

# Agenda

## Supreme Court Task Force to Examine Limited Legal Licensing

July 9, 2015  
8:00 to 10:00 a.m.

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

Welcome and approval of minutes	Tab 1	Deno Himonas
Work group report: Limited Legal License Technician		Robert Adler
Work group report: Other Emerging Strategies	Tab 2	Mary Jane Ciccarello
Perspectives from the National Center for State Courts		Tom Clarke, National Center for State Courts
Washington and Utah rules	Tab 3	Tim Shea
Assignments		Deno Himonas

**Task Force Webpage:** [http://www.utcourts.gov/committees/limited\\_legal/](http://www.utcourts.gov/committees/limited_legal/)

**Meeting Schedule:**

June 18, 2015	September 10, 2015
July 9, 2015	October 1, 2015
August 6, 2015	October 22, 2015
August 20, 2015	November 12, 2015

All meetings are from 8:00 to 10:00 a.m. in the Judicial Council Room at the Matheson Courthouse, 450 S State St // Suite N31 // Salt Lake City

# Tab 1

**SUPREME COURT TASK FORCE TO  
EXAMINE LIMITED LEGAL LICENSING  
MEETING**

**Minutes  
Thursday, June 18, 2015  
Judicial Council Room  
Matheson Courthouse  
Salt Lake City, Utah**

**JUSTICE DENO HIMONAS, Presiding**

**ATTENDEES:**

Justice Deno Himonas, Chair  
Dean Robert W. Adler  
Nathan D. Alder  
Hon. James Brady  
Mary Jane Ciccarello  
Dixie A. Jackson  
Rep. Brian S. King  
John Lund  
Lori W. Nelson  
Comm. Joanna B. Sagers  
Senator Stephen H. Urquhart

**STAFF PRESENT:**

Tim Shea  
Jody Gonzales  
Rick Schwermer

**GUESTS:**

Katie Nichols, Supreme Court  
Lenora Babb Plimpton

**EXCUSED:**

Elena Bensor-Slyter  
Carol Sue Crismon  
Jacey Skinner  
Angelina Tsu

**1. WELCOME AND INTRODUCTIONS: (Justice Deno Himonas)**

Justice Deno Himonas welcomed everyone to the meeting. He thanked the members of the task force for their willingness to participate. Members of the task force introduced themselves.

**2. TASK FORCE CHARGE AND TIMETABLE: (Justice Deno Himonas)**

Justice Himonas referenced the following regarding the need to address access to justice issues: 1) a New York Times article referring to the justice gap in the United States listing Utah as 65<sup>th</sup> by the World Justice Rule of Law Project Index, and 2) an article in the ABA Journal referring to multi-state and federal studies which show that 80-90% of low and middle income citizens, due to a variety of reasons, are unable to obtain or afford legal representation.

The charge of the task force is to evaluate ways non-lawyers can provide services in areas in which only lawyers traditionally have been able to practice. The task force is to develop and evaluate working models to provide access to justice to clients with varying needs.

Justice Himonas highlighted the following details relative to the task force: 1) completion of the task force study and report findings to the Supreme Court in November 2015, 2) set a schedule for the task force to meet every three weeks, and 3) create work groups for more defined areas of focus.

The following meeting schedule was agreed upon by members of the task force:

July 09: 8 a.m. – 10 a.m.

Aug 06: 8 a.m. – 10 a.m.

Aug 20: 8 a.m. – 10 a.m.

Sep 10: 8 a.m. – 10 a.m.

Oct 01: 8 a.m. – 10 a.m.

Oct 22: 8 a.m. – 10 a.m.

Nov 12: 8 a.m. – 10 a.m.

### **3. IDENTIFICATION OF EMERGING STRATEGIES AND INITIAL SELECTION OF THOSE FOR STUDY: (Justice Deno Himonas)**

Justice Himonas highlighted state programs other than Washington State's Limited Legal Licensing Technician Program to include: 1) Arizona and California's use of legal document preparers or legal document assistants – non-lawyers authorized to assist court patrons filing of certain legal documents, 2) Maryland's Homeless Persons Representation Project which authorizes social workers to provide legal advice to the homeless on certain legal issues, and 3) New York, specifically New York City, has established a Navigator's Program which allows individuals, on a volunteer basis, to assist clients, and go to court with them. They cannot provide legal advice, but they can answer fact-specific questions.

States showing interest in the LLLT program include: 1) California, 2) Colorado, 3) Connecticut, 4) Massachusetts, 5) North Carolina, 6) Ohio, 7) New Mexico, 8) Oregon, and 9) Vermont. He also referenced a Canada model created upon passage of the Access to Justice Act in 2007 which allows paralegals, who are licensed under the act; to represent individuals before courts and tribunals with small claims, worker's comp claims, landlord tenant disputes, auto insurance claims, traffic violations, and certain minor criminal offenses.

Judge Himonas responded to questions about how such practitioners are licensed and what the education requirements of the programs.

Other strategies highlighted included: 1) the Utah State Bar is considering the idea of expanding the third year practice rule to the second year, 2) an online dispute resolution proposal will be considered at the June 22 Judicial Council meeting, 3) *MacKenzie Friends – Court Without a Lawyer Program* in Great Britain, 4) *Looking at Justice Core* part of the federal AmeriCorps system, 5) California system, 6) Illinois system, 7) other similar community programs, 8) up-and-coming program being developed in Washington, DC with regard to immigration; wills, estates, and trusts; and landlord tenant disputes, 9) look at what is being used in the bankruptcy court with the use of bankruptcy form preparers, and 10) the State Bar's study from the perspective of a client by the Future's Commission—who the audience is and what are their needs.

Discussion took place.

The following categories were highlighted as ways to provide legal advice: 1) through a lawyer, 2) through limited law practitioners, 3) through licensing, and 4) through basic caveat emptor.

Areas to consider as the task force proceeds: 1) coordination with other federal and state governmental agencies, 2) administrative proceedings, and 3) what forms should be available to court patrons.

#### **4. EXAMINATION OF THE ORIGIN, PURPOSE, AND CONTENT OF THE WASHINGTON STATE LLLT: (Tim Shea)**

Mr. Shea provided background information on Washington State's Limited Legal Licensing Technician Program. He noted that, in the future, the task force may want to invite a Washington State representative to talk on behalf of their program.

Another resource available to the task force is Tom Clarke from the National Center for State Courts (NCSC). From his research, he has looked at roles beyond lawyers.

The LLLT program began from the following: 1) concern over the unauthorized practice of law, and 2) concern over unmet legal needs.

The LLLT program was put in place by the Washington State Supreme Court. It is governed by a 13-member volunteer board. The board is responsible for the following: 1) processing applications and fees, 2) consideration of practice areas, 3) rules, grievances, and discipline.

Qualifications to be certified as a limited legal licensing technician include the following: 1) pass a background check, 2) possess an associate's degree plus 45 hours of the core curriculum (which is essentially the paralegal curriculum), 3) upon completion of the core curriculum, an additional 5 credit hours in domestic relations and an additional 10 credit hours in advanced domestic law and procedures must be completed, 4) complete 3,000 hours of substantive law-related work supervised by a lawyer—no more than three years after passing the exam and no more than three years before licensure, and 5) proof of financial responsibility.

Discussion took place.

Aspects of a program to consider as the task force continues discussion: 1) costs of the program, 2) available study material, 3) factoring in experience for program candidates, 4) competency-based testing, 5) annual CLE requirements, 6) expectations of the program candidates, 7) use of volunteers, 8) identify available resources, 9) consider the process of family law matters, 10) the use of early resolution and case management, 11) determine the best way to disseminate the information to the public on available resources, and 12) simplify the forms.

#### **5. OBJECTIVES, ISSUES, WORKING GROUPS, RESOURCES: (All)**

Members of the task force were assigned to the following workgroups:

Workgroup 1 – Focus on the Limited Legal Licensing Technician Program

Dean Robert Alder – chair

Mr. Nate Alder

Hon. James Brady

Rep. Brian King

Ms. Lori Nelson

Comm. Joanna Sagers

Ms. Angelina Tsui

Workgroup 2 – Focus on Other Emerging Strategies

Ms. Mary Jane Ciccarello, chair

Ms. Elena Bensor-Slyter

Ms. Sue Crismon

Ms. Dixie Jackson

Mr. John Lund

Ms. Jacey Skinner

Senator Stephen Urquhart

**6. ASSIGNMENTS: (Justice Deno Himonas)**

Justice Himonas requested Dean Robert Alder – workgroup 1 chair, and Ms. Mary Jane Ciccarello – workgroup 2 chair to submit two to three discussion items of the subcommittees to Mr. Shea.

Justice Himonas thanked everyone for attending and for their willingness to participate on the task force.

**7. ADJOURN**

The meeting was adjourned.

# Tab 2

## **LLLT Task Force-Work Group 2 Focus on Other Emerging Strategies**

### **Work Group 2 Report for the July 9, 2015 Task Force Meeting**

Submitted by Mary Jane Ciccarello, Work Group 2 Chair

Work Group 2 held its first meeting on June 25, 2015, at the Matheson Courthouse.

Present: Elena Bensor-Slyter, Mary Jane Ciccarello, Sue Crismon, Dixie Jackson, John Lund, Katie Nichols, Tim Shea

Absent: Jacey Skinner, Stephen Urquhart

Work Group members identified the following as issues that should direct our study of other emerging strategies:

1. Need for an overview of strategies currently available. The overview should identify current services, the gaps in services, overlaps in services, and which groups need services. In addition, the overview should identify potential expansions in current services to address unmet needs.
2. Need to develop strategies that address workable market solutions. Any strategies we recommend should aim at being economically effective for lawyers/advocates and consumers. In addition, strategies should connect consumers to advocates as seamlessly as possible.
3. Need to keep in mind the effect of existing unregulated services provided by notarios and other community entities for free or for fees.
4. Need to address concerns of unrepresented individuals, including LEP issues.
5. Need to understand and include all stakeholders—courts, lawyers, other professionals, non-lawyer advocates, and consumers.
6. Need to understand and embrace technological tools that enhance emerging strategies.

Work Group members identified the following strategies as ones we believe we should focus on immediately, understanding that once we have an overview of currently available strategies and some information about the following, we may decide to change our focus. The following comments and questions are meant to help frame the strategy but are not inclusive of all possible aspects:

1. Develop and maintain Court Navigators/Justice Corps in Utah. The purpose of these programs is to help people inside our courthouses to

simply navigate the building, understand what happens in hearings, find forms, complete forms, and file forms. Successful court programs exist in New York, Illinois, and California. In addition, such programs provide learning opportunities to college and law students, as well as other community volunteers, engaging more groups in access to justice efforts.

2. Develop and maintain a viable Utah State Bar lawyer directory/legal resources clearinghouse. The current directory is not user friendly. Consumers need easy access to information about lawyers, what services they provide, where they provide the services, what those services cost, and what payments options are available.
3. Promote and support discreet legal services. What are possible strategies for helping lawyers meet people where they are—in courthouses, public libraries, shopping areas? How can discreet services be provided in such public arenas? What are the barriers to lawyers providing advice/counseling/representation on a fee-for-service basis?
4. Develop and maintain court-based case management and early resolution programs, especially in family law and consumer law matters. How can case management systems provide a more preventative law approach to resolution of cases that must result in a court order (e.g., child custody)? Which service providers should be involved in an early resolution program that results in meaningful orders and/or plans for the public?
5. Develop and support ways for the public to access legal information and complete court-approved forms. Who should be able to help people complete forms? Can there be private navigators who receive a certain level of training and charge fees for services but who are not engaging in the unauthorized practice of law and who do not undergo the training required of paralegals or LLLTs? What is needed to educate, support and possibly monitor private navigators? Are private navigators needed especially in non-English speaking communities?

We assigned tasks as follows:

1. Mary Jane Ciccarello: Overview of existing strategies
2. Katie Nichols: Justice Corps strategies
3. Sue Crismon: Lawyer referral strategies

4. John Lund: Discreet legal services/fee-for-service strategies
5. Elena Bensor-Styler: Strategies for private navigators to provide legal information and forms help for fees
6. Dixie Jackson: Court-based early resolution and preventative law strategies

The Work Group members agreed to decide after the July 9 Task Force meeting on our future work and meeting schedule.

# Tab 3

## WASHINGTON

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### (1) GENERAL RULE 24. DEFINITION OF THE PRACTICE OF LAW.

**(a) General Definition:** The practice of law is the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person(s) which require the knowledge and skill of a person trained in the law. This includes but is not limited to:

- (1) Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration.
- (2) Selection, drafting, or completion of legal documents or agreements which affect the legal rights of an entity or person(s).
- (3) Representation of another entity or person(s) in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution process or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review.
- (4) Negotiation of legal rights or responsibilities on behalf of another entity or person(s).

**(b) Exceptions and Exclusions:** Whether or not they constitute the practice of law, the following are permitted:

- (1) Practicing law authorized by a limited license to practice pursuant to Admission to Practice Rules 8 (special admission for: a particular purpose or action; indigent representation; educational purposes; emeritus membership; house counsel), 9 (legal interns), 12 (limited practice for closing officers), or 14 (limited practice for foreign law consultants).
- (2) Serving as a courthouse facilitator pursuant to court rule.
- (3) Acting as a lay representative authorized by administrative agencies or tribunals.
- (4) Serving in a neutral capacity as a mediator, arbitrator, conciliator, or facilitator.
- (5) Participation in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements.
- (6) Providing assistance to another to complete a form provided by a court for protection under RCW chapters 10.14 (harassment) or 26.50 (domestic violence prevention) when no fee is charged to do so.
- (7) Acting as a legislative lobbyist.
- (8) Sale of legal forms in any format.
- (9) Activities which are preempted by Federal law.
- (10) Serving in a neutral capacity as a clerk or court employee providing information to the public pursuant to Supreme Court Order.
- (11) Such other activities that the Supreme Court has determined by published opinion do not constitute the unlicensed or unauthorized practice of law or that have been permitted under a regulatory system established by the Supreme Court.

**(c) Non-lawyer Assistants:** Nothing in this rule shall affect the ability of non-lawyer assistants to act under the supervision of a lawyer in compliance with Rule 5.3 of the Rules of Professional Conduct.

**(d) General Information:** Nothing in this rule shall affect the ability of a person or entity to provide information of a general nature about the law and legal procedures to members of the public.

**(e) Governmental agencies:** Nothing in this rule shall affect the ability of a governmental agency to carry out responsibilities provided by law.

**(f) Professional Standards:** Nothing in this rule shall be taken to define or affect standards for civil liability or professional responsibility.

**(2) APR 28. LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS. (EXCERPT)**

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**F. Scope of Practice Authorized by Limited Practice Rule.** The Limited License Legal Technician shall ascertain whether the issue is within the defined practice area for which the LLLT is licensed. If it is not, the LLLT shall not provide the services required on this issue and shall inform the client that the client should seek the services of a lawyer. If the issue is within the defined practice area, the LLLT may undertake the following:

- (1) Obtain relevant facts, and explain the relevancy of such information to the client;
- (2) Inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding;
- (3) Inform the client of applicable procedures for proper service of process and filing of legal documents;
- (4) Provide the client with self-help materials prepared by a Washington lawyer or approved by the Board that contain information about relevant legal requirements, case law basis for the client's claim, and venue and jurisdiction requirements;
- (5) Review documents or exhibits that the client has received from the opposing party, and explain them to the client;
- (6) Select, complete, file, and effect service of forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the Board; and advise the client of the significance of the selected forms to the client's case;
- (7) Perform legal research;
- (8) Draft legal letters and documents beyond what is permitted in paragraph (6), if the work is reviewed and approved by a Washington lawyer;
- (9) Advise a client as to other documents that may be necessary to the client's case, and explain how such additional documents or pleadings may affect the client's case;
- (10) Assist the client in obtaining necessary documents or records, such as birth, death, or marriage certificates.

**G. Conditions Under Which A Limited License Legal Technician May Provide Services**

- (1) A Limited License Legal Technician must have a principal place of business having a physical street address for the acceptance of service of process in the State of Washington;
- (2) A Limited License Legal Technician must personally perform the authorized services for the client and may not delegate these to a nonlicensed person. Nothing in this prohibition shall prevent a person who is not a licensed LLLT from performing translation services;
- (3) Prior to the performance of the services for a fee, the Limited License Legal Technician shall enter into a written contract with the client, signed by both the client and the Limited License Legal Technician, that includes the following provisions:
  - (a) An explanation of the services to be performed, including a conspicuous statement that the Limited License Legal Technician may not appear or represent the client in court, formal administrative adjudicative proceedings, or other formal dispute resolution process or negotiate the client's legal rights or responsibilities, unless permitted under GR 24(b);

(b) Identification of all fees and costs to be charged to the client for the services to be performed;

(c) A statement that upon the client's request, the LLLT shall provide to the client any documents submitted by the client to the Limited License Legal Technician;

(d) A statement that the Limited License Legal Technician is not a lawyer and may only perform limited legal services. This statement shall be on the first page of the contract in minimum twelve-point bold type print;

(e) A statement describing the Limited License Legal Technician's duty to protect the confidentiality of information provided by the client and the Limited License Legal Technician's work product associated with the services sought or provided by the Limited License Legal Technician;

(f) A statement that the client has the right to rescind the contract at any time and receive a full refund of unearned fees. This statement shall be conspicuously set forth in the contract; and

(g) Any other conditions required by the rules and regulations of the Board.

(4) A Limited License Legal Technician may not provide services that exceed the scope of practice authorized by this rule, and shall inform the client, in such instance, that the client should seek the services of a lawyer.

(5) A document prepared by an LLLT shall include the LLLT's name, signature, and license number beneath the signature of the client.

**H. Prohibited Acts.** In the course of dealing with clients or prospective clients, a Limited License Legal Technician shall not:

(1) Make any statement that the Limited License Legal Technician can or will obtain special favors from or has special influence with any court or governmental agency;

(2) Retain any fees or costs for services not performed;

(3) Refuse to return documents supplied by, prepared by, or paid for by the client, upon the request of the client. These documents must be returned upon request even if there is a fee dispute between the Limited License Legal Technician and the client;

(4) Represent or advertise, in connection with the provision of services, other legal titles or credentials that could cause a client to believe that the Limited License Legal Technician possesses professional legal skills beyond those authorized by the license held by the Limited License Legal Technician;

(5) Represent a client in court proceedings, formal administrative adjudicative proceedings, or other formal dispute resolution process, unless permitted by GR 24;

(6) Negotiate the client's legal rights or responsibilities, or communicate with another person the client's position or convey to the client the position of another party, unless permitted by GR 24(b);

(7) Provide services to a client in connection with a legal matter in another state, unless permitted by the laws of that state to perform such services for the client;

(8) Represent or otherwise provide legal or law related services to a client, except as permitted by law, this rule or associated rules and regulations;

(9) Otherwise violate the Limited License Legal Technician Rules of Professional Conduct.

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**(3) RULE 14-802. AUTHORIZATION TO PRACTICE LAW.**

(a) Except as set forth in subsection (c) of this rule, only persons who are active, licensed members of the Bar in good standing may engage in the practice of law in Utah.

(b) For purposes of this rule:

(b)(1) The “practice of law” is the representation of the interests of another person by informing, counseling, advising, assisting, advocating for or drafting documents for that person through application of the law and associated legal principles to that person’s facts and circumstances.

(b)(2) The “law” is the collective body of declarations by governmental authorities that establish a person’s rights, duties, constraints and freedoms and consists primarily of:

(b)(2)(A) constitutional provisions, treaties, statutes, ordinances, rules, regulations and similarly enacted declarations; and

(b)(2)(B) decisions, orders and deliberations of adjudicative, legislative and executive bodies of government that have authority to interpret, prescribe and determine a person’s rights, duties, constraints and freedoms.

(b)(3) “Person” includes the plural as well as the singular and legal entities as well as natural persons.

(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)(1) Making legal forms available to the general public, whether by sale or otherwise, or publishing legal self-help information by print or electronic media.

(c)(2) Providing general legal information, opinions or recommendations about possible legal rights, remedies, defenses, procedures, options or strategies, but not specific advice related to another person’s facts or circumstances.

(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.

(c)(4) When expressly permitted by the court after having found it clearly to be in the best interests of the child or ward, assisting one’s minor child or ward in a juvenile court proceeding.

(c)(5) Representing a party in small claims court as permitted by Rule of Small Claims Procedure 13.

(c)(6) Representing without compensation a natural person or representing a legal entity as an employee representative of that entity in an arbitration proceeding, where the amount in controversy does not exceed the jurisdictional limit of the small claims court set by the Utah Legislature.

(c)(7) Representing a party in any mediation proceeding.

(c)(8) Acting as a representative before administrative tribunals or agencies as authorized by tribunal or agency rule or practice.

(c)(9) Serving in a neutral capacity as a mediator, arbitrator or conciliator.

(c)(10) Participating in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements or as otherwise allowed by law.

(c)(11) Lobbying governmental bodies as an agent or representative of others.

(c)(12) Advising or preparing documents for others in the following described circumstances and by the following described persons:

(c)(12)(A) a real estate agent or broker licensed by the state of Utah may complete State-approved forms including sales and associated contracts directly related to the sale of real estate and personal property for their customers.

(c)(12)(B) an abstractor or title insurance agent licensed by the state of Utah may issue real estate title opinions and title reports and prepare deeds for customers.

(c)(12)(C) financial institutions and securities brokers and dealers licensed by Utah may inform customers with respect to their options for titles of securities, bank accounts, annuities and other investments.

(c)(12)(D) insurance companies and agents licensed by the state of Utah may recommend coverage, inform customers with respect to their options for titling of ownership of insurance and annuity contracts, the naming of beneficiaries, and the adjustment of claims under the company's insurance coverage outside of litigation.

(c)(12)(E) health care providers may provide clerical assistance to patients in completing and executing durable powers of attorney for health care and natural death declarations when no fee is charged to do so.

(c)(12)(F) Certified Public Accountants, enrolled IRS agents, public accountants, public bookkeepers, and tax preparers may prepare tax returns.

### **Advisory Committee Notes**

Subsection (a).

"Active" in this paragraph refers to the formal status of a lawyer, as determined by the Bar. Among other things, an active lawyer must comply with the Bar's requirements for continuing legal education.

Subsection (b).

The practice of law defined in Subparagraph (b)(1) includes: giving advice or counsel to another person as to that person's legal rights or responsibilities with respect to that person's facts and circumstances; selecting, drafting or completing legal documents that affect the legal rights or responsibilities of another person; representing another person before an adjudicative, legislative or executive body, including the preparation or filing of documents and conducting discovery; negotiating legal rights or responsibilities on behalf of another person.

Because representing oneself does not involve another person, it is not technically the "practice of law." Thus, any natural person may represent oneself as an individual in any legal context. To the same effect is Article 1, Rule 14-111 Integration and Management: "Nothing in this article shall prohibit a person who is unlicensed as an attorney at law or a foreign legal consultant from personally representing that person's own interests in a cause to which the person is a party in his or her own right and not as assignee."

Similarly, an employee of a business entity is not engaged in "the representation of the interest of another person" when activities involving the law are a part of the employee's duties solely in connection with the internal business operations of the entity and do not involve providing legal advice to another person. Further, a person acting in an official capacity as an employee of a government agency that has administrative authority to determine the rights of persons under the law is also not representing the interests of another person.

As defined in subparagraph (b)(2), "the law" is a comprehensive term that includes not only the black-letter law set forth in constitutions, treaties, statutes, ordinances, administrative and court rules and regulations, and similar enactments of governmental authorities, but the entire fabric of its development, enforcement, application and interpretation.

Laws duly enacted by the electorate by initiative and referendum under constitutional authority would be included under subparagraph (b)(2)(A).

Subparagraph (b)(2)(B) is intended to incorporate the breadth of decisional law, as well as the background, such as committee hearings, floor discussions and other legislative history, that often accompanies the written law of legislatures and other law- and rule-making bodies. Reference to adjudicative bodies in this subparagraph includes courts and similar tribunals, arbitrators, administrative agencies and other bodies that render judgments or opinions involving a person's interests.

Subsection (c).

To the extent not already addressed by the requirement that the practice of law involves the representation of others, subparagraph (c)(2) permits the direct and indirect dissemination of legal information in an educational context, such as legal teaching and lectures.

Subparagraph (c)(3) permits assistance provided by employees of the courts and legal-aid and similar organizations that do not charge for providing these services.

Subparagraph (c)(7) applies only to the procedures directly related to parties' involvement before a neutral third-party mediator; it does not extend to any related judicial proceedings unless otherwise provided for under this rule (e.g., under subparagraph (c)(5)).

#### **(4) RULE 14-113. CREATION OF PARALEGAL DIVISION.**

**(a) Paralegal defined.** A paralegal is a person qualified through education, training, or work experience, who is employed or retained by a lawyer, law office, governmental agency, or the entity in the capacity of function which involves the performance, under the ultimate direction and supervision of an attorney, of specifically delegated substantive legal work, which work, for the most part, requires a sufficient knowledge of legal concepts that absent such assistance, the attorney would perform. A paralegal includes a paralegal on a contract or free-lance basis who works under the supervision of a lawyer or who produces work directly for a lawyer for which a lawyer is accountable.

**(b) Membership and structure of paralegal division.** Qualified individuals can become "paralegal affiliates" of the Bar upon submitting an application to the paralegal division of the Bar and fulfilling the following:

(b)(1) an initial and annual certification of continuous sponsorship of a paralegal affiliate by an employer who is a member of the Bar;

(b)(2) a certification by the attorney and paralegal affiliate that the paralegal undertakes no legal work outside the attorney's supervision or supervision of attorney members of the firm, wherein joint sponsorship by joint employers would be permitted;

(b)(3) an assumption of responsibility by the attorney for the compliance of the paralegal with all applicable rules of the Bar;

(b)(4) the paralegal affiliate's parallel commitment that the attorney and paralegal affiliate will notify the Bar of any change of employment of the paralegal affiliate; The paralegal affiliate's authority to function as a paralegal affiliate will terminate concurrent with employment by the sponsor unless sponsorship is accepted by another employer-member of the Bar; and

(b)(5) an appropriate fee.

**(c) Officers of paralegal division and ex officio membership on the Board.** The paralegal division may appoint officers (president, vice-president, treasurer, secretary) on an annual basis. The division may also appoint an ex officio, non-voting member of the Board who shall report regularly to the division's membership regarding the overall activities of the Bar.

(c)(1) Paralegal affiliates are eligible to receive the Utah Bar Journal, notices of Bar functions and bar-member rates at seminars and meetings. Paralegal affiliates are not eligible for office within the Bar.

(c)(2) Paralegal affiliates shall not be directly subject to discipline by the Bar. However, supervising or responsible attorneys are responsible for all work undertaken by paralegal affiliates for or on their behalf.