring one to take care of the entire case (also called “full representation”), and is preferable to representing yourself in court – a process that takes time and patience and can be confusing. People who act as their own attorneys are expected to know and follow the same rules that attorneys do.

Not all cases are suited for limited legal help, and the idea of limited legal help is just beginning to be adopted by attorneys in Utah. A person should find the names of a couple of attorneys using the resources described in the Finding an Attorney section, and then talk about the possibility of hiring them to provide limited legal help.

Utah’s Law Libraries

Law libraries have print and online resources including statutes, regulations, court rules, and court decisions, as well as legal encyclopedias, form books, and books about specific areas of law. Most law books are written for legal professionals, but some books are written for non-lawyers. Law library staff can't give legal advice, but they can show people how to use their resources.

Brigham Young University
Howard W. Hunter Law Library
BYU Campus, Provo
801-422-3593
www.law2.byu.edu/Law_Library/

Utah State Law Library
450 S. State Street, Rm. W-13
Salt Lake City
801-238-7990
www.utcourts.gov/lawlibrary/

University of Utah
S.J. Quinney Law Library
332 South 1400 East
University of Utah Campus, Salt Lake
City
801-581-6438
www.law.utah.edu/sjqlibrary/

Weber County Law Library
2464 Jefferson Avenue
Ogden
801-337-8466

Legal Clinics

<http://www.utcourts.gov/howto/legalclinics/#2>

Legal clinics give general legal information and brief legal advice. Clinics also provide help with forms, and give people a chance to ask questions about the law. Most legal clinics handle civil law matters only. Talking to someone at a legal clinic is not the same as hiring an attorney, because the attorneys there may not take cases or represent people in court. Going to a legal clinic can help someone decide if they can handle the matter on their own, or if they should hire an attorney. A list of legal clinics statewide is available on the court’s website.

Utah Forms

Legal form books provide sample language you may use to prepare documents to file with the court. Some forms are fill-in-the-blank, while others only provide language that must be tailored to the situation. Forms are not available for every situation.

- o The court's Online Court Assistance Program (OCAP) (<http://www.utcourts.gov/ocap/>) is a free online program that helps you generate the paperwork for Divorce, Landlord-Tenant, Guardianship of a Minor, Paternity, and Stalking or Protective Order matters.
- o Other court forms are available on the court's website at <http://www.utcourts.gov/resources/forms/>, for matters such as Child Support, Expungement, Garnishment and Name Change.
- o Search the web for Utah legal forms. As with all legal research, be sure to check the currency of the information, consider the source of the information, and make sure it complies with Utah laws and court rules.
- o Some forms are published in the *Utah Code* (annotated and unannotated); look in the index under Forms.
- o The Utah State Bar publishes the Utah Uniform Probate Code Forms; some are available for free online on the Utah Probate Solutions website at <http://www.utahprobate.com/uupcforms.htm>.
- o Hansen & Neeleman, *Utah Probate System*, 2nd ed. includes the Utah Uniform Probate Code Forms, as well as other probate-related forms.
- o Utah continuing legal education materials often include forms. Search the catalogs of university law libraries for the topic you are interested in, such as contracts, and include "Utah" in your search.
- o Some state-approved forms are published on Utah state agency website (for example, corporation, tax, real estate). A list of state agencies – with links to website – is available online at <http://utah.gov/government/agencylist.html>.
- o Some forms are published in the Appendix of Forms of *Utah Court Rules Annotated*.
- o Thomas, *Utah Civil Practice* includes forms for use in Utah civil cases.
- o Utah's law libraries have a variety of general (not Utah-specific) form books, such as *West's Legal Forms*, *American Jurisprudence Legal Forms*, *American Jurisprudence Pleading & Practice Forms*, and *Federal Practice and Procedure*.

WE WILL BE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE WANT TO BE FAIR TO EVERYONE.

This is a list of some things court staff can and cannot do for you.

We can provide you with a list of local lawyers or the telephone number of the Utah State Bar lawyer referral service.

We can explain and answer questions about how the court works.

We can give you general information about court rules, procedures and practices.

We can provide court schedules and information on how to get a case scheduled.

We can give you information from your case file.

We can give you samples of court forms that are available.

We can usually answer questions about court deadlines and how to compute them.

We cannot tell you whether or not you should bring your case to court.

We cannot tell you what words to use in your court papers. However, we will check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number and presence of attachments.

We cannot tell you what to say in court.

We cannot give you an opinion about what will happen if you bring your case to court.

We cannot talk to the judge for you.

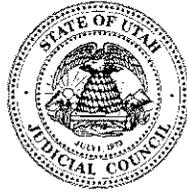
We cannot let you talk to the judge outside of court.

We cannot change an order signed by a judge.

Utah Court System Mission Statement

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

Tab 3



Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

To: Committee on Resources for Self-represented Parties
From: Marianne K. O'Brien MKOB
Date: December 6, 2007
Re: Pamphlets for Self-represented Parties

I used the Self Help Support Center mailing list and website to look for pamphlets designed to inform those who had just begun lawsuits about factors such as court rules, time deadlines, and legal resources. I did not find anything in a brochure format that did just that.

There are brochures written for those who have not yet filed a lawsuit. #1, Special Civil: A Guide to the Court (NJ) is a good example of this.

Brochures focused on what happens in the courtroom are common. #2, Guidelines for Courtroom Behavior (CA) and #3, Basic Information (CA) are typical examples.

I found pro se handbooks in the 20 to 50 page range, e.g. The Pro Se Handbook: A Guide to Representing Yourself in King County Superior Court, #4, pages 1 to 6.

The complete handbook is available through a link on this page: <http://www.kccl.org/researchhelp/researchguides/civilprocedure.html> Selected material from a handbook could work well as an independent brochure.

Alaska has some very good material written about specific topics, e.g., #5 Getting Your Message to the Judge, Motion Practice (Civil Rule 77).

Kim Allard has produced at least eight brochures for self represented parties in Utah including #6 Obtaining Legal Assistance and #7 Waiving Court Filing Fees in Utah's State Courts.

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.

1

SPECIAL CIVIL
A GUIDE TO THE COURT



Superior Court of New Jersey
Law Division
Special Civil Part

Special Civil is a court of limited jurisdiction in which you may sue someone (the defendant) to collect an amount of money up to \$15,000 that you believe is owed to you. [If your claim is \$3,000 or less, (\$5,000 in the case of a tenant's security deposit), you may sue in the Small Claims Section; please refer to the Small Claims brochure.] This brochure explains how to file a complaint, how to answer a complaint, and how to file an appeal, and gives general information about Special Civil. It is not intended to provide or take the place of legal advice or to answer every question you have about this court.

For legal advice about your rights, you should contact a lawyer. If you do not have a lawyer, you may contact the Lawyers' Referral Service of your County Bar Association. If you cannot afford an attorney, you may contact the Legal Services Program in your county to see if you are eligible for free legal services.

SPECIAL CIVIL

Special Civil is one of three sections of the Superior Court's Special Civil Part. The other two sections are Landlord/Tenant and Small Claims. [Separate brochures are available for these sections.] Special Civil is limited to cases in which the demand is \$15,000 or less. If you believe you are entitled to recover more than \$15,000, your case should be filed in the Civil Part of the Law Division of the Superior Court.

If you believe you are entitled to damages greater than \$15,000, but still wish to sue in Special Civil, you give up your right to recover damages over \$15,000. The additional money cannot be claimed later in a separate lawsuit.

TYPICAL CLAIMS FILED

Following is a general list of claims that may be filed in Special Civil:

- Breach of a written or oral contract.
- Return of money used as a down payment.
- Property damage caused by a motor vehicle accident.
- Damage to or loss of property.
- Consumer complaints for defective merchandise or faulty workmanship.
- Payment for work performed.
- Claims based on bad checks.
- Return of a tenant's security deposit.
- Claims arising from professional malpractice (for example, alleged malpractice by a doctor, dentist, or lawyer).

WHERE TO FILE A COMPLAINT

A complaint must be filed in the Office of the Special Civil Part Clerk in the county where at least one defendant lives or where the defendant business is located. A business defendant is considered located in a county wherever it is actually doing business or in the county where its registered office is located. If there is more than one defendant, the complaint can be filed in the county where any of the defendants lives or is located. If none of the defendants lives or is located in New Jersey, the complaint must be filed in the county where the cause of the complaint occurred.

WHO MAY FILE A COMPLAINT

To sue in the Special Civil Part, a person must be 18 years of age or older. If the person suing is under the age of 18, the claim must be filed by a parent or guardian. A plaintiff or defendant that is a corporation, partnership, limited liability company, etc. must be represented by an attorney when the claim is greater than \$3,000. An officer, trustee, director, agent, or employee of a corporation may present or defend against a claim of \$3,000 or less.

FILING A COMPLAINT

A Special Civil complaint form is available from the Clerk of the Special Civil Part in the county in which the case will be filed. The clerk's staff can tell you about the proper format for the complaint. A pro se complaint packet with accompanying instructions is also available from the clerk's office and is available on the Internet at njcourtsonline.com.

The complaint can be filed through the mail or in person. When filing a complaint, you, as the plaintiff, must:

- Give your full name, address, and telephone number.
- To ensure proper service of the complaint, give the correct name(s) and address(es) of the person(s) named as the defendant(s) in the complaint. It is important that the defendant be properly identified as an individual, a sole proprietorship, a partnership, or a corporation.
- State the amount of money for which you are suing.
- State the reason why the defendant owes you money.
- State whether there is at this time another case involving both you and the other party(ies) and, if so, the name of the court.
- Sign the completed form.
- Pay the correct filing and service fees when filing the complaint with the Clerk of the Special Civil Part.

After you have filed a complaint, a trial date will not be set unless the defendant forwards an answer in writing along with the proper fees to the Clerk of the Special

Civil Part within 35 days from the date the complaint was served upon that defendant. If the defendant responds in writing within the 35 days, a trial date will be scheduled. All parties will be notified by the court.

If a defendant does not respond within the 35 days, the Court will enter a default. The plaintiff must apply for the entry of a "judgment by default" within 6 months from the date that default was entered or they must file a motion in order to obtain the judgment by default. Through a judgment by default, the court decides the amount of money, if any, to be awarded to a plaintiff because the defendant did not answer the complaint in time or come to court. You are required to submit an affidavit and other documents verifying the amount of your claim and prove to the Court that the individual defendant is not an active member of the U.S. military. Proof of military service does not apply to business defendants. A hearing may be held in court to allow you to prove your claim where the amount you claimed cannot be proved from your documents. [A pro se packet on how to apply for a default judgment is available in any Special Civil Part Clerk's Office and is available on the Internet at njcourtsonline.com]

If the complaint is for money damages caused by a motor vehicle accident and the judgment requires a defendant to pay \$500 or more, the defendant must pay within 60 days. If the defendant does not pay within the 60 days, the plaintiff may request through the Clerk of the Special Civil Part that the New Jersey Motor Vehicle Commission stop the defendant's driving and registration privileges until the judgment is paid.

FILING FEES FOR A COMPLAINT

The costs for filing a complaint in Special Civil are:

- \$32 for a complaint where the amount claimed is \$3,000 or less.
- \$50 for a complaint where the amount claimed is more than \$3,000.
- \$2 for each additional defendant.

Currently the fee is \$7 for each defendant served by certified and regular mail. This is subject to change, however. [A fee for mileage may be charged instead of the \$7 mailing fee if the complaint is served personally by a court officer. Staff of the Special Civil Part can inform you of the mileage fee, if any.] Make a check or money order payable to the *Treasurer, State of New Jersey*.

- \$50 for a jury trial by six jurors.

If you are poor, you may apply to the court to qualify as an indigent and your filing fees may be waived by the judge.

FILING AN ANSWER TO A COMPLAINT

If you have been named as a defendant in a case, you must file a written answer to the complaint with the Clerk of the Special Civil Part in the county in which the complaint was filed within the number of days stated in the summons (35 days if you

reside or are located in New Jersey; 35 days if you reside or are located out-of-state). You also must deliver a copy of the answer to the plaintiff or plaintiff's attorney personally or by mail. A pro se answer packet with accompanying instructions is available from the Clerk's office and is available on the Internet at njcourtsonline.com.

If you believe that the plaintiff owes you money, you must add a counterclaim to the answer. If you believe that someone else named as a defendant in the complaint owes the money, you must add a cross-claim against that defendant to the answer. Finally, if you believe that a party not named in the complaint owes the money, you must add a third-party complaint to the answer.

When filing an answer, be sure to give the following information:

- The docket number and caption of the case which appears on the complaint.
- Your full name, address, and telephone number.
- The correct name(s) and address(es) of the plaintiff(s).
- The reason(s) you are disputing the plaintiff's claim. Include the amount of money for which you are suing if you are including a counterclaim, cross-claim or third-party complaint with your answer.

You also must sign the answer and pay the correct filing fees when filing the answer with the Clerk of the Special Civil Part.

If you do not respond to the complaint in writing within the number of days listed on the summons, a default will be entered against you. Through a judgment by default, the court decides the amount of money, if any, to be awarded to the plaintiff because you did not answer the complaint in time. If you have answered the complaint on time, the court will notify you by mail of the trial date.

FILING FEES FOR AN ANSWER

- \$15 for an answer
- \$32 for an answer with a counterclaim, cross-claim, or third-party complaint where the amount is \$3,000 or less.
- \$50 for an answer with a counterclaim, cross-claim, or third-party complaint where the amount is more than \$3,000. [Note: The Clerk will also charge an additional fee for serving the third-party complaint.]

If you are poor, you may apply to the court to qualify as an indigent and your filing fees may be waived by the judge.

PREPARATION FOR TRIAL

Interrogatories

The Rules of Court provide for an exchange of information by the parties. Whether you are the plaintiff or the defendant, questions from the opposing party, called “interrogatories,” must be answered within 30 days.

Plaintiff

If you are the plaintiff, you must prove your case. Arrange to have any witnesses and records you need to prove your case at the trial. A written statement, even if made under oath, cannot be used in court. Only actual testimony in court of what the witness(es) heard or saw will be allowed. Prepare your questions in advance.

Bring to court records of any transactions that may help you prove your case. Such records may include:

- Canceled checks, money orders, sales receipts.
- Bills, contracts, estimates, leases.
- Letters.
- Photographs.
- Other documents proving your claim.

If you are able to settle the case with the defendant before the trial date, call the Special Civil Part Clerk’s Office immediately.

Defendant

If you are the defendant, you should prepare your side of the case as the plaintiff prepared his or her case. Bring all necessary witnesses and documents to court with you on the scheduled trial date.

You must come to court at the time and date shown on the trial notice. If you do not, a default judgment may be entered against you and you may have to pay the money the plaintiff says you owe.

If you are able to settle the case with the plaintiff before the trial date, call the court immediately to confirm that the case was marked settled.

THE DAY OF TRIAL

The defendant and the plaintiff must come to court at the time and date stated on the trial notice, unless otherwise notified by the court. Bring all witnesses and evidence needed to present your case.

On the day scheduled for trial, the court may help you settle your case through mediation with a trained mediator or a settlement conference with a neutral third person. This person will try to help the plaintiff and the defendant reach a satisfactory agreement. The mediator or neutral third person is not a judge. If a settlement cannot be reached, every effort will be made to have your case tried by the judge on the same day.

If you win your case, consult the Judgment Collection brochure for information on how to collect your judgment.

RIGHT TO APPEAL

If you, as a plaintiff or a defendant, disagree with the court's decision, you may appeal the case to the Appellate Division of the Superior Court within 45 days from the date of judgment. You must file a Notice of Appeal, a copy of the Request for Transcript, and a Case Information Statement within the 45 days with the Clerk of the Appellate Division located at the Richard J. Hughes Justice Complex, PO Box 006, Trenton, NJ 08625 and deliver copies to:

- All parties to the case who appeared in court.
- The Clerk of the Special Civil Part from which the appeal is taken.
- The judge who decided the case.

You must pay a filing fee of \$200 with the Notice of Appeal and deposit \$300 with the Clerk of the Appellate Division within 30 days of the Notice of Appeal. This deposit may be used to pay settlement or court costs if the appeal is lost. If the appeal is successful, the deposit will be refunded.

You also must obtain a transcript (a copy of the record of what happened in court) of the trial. The request for a transcript should be made to the Office of the Clerk of the Special Civil Part in the county in which the case was tried. You must deposit with the Clerk the estimated cost of the transcript (as determined by the court reporter, Clerk, or agency preparing it) or \$300 for each day or part of a day of the trial. You must file three copies of the transcript with the Office of the Clerk of the Appellate Division. Questions concerning an appeal should be directed to the Office of the Clerk of the Appellate Division at 609-292-4822, or to an attorney.

This brochure is published by the
Administrative Office of the Courts,
Civil Practice Division

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www.njcourtsonline.com

(September 2007)

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GUIDELINES FOR COURTROOM BEHAVIOR

1. Be on time for your hearing or trial. Allow extra time to find parking. You will not be able to leave the courthouse to feed the meter. Sometimes hearings can take longer than expected, so plan for extra time on your meter.
2. Dress neatly.
3. No food or drinks are allowed in the courtroom.
4. It is not advisable to bring your children. Ask someone to watch them for you.
5. Report to the courtroom you are assigned to.
6. Review your paperwork before the hearing or trial. Be familiar with your papers. You may use written notes or an outline during the trial. Stick to the facts. Do not ramble when offering evidence to support your side of the story.
7. Have your exhibits labeled, copied and organized. Remember, you will need at least two photo copies of any document or picture you plan to give to the judge.
8. When the judge asks you to speak, stand up and face the judge.
9. The hearing or trial will proceed as follows:
 - a. The judge will ask you and the other person to make an opening statement. This should be a brief statement that tells the judge what you are asking for. You can refer to your proposed order of child support, parenting plan and trial or hearing brief. The plaintiff or moving party speaks first, then the defendant or non-moving party.
 - b. After opening statements, the plaintiff or moving party calls his or her witnesses to testify. After each witness has testified, the defendant or non-moving party may ask questions of the witness (cross examination). The plaintiff or moving party may **ask** questions on redirect. The defendant or non-moving party then puts on his or her witnesses and the process is repeated. There are very specific rules of evidence which apply.
10. When the judge asks you questions, be direct. If you don't know an answer say so. Do not be afraid to admit that you do not know something.
11. Take your time when answering questions. Give the answer as much thought as you need to understand it and formulate your answer. You may be ordered to explain your answer.
12. Be respectful and courteous with the court. Always address the judge as "Your Honor". Do not interrupt. If something needs to be **clarified**, wait until it is your turn to speak or ask to speak again.

13. Be sincere. Do not be sarcastic or argue with the court or the other person. Stay calm. Maintain your composure, even if the person testifying is hurting your feelings or lying. Do not huff, roll your eyes or throw your pencil.
14. If you are stating dates, times and places, etc. be exact. If you cannot be exact, make it understood that you are only estimating.
15. Speak clearly and distinctly, using words, phrases and terminology that you understand. Keep your hands away from your mouth and speak loudly enough so the judge can easily hear you. Proceedings in Alaska are recorded, so it is important that you speak loudly and clearly enough for the recording equipment.
16. Remain courteous to the judge after the ruling. Ask the judge who will write up the order. The judge must sign the order before it becomes effective. Make sure you understand what is going to happen next before you leave the courtroom.
17. You may bring a friend for moral support. That person must remain silent.
18. Avoid laughing or talking about the case in the hallway or restrooms of the courthouse in such a way that people, lawyers or witnesses involved in the case may see you or hear you.
19. These are the rules that apply to attorneys and you must follow them as well.
20. BE SURE the court has your current mailing address and phone number. If safety is a concern, you can ask for the information to be made confidential.

3

BASIC INFORMATION

A Guide for Self-Represented Litigants

Kern County Superior Court

You are scheduled to appear in court. You will be appearing in court without an attorney. You are not alone—every year more people are doing the same thing. The courts may seem complicated and confusing, but there are lots of resources to help you. This pamphlet provides general information that will help you to prepare for any kind of court appearance. Preparation ahead of time will help the judge to understand your case and to make a fair ruling.

What should I wear to court?

Court is a business type of environment. Dress as if you are going to a job interview. Be clean and neat. Shorts, tank tops and flip-flop sandals are not allowed.

When should I arrive at court?

You need to arrive at the courthouse at least 30 minutes before your scheduled court appearance. It is very important that you allow plenty of time to park and find your assigned courtroom. If you are not in the courtroom when your case is called, the judge may dismiss your case, make a decision without hearing your side of the story or issue a warrant for your arrest.

Where should I park?

Parking space is hard to find near the courthouses in downtown Bakersfield. Allow plenty of time to locate parking and to find the courtroom where your case is scheduled. A train runs near both downtown courthouses, which may cause a delay.

Parking is available to the public at the following locations:

- Parking structure at 1115 Truxtun Avenue—first floor only. Enter from M Street.
- Parking lot behind 1215 Truxtun Avenue-north and south of the railroad tracks. Enter from L Street.

Some of these spaces are designated for a limited time. Cars that are

parked longer than the posted time limit will be ticketed. Handicapped parking is available on the street in front of 1415 Truxtun Avenue. There are also handicapped spaces available in all parking lots.

What about court security?

Upon entering the courthouse, you will be expected to pass through a metal detector. Any metal object on your body must be removed and inspected, including belt buckles and steel-toed shoes.

How do I find the correct courtroom?

For most cases, court calendars are posted in the lobby of the courthouse. If you need help in locating your name, ask for help at the court information booth. Contact the Sheriff's Deputy (the bailiff) in the courtroom if you are not sure that you are in the correct courtroom, or if you need to leave briefly for any reason.

What materials should I bring?

Bring copies of all documents that you have filed with the courts so far. You won't be able to get these documents from the court before your court appearance. It's really important that you know your case number.

Also bring documents that support what you want the judge to know about your case. You should bring original documents and one copy if possible. The judge may ask to keep the copy for more careful review. Put your evidence together in logical order so that it is easy for the judge to understand your side of the story.

Do I need witnesses?

Witnesses are people who can support what you want the judge to know about your case. It helps your case if your witnesses have seen or heard what you want the judge to know.

How long will I have to wait?

That depends on how many people are scheduled to appear at the same time as you. The judge may not call the cases in the same order that they are listed on the calendar. Some cases will take less time, and they may be handled first. Depending on your case, you

may need to plan on being in court all day.

Other helpful hints:

- The proper way to address the judge is "your honor".
- Speak directly to the judge, not to the other party in the case.
- If you need special services for a disability, please notify the courts ahead of time so that arrangements can be made.
- Speak properly—don't use foul language.
- Turn cell phones and pagers to "off" or vibrate mode.
- Food and/or drinks are not allowed in the courthouse.

IMPORTANT TELEPHONE NUMBERS

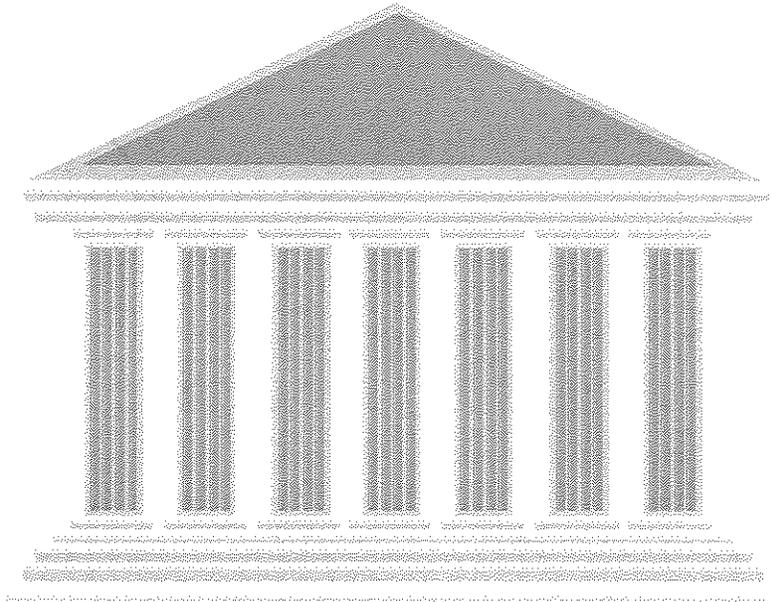
(661) 868-5393	Kern County Superior Court
(661) 868-4815	Family Law Facilitator's Office
(661) 868-4530	Family Court Services (Mediation)
(661) 868-2532	Small Claims Advisor
(661) 868-2486	Traffic
(661) 868-4885	Guardianship / Probate
(661) 868-5320	Kern County Law Library
(661) 868-2644	Court interpreter services
(661) 868-4957	Special services required for a disability

More information is also available on these websites:

www.co.kern.ca.us/courts	Kern County Superior Court
www.kerncountylawlibrary.org	Kern County Law Library
www.sccba.com/kcba	Kern County Bar Association
www.cencal.bbb.org	Better Business Bureau of the San Joaquin Valley
www.courtinfo.ca.gov	Administrative Office of the Courts Self-Help Site
www.dca.ca.gov	California Department of Consumer Affairs, Consumer Information Center

OUR MISSION: "...to impartially dispense justice to all residents of the County of Kern."

#4



THE *PRO SE* HANDBOOK

**A Guide to Representing Yourself
in King County Superior Court**

A Public Service of the King County Bar Association

• August 2006 •

ATTENTION!

This handbook alerts you to some of the problems that you can expect to encounter while representing yourself in the King County Superior Court in a civil matter.

THIS HANDBOOK IS NOT INTENDED TO BE A SUBSTITUTE FOR THE ADVICE AND ASSISTANCE OF A LAWYER. On the contrary, one of the most important messages of the handbook is that your chances of obtaining a good result are better if you are represented by a lawyer than if you are representing yourself.

THIS HANDBOOK DOES NOT CONTAIN LEGAL ADVICE FOR YOUR LEGAL PROCEEDING. The handbook does not tell you how to solve your legal problems.

THIS HANDBOOK MAY BECOME OUT-OF-DATE. The law is constantly changing. The statutes, ordinances, or court rules that are referred to in this handbook may have been changed or repealed since the handbook was written, or there may be new laws or rules that apply to your case. There is no substitute for checking to make sure that the sources of law that you intend to rely on--for example, statutes, ordinances, regulations, court rules, and court decisions--have not been changed since you last looked at them.

THIS HANDBOOK MAY CONTAIN INACCURATE LEGAL INFORMATION. Neither the King County Bar Association, the Legal Foundation of Washington, nor the authors or editors of this handbook are responsible for the completeness, adequacy, or accuracy of the information contained in the handbook. IT IS YOUR RESPONSIBILITY ALONE TO VERIFY THE INFORMATION THAT YOU FIND IN THIS HANDBOOK AND TO MAKE SURE THAT THERE HAVE BEEN NO RECENT CHANGES IN THE APPLICABLE RULES OR LAWS.

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If you find any errors in the handbook, or if you would like to suggest any improvements for future editions, please write to: Pro Se Handbook, c/o King County Bar Association, Judiciary and Courts Committee, 1200 5th Avenue, Suite 600, Seattle, WA 98101.

2006 - Edition 3

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5

Getting Your Message to the Judge Motion Practice (Civil Rule 77)

There are only two acceptable ways to communicate with the Judge:

- 1) in writing by Motion Practice, with both sides participating, or
- 2) in person at a Hearing set by the Judge, with both sides present.

You must always start by filing something in writing, or in other words, by filing a *Motion*, with the required *Affidavit and Memorandum* and *Order* attached. Because both sides must have an opportunity to speak, you **MUST** send a copy of your *Motion*, *Affidavit and Memorandum* and *Order* to the opposing party by 1st class mail or hand delivery.

The opposing party has 10 days, plus three days if your *Motion* was mailed, to file an *Opposition*, *Affidavit and Memorandum* and *Order*, telling the Judge his or her side of the story. The opposing party must also send or deliver to you copies of the *Opposition*, *Affidavit and Memorandum* and *Order* filed in Court.

The moving party may file a *Reply* to rebut the *Opposition* within 5 days, plus 3 days if the *Opposition* was mailed.

NOTE: In most courts, no papers will go to the Judge until the time has run allowing all papers to be filed.

SUMMARY OF MOTION PRACTICE	
Motion - Affidavit and Memorandum - Order	} 10 days plus 3 days if mailed
Opposition - Affidavit and Memorandum - Order	
Reply	} 5 days plus 3 days if mailed
How to count time: <u>Civil Rule 6(a):</u> - don't count first day - do count last day - count SA, SU, Holiday if NOT last day - if <7 days, don't count SA, SU, Holiday	

Motions and Oppositions

The *Motion* or *Opposition* is like a cover page; it tells the Judge what you want and why you want it in a few short sentences. Your *Motion* or *Opposition* also tells the Judge what other required or optional documents are attached, and whether you are requesting a Hearing or whether there is an emergency.

Affidavit and Memorandums

The *Affidavit and Memorandum* is where you tell the Judge why you should get what you say you want. You tell the Judge all the important and relevant facts, and make any argument that helps support your request. Since this is a sworn statement, you must sign it in front of a Notary. You will need picture I.D. when you sign.

Order

The *Order* is the document you are asking the Judge to sign. It tells anyone who reads it exactly what the Judge has ordered in very simple, clear terms. For example, if you did a *Motion for Return of Vehicle*, the *Order* would state very simply something like: Defendant shall return the 1998 Dodge Caravan to Plaintiff by 6:00 p.m. on January 1, 2001. It should be short and to the point. The Judge may change your *Order* or sign a different *Order*.



THINGS TO REMEMBER:

- ✓ It's a process: *Motion*, *Opposition*, and *Reply* - MOR, and there will be more and more...
- ✓ *Motions* and *Oppositions* must be supported by an *Affidavit and Memorandum* and *Order*.
- ✓ You must bring picture I.D. to show the Notary when you sign any *Affidavit*.
- ✓ You must serve the other side by 1st class mail or hand delivery with every document you file in Court.

PREPARED BY THE FAMILY LAW SELF-HELP CENTER
IF YOU HAVE A FAMILY LAW QUESTION CALL THE HELPLINE @ 264-0851 (in Anchorage) or (866) 279-0851

#6

Free Clinics

Utah Legal Services offers a variety of free legal clinics throughout the Salt Lake Valley. Dates & times are subject to change.

Clinic for the Deaf and Hard of Hearing is held every third Wednesday of the month **by appointment only**. Interpreters are provided. Located at the Robert G. Sanderson Community Center for the Deaf & Hard of Hearing, 5709 South 1500 West. Call Annette Stewart at 801-263-4892 to schedule.

Fifth South Viaduct Clinic: Held every Sunday from 8:30 am-10:00 am and staffed by an attorney. No appointment necessary. Located under the Fifth South viaduct between 600 & 700 West.

Guadalupe Center Clinic: Held every Tuesday of the month from 5:00 pm-7:00 pm and staffed by an attorney. No appointment necessary. A Spanish speaking interpreter is almost always available. Located at 340 South Goshen Street (1040 West). No telephone number.

St. Vincent's: Held every Thursday from 1:00 pm-3:30 pm and staffed by an attorney. No appointment necessary. Located at 200 South 437 West.

Utah Legal Services' Pro Se Clinic: **Spanish speaking only**. Held every first Thursday of the month **by appointment only**. Located at the Community Legal Center, 205 North 400 West. Call Todd at 801-259-1471 between 9:00 am & 3:00 pm on weekdays to schedule.

Family Law Clinic

Wednesday
Held the first and third ~~Tuesday~~ *Wednesday* of the month from 6:00 pm-8:00 pm, unless ~~Tuesday~~ *Wednesday* is a holiday.

Staffed by volunteer lawyers, legal professionals and law students. Open to any low income Utahn on a first come, first served basis. No appointments. Scott Matheson Courthouse, Room W-19, Conference Room A, 450 South State Street. 801-924-3370 to check for schedule changes only.

Self-Represented Litigant Family Law Clinic

Held Monday - Friday from 8:00 am-5:00 pm. Dates & times are subject to change. Staffed by a Legal Aid Society paralegal experienced in domestic law who provides legal forms and assists in their completion. No legal advice given. No appointment necessary. Scott Matheson Courthouse, Room W-15, 450 South State Street. 801-238-7440.

Needs of Elderly Committee Legal Clinics

Volunteer attorneys provide legal services to people over 60 at Salt Lake County senior centers by appointment. Call 801-297-7037, Mondays 1:30 pm-5:00 pm, or your local senior center for more information.

Utah State Bar's "Tuesday Night Bar"

Utah State Bar's "Tuesday Night Bar" meets every Tuesday from 5:00 pm-6:30 pm. Appointments must be made on Mondays 1:30 pm-5:00 pm, eight days prior to Tuesday meeting. Call 801-297-7037.

Salt Lake County

Landlord-Tenant Mediation Program provides mediation services to landlords and tenants involved in eviction proceedings in the Salt Lake

County area, through trained volunteer mediators. This program represents collaboration between the Community Action Program and the Utah State Courts. For more information, contact Josie Turner at 359-2444, ext. 2225.

Small Claims Court Mediation is available during small claims court in Salt Lake County. Free mediation offered through trained volunteer mediators, in collaboration with Utah Dispute Resolution. For information, call Utah Dispute Resolution at 801-532-4641.

Tooele

Utah Legal Services Pro Se Clinic is held every Monday except the fourth Monday, at the Tooele Courthouse from 10:00 a.m. until noon. Call 435-813-3210 to check for scheduling changes. *Spanish speaker available.*

Tooele Senior Clinic, sponsored by Utah Legal Services Pro Se Clinic is only for senior citizens, and only by appointment. Held at Tooele Senior Center, from 9:00 to 10:00 a.m. on the first and third Mondays of every month. Call 435-882-2870 to schedule an appointment.

Park City

Tuesday Night Bar is held the first Tuesday of every month from 6:00 to 8:00 p.m., at Miner's Hospital, 1345 Park Avenue, in Park City. First come, first served. 801-266-0999.

Small Claims Court Mediation is held twice monthly, during small claims court at Silver Summit Justice Center, 6300 Silver Creek Drive. Free mediation services offered through trained volunteer mediators. For details, call 435-655-3626 or 435-640-7062.

12/05

Obtaining
Legal Assistance

in
Salt Lake City,
Tooele and
Park City, Utah

What Lawyers Do

Lawyers play a fundamental part within the legal system. Their roles include:

- Advocates for clients involved in civil lawsuits
- Defenders of clients accused of committing crimes
- Legal counselors who advise clients about the law

They may perform these roles by assisting in clarification of the law, preparing letters, forms and legal documents, or representing clients in court. (Source: Practical Law in Utah)

How To Find a Lawyer

LegalMatch is a free service provided by the Utah State Bar to help people find an attorney. LegalMatch can be accessed through the Bar's website, at www.utahbar.org. Without revealing your identity, you can confidentially post information about your legal issue, and interested attorneys will respond. You can compare attorneys by experience, ratings, offers, and fees, before choosing from a network of pre-screened attorneys. You may also look for an attorney through the Yellow Pages of your phone book.

How To Find an Arbitrator or Mediator

Mediation and arbitration are two alternative dispute resolution (ADR) methods. They both utilize neutral, third party representatives, either to guide the resolution process or to reach a settlement. If you're interested in locating either an arbitrator or a mediator, use the Court Annexed Alternative Dispute Resolution Program and Roster of Mediators and Arbitrators at: www.utcourts.gov/mediation. Information about free mediation services in landlord-tenant and small claims cases in the Salt Lake area is included in this brochure.

Can I Act as My Own Lawyer?

All adult citizens have the constitutional right to represent themselves in court. Individuals who represent themselves in court are called "pro se" or "Self-Represented" litigants. Choosing to represent yourself is an important decision. When you represent yourself, you are acting as your own attorney. You will be responsible for all the information you prepare and file with the court and will be accountable to the final judgment of the court.

The State Law Library at 450 South State Street, Salt Lake City provides legal research resources for the public. Visit their website at www.utcourts.gov/lawlibrary. For more information on representing yourself in court, ask for the brochure entitled "Representing Yourself in Court" or see the online version at www.utcourts.gov/howto/pro_se.

What if I Can't Afford a Lawyer?

If you'd like to consult a lawyer about a legal issue but cannot afford to do so, try contacting one of these legal services organizations or visiting one of the free clinics listed.

Legal Service Organizations

Disability Law Center: Free services are available for those facing disability-related problems, especially in the areas of access and rights, abuse and neglect, education, community services, assistive technology, institutional care, and employment. Services include information on disability law and individual rights, investigation and monitoring in residential facilities; mediation and negotiation; representation in administrative hearings and court proceedings; and self-advocacy support and training. Call 800-662-550-4182, 800-550-4182 (TTY), or 801-363-1347 for assistance.

Immigration Law:

- Holy Cross Ministries Immigration Legal Services: Legal assistance in immigration cases is provided, regardless of religious affiliation, to eligible applicants, on a sliding scale fee basis. For more information, call 908-0293, ext. 38 or ext. 22.
- Catholic Community Services/Immigration Program: Legal assistance with immigration matters is provided, regardless of income or religious affiliation. Flat fees are charged, which vary by case type and complexity. Fees may be waived for exceptional financial hardship. For more information, call 801-977-9119 between 8:30 a.m. and 5:00 p.m., Monday through Friday.
- International Rescue Committee: A certified immigration specialist offers low cost assistance with basic immigration services, including adjustments of status, petitions for family reunification, and applications for naturalization, travel documents, and employment authorization. For more information, call 801-328-1091 from 9:00 a.m. to 5:00 p.m., Monday through Friday.

Legal Aid Society: This private, non-profit organization provides legal representation, regardless of income, to victims of domestic violence or stalking who need a protective order or a civil stalking injunction. For low-income individuals whom it has assisted in domestic violence cases, it also provides representation in family law matters such as divorce, paternity, and custody. In addition, limited representation is provided for low-income, incapacitated persons against whom the Office of Public Guardian has filed a guardianship petition. Assistance is provided only for cases in Salt Lake County, for courts in downtown Salt Lake City, West Valley City, and Sandy. For more information, call 801-328-8849.

Multicultural Legal Center: This organization provides immigration relief in cases in which domestic violence is involved. Call 801-486-1183 for information.

Utah Dispute Resolution: Mediation services are provided free or at low cost to people and organizations. No one is denied service because of inability to pay. Some areas of mediation service include divorce, parenting time and plans, landlord and tenant, workplace, and consumer and merchant issues. Bilingual mediators are available in several languages. Call 801-532-4841 for information, or visit UDR offices at The Law and Justice Center, 645 South 200 East, in Salt Lake City.

Utah Legal Services: This organization handles civil cases for Utahns with low incomes, and for migrant farm workers and Native Americans. Areas of assistance include family law, housing, public assistance, senior citizen issues, and health benefits. Services include answering questions, providing legal advice, assisting with the preparation of legal documents, and representing clients in court. For more information, call the intake line at 1-800-662-4245 or, if dialing from within the Salt Lake City area, call 328-8891. Intake is available in Spanish, as well as English. Normal intake hours are 9:00 a.m. to 2:00 p.m., Monday through Friday. Offices are located in Salt Lake, Ogden, Provo, and Cedar City.

TYPICAL FEES FOR CASES FILED USING OCAP (current October 2006)

DIVORCE	
Filing fee	\$ 155
Vital Statistics fee	\$ 2
<u>OCAP user fee</u>	<u>\$ 20</u>
Total fees at filing	\$ 177

Counterclaim \$85

Divorce Education Course*** \$35 per person
Or Videotape \$35

***The Divorce Education Course fee is payable upon attendance at the class. To ask for a waiver of the class fee, present a copy of the file-stamped "Affidavit of Impenuniosity" or "Application for Waiver of Court Filing Fees" when you register for the class.

GUARDIANSHIP

OCAP user fee	\$ 20
<u>Filing fee</u>	<u>\$155</u>
Total fees at filing	\$ 175

EVICTON

Filing fee varies	
If demand is \$2000 or less	\$50
If demand is between \$2000 & \$10,000	\$95
If demand is greater than \$10,000	\$155
Counterclaim	
If demand is \$2000 or less	\$45
If demand is between \$2000 & \$10,000	\$75
If demand is greater than \$10,000	\$105
(Or tenant seeks relief other than monetary damages)	

OCAP user fee \$ 20

ESTIMATED SERVICE FEES

Certified mailing fees	\$2.30 + postage
Sheriff and constable fees*	\$30 to \$110
Publication fees**	\$125 to \$500

*Service fees will depend on how service is done, by whom and where. A typical service fee in the county where you live should be between \$30 and \$70 if you use a constable or sheriff. An out of state service fee will depend on what is charged by process servers where you are serving. Service fees outside of the United States will usually be the price of translating the Summons and Verified Petition into the common language of the country where you are serving, plus the cost of mailing those documents to the Central Authority for that country if the country has signed the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents. Information on the countries that have signed the Hague Convention may be obtained at http://travel.state.gov/hague_service.html.

** If the court orders that you serve by publication, you must place a legal notice in a newspaper of general circulation in the county or location where the court orders you to publish. The notice must run once a week for four consecutive weeks. Typical prices range from \$125 to \$500 in the same county or location, depending on which newspaper you place your notice in. You should shop around for the lowest costs. Many places have newspapers which specialize in legal notices with competitive rates.

7

Waiving Court Filing Fees in Utah's State Courts

WAIVING COURT FILING FEES

There are filing fees and costs that you will typically have to pay in a lawsuit in Utah. There are, however, some cases where no fees are charged, such as a Protective Order case. A list of court filing fees can be found at <http://www.utcourts.gov/resources/fees.htm>.

When you file your court papers, the clerk will accept them and not charge you a fee if you give the clerk an Affidavit of Impecuniosity or Application for Waiver of Court Filing Fees. However, the decision to waive a court fee or cost is one the judge will make. What this means is that once the judge reviews your documents, the judge may set a hearing to determine whether or not you or the opposing party can pay. If either of you can, the judge may order that person to pay and may not finalize your case until the fee is paid.

Judges have discretion to decide whether or not to waive a filing fee. As a general rule, if you receive financial assistance from the state of Utah, have a Medicaid card, or if you are eligible for free legal assistance from Utah Legal Services, the Salt Lake County Legal Aid Society, or the Utah State Bar Pro Bono Project, the judge will usually waive your filing fee and other court costs. Eligibility for these programs is set at between 100% and 150% of the federal poverty guidelines.

WAIVING COURT FILING FEES WHEN USING THE ONLINE COURT ASSISTANCE PROGRAM

The Cover Sheet in your OCAP documents list the fees you pay at the time of filing. There are also other costs not included on these lists, such as for costs for service and the divorce education course.

Many of the fees for your case can be waived. The OCAP program will ask if you can afford to pay the filing fee and will tell you how much the filing fee will be (including the \$20 fee for using OCAP). If you respond that you cannot afford the filing fee, you will need the following information: all assets over \$250; all income; all debts; all monthly expenses for rent or mortgage, food, utilities, child care, insurance, automobile, auto, telephone, or other.

If you indicate that you cannot pay the filing fee, a document will be printed with your OCAP papers that can be used to ask the court to waive the fee. This document may be titled "Affidavit of Impecuniosity" or "Application for Waiver of Court Filing Fees." This document may also be used to request a waiver of costs such as service by a sheriff or constable in Utah or the Divorce Education fee. This document cannot be used to waive fees for service outside of Utah or the cost of publication of a summons or other notice in a newspaper.

The Federal Poverty Guidelines by year and month can be found at <http://www.aspe.hhs.gov/poverty/>.

This chart showing 150% of the Federal Poverty Guidelines by year and hour can be found at www.utcourts.gov/resources/.

FOR REFERENCE ONLY

The Federal Poverty Guidelines for 2006 150% of poverty income guidelines

1 person household	\$14,700 per year	\$7.07 per hour
2 person household	\$19,300 per year	\$9.52 per hour
3 person household	\$24,900 per year	\$11.97 per hour
4 person household	\$30,000 per year	\$14.42 per hour
5 person household	\$35,100 per year	\$16.88 per hour
6 person household	\$40,200 per year	\$19.33 per hour
7 person household	\$45,300 per year	\$21.78 per hour
8 person household	\$50,400 per year	\$24.23 per hour

For each additional person add:

\$5,100 per year \$2.45 per hour