

# Agenda

## Committee on Resources for Self-represented Parties

May 13, 2011  
12:00 to 2:00 p.m.

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

Welcome and approval of minutes	Tab 1	Judge John Baxter
Introduction of Members		Judge John Baxter
Review of strategic planning session	Tab 2	Tim Shea
Financial Declaration form		Mary Jane Ciccarello

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

**Meeting Schedule:** Matheson Courthouse, 12:00 to 1:30, Judicial Council Room,  
unless otherwise stated.

August 12, 2011  
November 18, 2011 (Education Room)

Tab 1

**Draft: Subject to approval**

Minutes		Committee on Resources for Self Represented Parties			
Meeting Date	February 11, 2011			Meeting Room	Education Room
Committee Member	Present	Excused	Committee Member	Present	Excused
Fred Anderson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Christine James	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
James Backman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Robert Jeffs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pat Bartholomew	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Jay Kessler	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Judge John Baxter, Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Jose Lazaro	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Mary Jane Ciccarello	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Christina Micken	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Judge Christine Decker	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Stewart Ralphs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Judge Michael DiReda	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Judge James Shumate	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Carol Frank	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Linda Smith	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Neil Hanson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Jessica Van Buren	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Staff	Tim Shea				

Topic	Approve minutes of October 8, 2010	By	Tim Shear
Motion:	Approve as prepared.	By	Stewart Ralphs
Vote:	Yes    All                      No                      Abstain	Pass	<input checked="" type="checkbox"/>
		No Pass	<input type="checkbox"/>

Topic	Self Help Center	By	Mary Jane Ciccarello Jessica Van Buren
<p>Discussion: Ms. Van Buren reported that in October, 2010 the SHC had expanded its services into the First District and now had a Spanish service. The number of contacts continues to grow; there were 562 contacts in January, 2011, by far the biggest month so far. Calls increased 25% over the next highest month, and contacts generally increased 14% over the next highest month. The missed call ratio is under 2 missed calls for every call answered. Fifty-seven percent of the contacts come from the Second District, which is the most urban district. Satisfaction with the service remains extremely high. The racial demographics of callers is approximately the same as the state at large.</p> <p>Ms. Ciccarello reported that about 3½% of the callers reported since October, 2010, speak Spanish as their primary language and that 10% of callers self report as being of Hispanic background. She reported that the Spanish-speaking callers present many of the same issues as the SHC has been working with from the start but there are now more immigration-related issues and problems faced by immigrants in Utah illegally. Also, pro se litigants who speak only Spanish need help in completing court forms in English. Information about which pro bono clinics provide help in Spanish is difficult to confirm on a consistent and reliable basis. It is also difficult to confirm how strictly clinics held by Utah Legal Services enforce that agency's restrictions on providing services to illegal immigrants.</p> <p>Ms. Ciccarello reported that she serves on the Utah State Bar's committee to establish a modest means program. The goal is to establish a lawyer referral service that matches low-income clients who do not</p>			

meet the financial and case-type eligibility requirements of the state's non-profit legal services agencies with lawyers who agree to bill reduced fees for full representation. The Bar will soon send out a survey to all members to gauge interest in such a program. Ms. Ciccarello also reported that the Self-Help Center refers callers regularly to the Bar's online directory listing of lawyers who offer limited scope representation and stated her hope that the Bar will soon expand the categories in which lawyers offer limited scope representation.

Professor Backman reported that several Utah County organizations have come together to form the Timpanogos Legal Center, a pro bono and low bono clearing house to place cases with lawyers and provide support to them. The center is not yet fully operational but should be soon.

Topic	Recognition of departing members	By	Judge John Baxter
Discussion: Judge Baxter recognized the contributions of James Backman, Christine Decker, Jay Kessler, Neil Hansen, Christine James, Christina Micken, James Shumate, and Linda Smith			

Topic	Website and forms development	By	Tim Shea
Discussion: Mr. Shea reviewed the work on the forms and webpages to date. He reported that the forms for alternative service were not just for publication but to use social media in the service process when appropriate. Professor Backman expressed his view that the forms were a great help not just to parties without lawyers but also to lawyers representing clients.			
Judge DiReda indicated that the Second District had taken issue with the OCAP eviction forms. The form directs the landlord to claim triple damages that are not authorized by law. Mr. Shea said that he had responded to inquiries from Judge Jones and Judge Hadley, but there had been nothing further. Judge DiReda said that he would check with Judge Hadley.			

Topic	Strategic planning	By	Tim Shea
Discussion: Mr. Shea summarized the work on the original strategic plan. He asked the committee how they would like to approach developing a new plan. The consensus was to devote a one-half day session rather than time from the regular meetings.			
Action: Mr. Shea will send members several potential meeting dates and schedule the session on the date convenient for most.			

# Tab 2

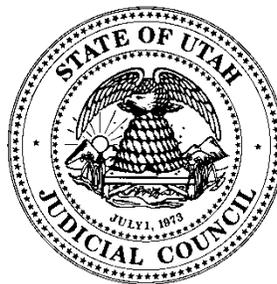


# Utah State Courts

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## Committee on Resources for Self-represented Parties

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Draft Strategic Plan

May 13, 2011

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

## Table of Contents

(1) Background .....	3
(2) Goals and Principles.....	3
(a) Goals.....	3
(b) Principles .....	4
(3) Evaluation of work to date .....	4
(4) Future priorities .....	6

## **(1) Background**

The Committee on Resources for Self-Represented Parties is a standing committee established by Judicial Council Rule 3-115. The Committee's purpose is to "study the needs of self-represented parties within the Utah State Courts and propose policy recommendations concerning those needs to the Judicial Council."

The duties of the Committee are to:

- 1) provide leadership to identify the needs of self-represented parties and to secure and coordinate resources to meet those needs;
- 2) assess available services and forms for self-represented parties and gaps in those services and forms;
- 3) ensure that court programs for self-represented litigants are integrated into statewide and community planning for legal services to low-income and middle-income individuals;
- 4) recommend measures to the Judicial Council, the State Bar and other appropriate institutions for improving how the legal system serves self-represented parties; and
- 5) develop an action plan for the management of cases involving self-represented parties.

## **(2) Goals and Principles**

The Committee endorses the goals and principles for programs to assist self-represented parties that were developed for the 2006 strategic plan.

### **(a) Goals**

- 1) To ensure access to the legal system.
- 2) To increase education of court users about the courts, and to increase education of court personnel and community organizations about self-represented parties' needs.
- 3) To clarify the court system so that it is understandable by ordinary citizens.
- 4) To increase the efficiency and effectiveness of the court system by:
  - a. reducing the time required of judges and staff to explain court procedures; and
  - b. reducing the number of continuances required to give self-represented parties a further opportunity to prepare.

- 5) To increase understanding of court orders and compliance with their terms.

### **(b) Principles**

Services provided by the court should be equally available throughout Utah. While it will be necessary to develop programs on a pilot basis, the Committee's ultimate goal is to provide the same services to citizens throughout Utah. People in urban areas, for instance, should not receive more, better, or different services than people in rural areas. Programs and services developed by the judicial branch should be equally available in the justice court.

Services provided by the judicial branch should be available to all people regardless of income. This principle does not necessarily apply to legal service providers and social service agencies with whom the courts collaborate. Their funding sources and program philosophies often limit their services to indigents.

Services provided by the judicial branch should be available equally to all parties. Defendants and respondents are as entitled to court services as plaintiffs and petitioners.

Court-provided services to self-represented parties are designed to supplement and not to supplant legal representation. Legal representation—either through public legal services programs or through the services of members of the private bar—remains the preferred method for parties to obtain information and advice, and court staff will continue to inform self-represented parties of the value of legal representation and how to obtain the services of a lawyer.

### **(3) Evaluation of work to date**

The committee has taken successful steps in all of its duties except perhaps the last: “develop an action plan for the management of cases involving self-represented parties.”

The committee has been guided during the last five years by the following list of tasks. Most are objectives that can never fully be met.

- 1) Finance a pilot program in two judicial districts to make available by telephone and web communication a lawyer who would provide information and assistance.

The Self Help Center is staffed with full-time and part-time attorneys, funded by a combination of permanent and one-time appropriations and grants. The level of funding allows the center to serve five of the eight judicial districts or about one-third of the population.

2) Develop court-sponsored clinics and workshops.

The law library offers four classes once a month: the basics of small claims, collecting a judgment, landlord—tenant, and using the law library and court website.

3) Set up a work space in each courthouse to serve as a focal point for providing self-help information. Study the efficacy of staffing such a self-help work space.

Experience showed that this resource was not being used, and the objective has been abandoned.

4) Promote the state law library as a resource for self-represented parties.

Nearly 80% of the law library's patrons are representing themselves in a legal matter. The law library provides a variety of services including expert staff to guide people to resources, public computers with access to the courts' website, Westlaw, and word processing software, books written for lawyers and non-lawyers, and referral information. The library also provides a copy service for inmates.

5) Develop forms most needed by self-represented parties.

Numerous forms, along with information and instructions, a few in Spanish, have been published on the court webpage.

6) Study how best to meet the needs of self-represented parties through the court's website.

The court website has become the sole method of publishing self self-help resources. There has been no study of its effectiveness. We do our best at plain-language drafting, trying to accurately describe the law and procedures in simple terms.

7) Develop training tools for clerks and judges on the needs of self-represented parties and effectively responding to those needs.

The committee has developed a manual for clerks on what help they can and cannot provide to the public. This is included in new employee orientation and in a continuing education class. The committee has presented or sponsored a few classes to judges at conferences.

8) Study how community service organizations can assist in providing self-help information.

Law library staff have provided training and information to public library staff around the state. Committee representatives have met with a few service organizations to convey what resources available to parties without lawyers.

9) Amend Rule 1.0, Chapter 13A of the Supreme Court Rules of Professional Practice to permit unpaid non-lawyers to complete court forms.

Rule 14-802 permits a non-lawyer to help a person complete court forms.

- 10) Promote clinics and workshops, low-fee and no-fee legal representation, and unbundled legal services among the legal community.

Resources are increasing, but they remain largely uncoordinated efforts.

- 11) Promote a legal service organization to recruit lawyers to provide such services and to raise and distribute funds to do so.

The Supreme Court has created the Access to Justice Council, but there have been no other significant developments.

#### **(4) Future priorities**

Time and money do not permit us to thoroughly evaluate the programs developed so far, other than the Self Help Center. The primary measure of success is that those programs are regularly used. Time and money also do not permit us to survey the profile of pro se parties as we did for the 2006 strategic plan, but we note from that survey that pro se parties are in no way remarkable from the general population. The consequence of that observation, as reported in 2006, is that 75% of pro se parties are very infrequent court users. The committee's challenge is to deliver products and services to someone who may come to court only a few times in a lifetime.

As a result of discussions at its strategic planning session, the committee recommends the following priorities:

- 1) Continue with efforts to expand the Self Help Center to serve the entire state.

The Self Help Center remains the centerpiece of the committee's program. Its success in the districts in which it operates is undeniable. Patron satisfaction polls remain at or near 100%. The opinions of judges and clerks also remain strongly favorable. The Judicial Council has continued to support the center, allocating permanent and one-time funds during a period of declining budgets. The committee should continue to work for permanent funding for four FTE lawyers, which should be sufficient to serve the entire state.

- 2) Continue to develop forms with flowcharts, information and instructions.

Forms and the accompanying information can help pro se parties through some of the more common—although not necessarily simple—legal and procedural matters. Although the forms are not mandatory—parties and lawyers can prepare their own pleadings and other papers—they are approved by the various boards of judges and are accepted in all courthouses in the state. The public can access the

information and forms for free on the court website. The forms also make the Self Help Center more efficient, allowing the lawyers to refer patrons to the website or to print and mail the documents.

The committee recommends including flowcharts as part of the information package. Flowcharts add a visual component to the text, which may help communicate the law and procedures a pro se party is expected to follow.

The committee will study a program to review court forms before they are filed by a pro se party, not for content, but for completeness.

3) Produce instructional videos or web-based live classes.

The classes offered by the law library are helpful, but they require a significant and continual investment of time, yet they serve only a score of people monthly and only at the Matheson Courthouse. There is no good substitute for the opportunity to exchange questions and answers in live classes, but videos and web classes offer many of the benefits of classes and can reach a much larger audience. Just like the current live classes, the videos and web classes should direct patrons to the court website for the extensive information they can find there.

The committee recommends developing instruction pieces on civil procedures, evidence, effective courtroom presentations, and the resources available to help pro se parties. The committee recommends using social media to distribute these pieces to the public.

4) Develop an improved working relationship with OCAP (Online Court Assistance Program).

The Online Court Assistance Program uses an interactive web based interview to produce forms for filing. The application is a decision tree that selects different branches based on a patron's answers to questions. The OCAP Board is moving from a court-built application to HotDocs. Although the OCAP Board uses a different technology, its objective is similar to ours: produce for the public a document suitable for filing in common legal proceedings.

The Judicial Council has directed that at least one member of the OCAP Board serve also on this committee, and for several years we have had two. Staff from the two groups meet regularly, but there has never been a defined effort for the two groups to work more closely together. In the area of forms, at least, our efforts and the OCAP Board's efforts may be more successful if made in tandem.

5) Develop an improved working relationship with the Utah State Bar.

This committee has always tried to deliver the message that the best resource for a party without a lawyer is a lawyer. We have always supported and in some cases initiated the Bar's efforts to provide limited legal help, volunteers to represent service members, and clinics. The committee pledges its support and assistance in the Bar's "modest means" program and other efforts to provide legal services to parties who need them.

6) Study alternative processes for self-represented parties.

Would we have the procedures we have today if the common law had developed without lawyers to represent clients? What would a hearing look like if people had always been expected to present their case without the help of a lawyer? How can we improve case-flow management when pro se parties are involved? The committee plans to investigate processes that may serve the needs of pro se parties and the court. The committee also plans to develop resources to help the pro se party at the hearing. Forms may help a party reach a hearing, but they do little to help the party prepare for the hearing or to effectively present information to the judge or court commissioner.