

Agenda

Supreme Court Task Force to Examine Limited Legal Licensing

August 20, 2015
8:00 to 10:00 a.m.

Scott M. Matheson Courthouse
450 South State Street, Salt Lake City
Conference Room B&C
Jury Assembly Area, Suite W19

Welcome and approval of minutes	Tab 1	Deno Himonas
Affordable Attorneys for All Task Force of the Utah State Bar	Tab 2	Angelina Tsu
Work group report: Limited Legal License Technician		Robert Adler
Work group report: Other Emerging Strategies	Tab 3	Mary Jane Ciccarello
Assignments		Deno Himonas

Task Force Webpage: 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

Tab 1

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

**Minutes
Thursday, August 6, 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
Mary Jane Ciccarello
Carol Sue Crismon
John Lund
Lori Nelson (by phone)
Comm. Joanna B. Sagers
Angelina Tsu
Senator Stephen H. Urquhart
Jacey Skinner

STAFF PRESENT:

Tim Shea
Jody Gonzales
Rick Schwermer

GUESTS:

Katie Nichols, Supreme Court
Christina Champenois

EXCUSED:

Hon. James Brady
Rep. Brian King
Dixie Jackson
Elena Bensor-Slyter

1. WELCOME AND APPROVAL OF MINUTES: (Justice Deno Himonas)

Justice Deno Himonas welcomed everyone to the meeting.

Motion: Mr. Alder moved to approve the July 9, 2015 minutes as amended. Dean Adler seconded the motion, and it passed unanimously.

2. WASHINGTON AND UTAH RULES: (Tim Shea)

Mr. Shea reminded the task force of the discussion from the first meeting on Washington State's limited legal licensing technician program. He highlighted the following features of the program: 1) minimum credentials required of the technician, 2) minimum education requirements, 3) minimum experience required, 4) what the technician is permitted to do, and 5) what the technician is prohibited from doing.

He referred to Utah Rule 14-802 – Authorization to Practice Law and Rule 14-113 – Creation of Paralegal Division as a comparison to the Washington State program.

The definition of a paralegal was reviewed and discussed. A paralegal is a person qualified through education, training, or work experience ... under the ultimate direction and supervision of an attorney....

Discussion took place.

Mr. Shea noted that the Utah rule would not permit a paralegal to go into practice on his/her own without a lawyer's supervision. However, Washington State's model would allow the licensed technician to do so.

It was suggested to look at what services Utah currently is providing that can be built upon.

Commissioner Sagers and Ms. Ciccarello met with Sharon Anderson of the Paralegal Division. Discussion took place on what is currently offered by paralegals.

The task force agreed that court patrons need help with document preparation.

As the task force compares Washington State's licensed technician with Utah's paralegal, consideration of the following was suggested: 1) the ability of the paralegal to help with document preparation, but for a fee; 2) expanding the duties of the paralegal; or 3) the major focus of a paralegal should be helping with document preparation.

Other considerations discussed relative to document preparers and licensed technicians: 1) skill set for document preparers, 2) levels of document preparers, and 3) duties of the licensed technician beyond document preparation.

3. WORK GROUP REPORT – LIMITED LEGAL LICENSE TECHNICIAN: (Robert Alder)

Dean Adler said that the workgroup studying Washington State's limited legal license technician program will meet immediately after today's task force meeting.

The following was highlighted by this workgroup: 1) what regulatory framework or other mechanisms should be in place to implement the program, and who will be involved; 2) a better definition of needs to be served, in categories; 3) benefits of a limited legal licensing program and consumer protection; 4) challenges of a limited legal licensing program, including onerous requirements, cost to the participant, oversight of the program, public perception, and quality of the program; 5) concern with the use of Avvo, Legal Zoom and other online resources regarding legal matters.

Discussion took place throughout.

4. WORK GROUP REPORT – OTHER EMERGING STRATEGIES: (Mary Jane Ciccarello)

Ms. Ciccarello highlighted the following in her update of the work group studying other emerging strategies: 1) she met with Sharon Anderson of the Paralegal Division; 2) she talked with Nini Rich, ADR Director regarding the court mediator program relative to training and availability of a roster of mediators on the court's website; and 3) development of a court legal navigator program and the benefits of such a program; 4) model it after the court mediator program relative to training and availability of the roster on the court's website, 4) determine what specialized areas of legal help court patrons are in need of most, for example, domestic, debt collection, family law.

Discussion took place.

Discussion points to consider: 1) look at discrete unbundled services such as form preparation, ghost writing, calendar representation, and representation at one hearing.

Justice Himonas was asked to re-emphasize the charge since a considerable amount of time was focused on forms preparation, and the apparent need for help in this area. He

re-emphasized the charge to include the following: evaluate the efficacy, design and implementation of non-lawyer based programs to help minimize the access to justice gap.

It was noted that several other states have authorized some form of limited legal licensing technician program. Those states include: 1) Oregon, 2) California, 3) Arizona, 4) Ohio, 5) North Carolina and 6) Colorado.

The workgroup will compare and contrast what others states have in place with regard to document preparation help for court patrons.

5. FUTURE'S COMMISSION OF THE UTAH STATE BAR: (Nate Alder and John Lund)

The Futures Commission of the Utah State Bar was charged to “gather input, study and consider the ways current and future lawyers can provide better legal and law-related services to the public, especially to individuals and small businesses in Utah.” Last week the Futures Commission released their report entitled Report and Recommendations on the Future of Legal Services in Utah.

One of the recommendations is to develop and maintain a robust online lawyer referral directory that is easily available to the public. The recommendations will be reviewed and considered by the Utah State Bar's Affordable Attorneys for All (“Triple A”) Task Force.

6. AFFORDABLE ATTORNEYS FOR ALL TASK FORCE OF THE UTAH STATE BAR: (Angelina Tsu)

Ms. Tsu reported on the work of the Affordable Attorneys for All Task Force. She highlighted the following: 1) the purpose is to propose a long-term solution to bring needed legal services to the middle class with a short-term component that can be successfully implemented by January 1, 2016; 2) find creative solutions that increase legal services for the middle class and that incorporate the skills, services and needs of the underemployed and unemployed lawyers; 3) roll out the plan in phases; 4) use of Community Lawyering Class model; 5) start with family law; 6) tentative launch dates in October and November.

7. PARTICIPATION BY THE NATIONAL CENTER FOR STATE COURTS: (Justice Deno Himonas)

After the July 9 task force meeting, Justice Himonas asked Mr. Tom Clarke of the National Center for State Courts if the National Center for State Courts would consider preparing a white paper on the efficacy of a non-lawyer program in Utah. Justice Himonas reported that funding is available, and work on the white paper will begin. Emphasis of the paper will include: 1) evaluate the program, 2) build guidelines for the program, and 3) place the program in the best framework to maximize its success. A report with recommendations is expected by October 1.

8. ASSIGNMENTS: (Justice Deno Himonas)

No new assignments were made.

9. ADJOURN

The meeting was adjourned.

Tab 2

AAA Steering Committee & Task Force

Steering Committee

Justice Durham – cdurham@utcourts.gov
Angelina Tsu – angelina.tsu@zionsbancorp.com
Rob Rice – rrice@rqn.com
Nancy Sylvester (AOC Self-Represented Committee) - nancyjs@utcourts.gov
Committee Co-Chairs (listed by committee below)

Committee Co-Chairs

Legislature Committee

Susanne Gustin – defendmenow@aol.com
Michelle Mumford – michlmumfor@gmail.com

Communications

Phil Wormdahl – phil@thesaltlakelawyers.com
Sammi Anderson – sanderson@mc2b.com

Non-Profit Legal Services Committee

Shantelle Argyle – shantelle@openlegalservices.org
Chris Nelson – cnelson@rqn.com

Community Lawyering Committee

Jared Hales – jared@halesfamilylaw.com
Charles Stormont - charles@stormontbillings.com

Law School Committee

Jess Hofberger – jess.hofberger@law.utah.edu
Jennie Garner -- garner.jennie@dorsey.com

AFFORDABLE ATTORNEYS FOR ALL

Purpose: Purpose a long-term solution to bring needed legal services to the middle class with a short-term component that can be successfully implemented by January 1.

Objective: Find a creative solution that increases legal services for the middle class and incorporates the skills, services and needs of underemployed and unemployed lawyers

The idea is to roll the plan out in phases (by practice area). This plan starts with Family Law. The idea would be to add a new practice area each year and to implement a feedback loop that will incorporate any knowledge gained from prior years to improve existing and new programs.

1. Short Term Action Plan Outline
 - a. Co-chairs
 - i. Rob Rice
 - ii. Angelina Tsu
 - b. Judicial Liaison
 - i. Justice Durham
 - c. Committee Members
 - i. Committee Members will act as chairs for the following Committees:
 1. Open Legal Concept
 2. Community Lawyering
 3. Communications
 4. Legislative
 5. Law Schools
2. Open Legal Concept
 - a. Engage Counsel to Create Packet for Non-Profit Law Firm Model
 - i. Utilize older lawyers as mentors
 - ii. Explore partnering with law schools for clinic third year that is required
 - b. Engaging Counsel to Get the Documents up and Running
 - c. Utilizing the Bar Offices for meetings with clients
 - i. Get an electronic calendaring system in place
 - ii. Lawyers can pay a fee to use Law & Justice Center
3. Community Lawyering (starts with Family Law, but we would expand it to add a new area of law every year)
 - a. "Community Lawyering Class" Modeled after Chris' Acupuncture Center and Wayne's Divorce Clinic
 - i. Phased Rollout
 1. Pilot in SLC
 2. Uses Electronics that are being installed in Court for CLEs to allow people to attend remotely from rural areas

1. Renaming UPL to Consumer Protections
5. Legislative Component
 - a. Support from Legislature
 - i. Talk to Senators Hillyard and Weiler
 - ii. Get support of lawyer legislators
 - b. Expanding Third-Year Practice Rule
 - i. Change Law School Requirements to require 150 clinic hours
 - c. Small Claims Court
 - i. Raise Small Claims limits
 1. Look at Discovery Rules to see if there is a logical dollar amount
 - ii. Electronic Dispute Resolution
 1. Ebay Model of Conflict Resolution
 - d. Asking for funding
 - i. Optimization of searches
 - ii. Ask for funding for the Bar's Open Legal (matching/we would fundraise)
 - iii. Centralized Website
 - e. Engage thought leaders like Senator Urqhart in the Process
 - i. Reach out to see if he will sponsor this legislation
 1. Raising Small Claims Limit
 2. Allowing Electronic Dispute Resolution for Small Claims
 3. Funding for Bar's Open Legal Development Project
 4. Expanding Third-Year Practice Rule to include 2Ls
 - ii. Include him in the feedback loop
6. Law School Component
 - a. Incubator program
 - b. Check Current Requirements
 - i. Explore Potential of Additional Requirements
 - ii. Internship hours
 - iii. Partnering with Bar's new "Open Legal" Program
 1. Some sort of joint clinic between the law school and the bar
7. Unbundled legal services (review rules to make sure the rules of professional conduct line up with allowing more unbundled legal services)

Tab 3

TASK FORCE WORK GROUP 2 ON OTHER EMERGING STRATEGIES

Background information on legal document preparers and possible Utah court-based program to educate and certify court navigators.

Arizona:

Arizona Judicial Branch Legal Document Preparers

<https://www.azcourts.gov/cld/Legal-Document-Preparers>

California:

Legal Document Assistants

<http://saclaw.org/articles/legal-document-assistants-edl/>

Florida:

Florida Association of Legal Document Preparers

<http://www.faldp.org/>

Louisiana:

Louisiana Notary Association

<http://www.lna.org/>

Nevada:

Document Preparation Services

<http://nvsos.gov/index.aspx?page=1346>

National Association of Legal Document Preparers

www.naldp.org

Tips on How to Become a Legal Document Preparer Offered by the National Association of Legal Document Preparers (NALDP)

WASHINGTON, Jan. 30 /PRNewswire-USNewswire/ -- The National Association of Legal Document Preparers (NALDP) released today general guidelines on how to become a legal document preparer, a non-attorney who helps consumers represent themselves in undisputed legal matters by preparing the necessary legal documents to court standards. Unlike paralegals, legal document preparers do not work under the supervision of an attorney. Below is a brief synopsis of "How to Become a Legal Document Preparer." The full article is now available on the NALDP Web site at <http://www.naldp.org>.

1) Learn your State's Laws: Your first step in considering a career as a legal document preparer should be to research your state's practice of law rules, which define what is considered an "unauthorized practice of law" (or UPL) in that state. To find these rules or court cases, check your state code, the state Supreme Court or the bar association.

Currently, only California and Arizona license and regulate legal document preparers. See full article at <http://www.naldp.org> for information these state requirements. Several other states are considering legislation that would define or restrict legal document preparers in their state. Learn more about the current legislative landscape at (<http://www.naldp.org/ianda/landscape.asp>).

2) Educate Yourself: While no formal training is required in most states, it is important to receive proper education to ensure that you are providing the best quality service to your customers. Some suggestions for training include:

Attend the Legal Technician Training Institute (LTTI) (<http://www.ltti.org/>).

Consider purchasing a We The People (<http://www.wethepeopleusa.com>) franchise.

Obtain a paralegal degree through an accredited college or an online course.
(<http://www.paralegal100.com/>)

Read Nolo Press' book The Independent Paralegal's Handbook.
(http://www.nolo.com/all_products_cat.cfm)

3) Purchase the Necessary Software: Many LDPs use software programs to organize and prepare documents. See the full article for software suggestions.

4) Join NALDP: The National Association of Legal Document Preparers is the only national association dedicated to promoting and protecting the legal document preparation industry. NALDP will help you promote your business by providing you with marketing tips and promotional materials, a membership certificate, frequent industry updates, access to a members-only web site, a forum to network with other legal document professionals, listing in an online directory of legal document providers, discounts on products and services, and much more.

About NALDP

National Association of Legal Document Preparers, Inc., based in Washington, D.C., is a non-profit organization formed to give a voice and a national forum to the growing number of legal document preparers, legal technicians, online legal document providers and independent paralegals across the country. We are a grassroots network dedicated to the principle that all citizens have a constitutional right to represent themselves; and, in exercising that right, they have affordable access to efficient, effective and ethical legal document preparation services. In addition to those professionals working directly with legal documents, our membership includes public policy, education and consumer advocacy professionals who share a commitment to the principles of NALDP. More information is available at <http://www.naldp.org>.

Contact

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SOURCE National Association of Legal Document Preparers

Task Force Work Group 2 on Other Emerging Strategies

Overview of Legal Needs, Current Sources of Legal Help, and Recommendations for Strategies to Provide 100% Access

Questions:

- What do we know about people's civil legal needs?
- Where do people go for information about their legal issue?
- Where do people get legal forms?
- How do people complete forms?
- How do people navigate the judicial system?
- How do people exit the judicial system?
- How do people live with the resolution of their legal issue?

Addressing the questions:

- Current information
- Need gaps
- Recommendations for filling the gaps

1. What do we know about people's civil legal needs?

Current information:

ULS 2006 Report
SR 2006 Report
U.S. Census Data
Utah State Courts filing information
Utah State Courts website analytics
Utah Self-Help Center data
LAS data
PBI data
Other possible sources of data

Need gaps:

Coordinated effort among government agencies, courts, non-profit legal agencies, community and faith-based organizations, and bar to gather and distribute information on an ongoing basis

2. Where do people get information about their legal issue?

Current information:

Internet

- Commercial sites
- Utah State Courts
- Self-Help Center
- Utah Legal Services
- Utah State Bar
- Private attorneys
- Non-profit legal agencies
- Free legal clinics
- Lawhelp.org
- Utah 211
- Community organizations
- Faith-based organizations
- Government agencies (DWS, ORS)
- Non-profit agencies
- Mexican and other consulates
- Law enforcement
- Domestic violence advocates
- Schools
- Public libraries
- Bookkeeping and tax services
- Community magazines and newspapers (not necessarily in English)
- Community radio shows (not necessarily in English)
- Homeless shelters

Need gaps:

Reliable, central source of information for professionals and public about legal resources in English and other languages and formats

More needed on Utah State Courts website

Easily accessible information from the Utah State Bar on finding lawyers, lawyers who provide unbundled services and how to engage those lawyers

3. How do people get legal forms?

Current information:

- Commercial internet sites
- Utah State Courts
- Self-Help Center
- Legal clinics
- Private attorneys
- Law libraries
- Friends and family
- Staples and OfficeMax

Need gaps:

Commercial sites are sometimes incorrect, costly, and provide bad forms

Utah State Courts website addresses many, but not all, issues that people regularly encounter in state courts

Self-Help Center provides court-approved forms, OCAP, and other forms but does not have all possible forms

Legal clinics do not provide forms on a regular basis but rely on court website

4. How do people complete legal forms?

Current information:

Commercial internet sites
Self-Help Center
OCAP
State law library interns
Schools
Legal clinics
Notarios
Friends and family
Community organizations
Faith-based organizations
Domestic violence advocates
Non-profit legal agencies

Need gaps:

Self-Help Center does not have sufficient staff to respond to all incoming calls and requests for information and completion of forms

Private attorneys are often too costly for help with forms

Legal clinics are not readily available throughout the state

Legal clinics are not geared for document completion

Notarios and other people currently helping with forms lack adequate training and often engage in the unauthorized practice of law with impunity and to the detriment of their clients

5. How do people navigate the judicial system?

Current information:

Alone
Private attorney (full or limited representation)
Pro bono in-court programs
Other pro bono programs (representation for DV victims in Davis County; SMAV;
Signature adult guardianship program; pro se commissioner calendars in
Matheson)
Mediation and in-court mediation programs
Self-Help Center
Court staff
Notarios

Need gaps:

Lack of reliable, neutral information on what to do when going to court and how
to handle a case on a pro se basis

Lack of pro bono in-court programs throughout the state

Lack of in-court mediation programs throughout the state

Lack of sufficient Self-Help Center staff to respond to all requests for information

Lack of sufficient training for court staff to feel comfortable helping public with
information

Lack of available attorneys on a discrete fee basis, unbundled basis throughout
the state

Lack of ability of low-income pro se parties who are not otherwise eligible for free
legal representation to obtain legal advice

6. How do people exit the judicial system?

Current information:

Alone
Self-Help Center
Pro bono in-court programs
Private attorney (full or limited representation)
Court staff
Judges

Need gaps:

Reliable, neutral source of information about what just happened in court in English and Spanish and in other languages and/or formats when necessary

Orders and other final paperwork drafted

Reliable, neutral source of information about what to do with court orders in English and Spanish and in other languages and/or formats when necessary

7. How do people live with the resolution of their legal issue?

Current information:

Alone

Personal management of issue

Law enforcement

Self-Help Center

Private attorneys

Legal clinics

Government agencies (DCFS, ORS)

Friends, family and ex's who provide inaccurate information

Need gaps:

Lack of understanding of orders, legal rights and responsibilities, and how to enforce or modify orders

Lack of easily accessible and affordable information about how to deal with problems that arise, or changes in circumstances that arise, once a court order is issued

Lack of understanding and communication between government agencies, courts, and law enforcement about how meaning, enforcement, and modification of court orders