

# Agenda

## Supreme Court Task Force to Examine Limited Legal Licensing

September 10, 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	Tab 2	Robert Adler
Work group report: Other Emerging Strategies	Tab 3	Mary Jane Ciccarello
Utah Paralegals and the Paralegal Division		Heather Allen, Chair of the Paralegal Division Christina Cope, Region 3 Representative
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

# Tab 1

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

**Minutes  
Thursday, August 20, 2015  
Conference Room B & C  
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 (by phone)  
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  
Daniel J. Becker  
Rick Schwermer

**GUESTS:**

Jacqueline Morrison

**EXCUSED:**

Elena Bensor-Slyter  
Dixie Jackson  
Rep. Brian King

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

Justice Deno Himonas welcomed everyone to the meeting.

**Motion:** Mr. Alder moved to approve the August 6, 2015 minutes as amended. Dean Adler seconded the motion, and it passed unanimously.

**2. AFFORDABLE ATTORNEYS FOR ALL TASK FORCE OF THE UTAH STATE BAR: (Angeline Tsu)**

Ms. Tsu highlighted the following in her update on the work of the AAA Task Force: 1) membership; 2) co-chairs of the legislative, communications, non-profit legal services, community lawyering, and law school sub-committees; 3) short-term action plan outline; 4) open legal concept; 5) community lawyering, beginning with family law; 6) legislative component; 7) law school component; and 8) unbundled legal services.

The community lawyering aspect of the short-term action plan will be rolled out October 1, 2015. The next roll out date will be November 15. Roll out of the legal portal will be January 1, 2016. Discussion took place and Ms. Tsu responded to questions.

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

Dean Adler distributed a draft document entitled *LLLT Workgroup Analysis of Categories of Legal Needs and Degree to Which LLLTs Might Meet Them*. He introduced Ms. Jacqueline Morrison who provided assistance with drafting the report.

The following information was highlighted as categories of legal services that may be appropriate for LLLTs: 1) intake counseling, attorney identification, and referral; 2) procedural and other navigational information; 3) form preparation; 4) mediation settlement agreements; 5) post-litigation documents; and 6) follow-up information.

The following information was highlighted as categories of legal services not appropriate for LLLTs: 1) negotiation, 2) direct court advocacy, and 3) preparation of original documents.

Discussion took place.

The following discussion points were noted: 1) the Utah Courts Self-Help Center is staffed with attorneys, 2) other self-help centers staffed with non-attorney staff are supervised by attorneys, 3) the definition of legal advice vs. legal information, 4) determine what areas a non-attorney will be allowed to provide legal advice on, 5) look at tasks that frequently come up that can be handled by non-attorneys, 6) determine what will work before looking at the appropriate training and certification requirements, and 7) how many of the court forms might a non-attorney help a court patron complete.

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

Ms. Ciccarello highlighted the following in her update on the workgroup addressing other emerging strategies: 1) looking at early resolution; 2) discrete tasks for attorneys; 3) looking at the use of legal document preparers; 4) possible development of a Utah court-based program to educate and certify court navigators; and 5) considering the consumer's point of view when looking at options.

The following questions are being considered by the work group as they look at other emerging strategies: 1) what do we know about people's civil legal needs, 2) where do people go for information about their legal issue, 3) where do people get forms, 4) how do people complete forms, 5) how do people navigate the judicial system, 6) how do people exit the judicial system, and 7) how do people live with the resolution of their legal issue.

Discussion took place.

The following discussion points were noted: 1) accessibility to attorney information on the Bar's website, 2) where to find and access legal forms, 3) top ten legal forms, 4) is the right form being filled out at the right time, 5) the use of mediators and their ability to help court patrons fill out forms, and 6) in the definition of the practice of law standpoint, informing and advising both included.

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

Justice Himonas requested the work group chairs to provide recommendations for consideration and discussion at the September 10 meeting.

**6. ADJOURN**

The meeting was adjourned.

# Tab 2

**D R A F T – September 3, 2015**  
**Report of the LLLT Workgroup**

**Utah Supreme Court Task Force to Examine Limited Legal Licensing**

**I. Introduction and Workgroup Role**

The LLLT Workgroup of the Task Force evaluated in more detail the option of implementing a LLLT program in Utah. The Workgroup broke the issues into three sub-questions: (1) *whether* it is useful and appropriate to establish some form of a LLLT program in Utah; (2) (if so) *what* form such a program should take; and (3) (if so) *who* would implement the program and *how*?

To address the first question (whether) we first identified more precisely the categories of needs to be addressed, that is, the most significant gaps in affordable legal services for underrepresented members of the Utah public. That allows a much finer grained analysis of what level of training and qualifications would be needed to perform different legal services functions, and potentially allows a multiple tiered approach to limited legal training, certification and authorization to practice. Next, we ascertained the potential benefits of establishing one or more categories of LLLTs to address those identified needs, and potential challenges or barriers to the design and implementation of such a system (including potential objections that might be raised by the practicing bar or others), along with possible ways to address those challenges and barriers.

To assess what form a LLLT program might take in Utah should the Court decide to move in that direction, we looked at models that either have been developed or are being developed in other jurisdictions, as well as ideas that have not been considered in other states. Although Washington State may be considered a template for a LLLT program because it is relatively farther along than efforts in other states, it is not necessarily a “presumptive” model. Rather, the LLLT Workgroup studied all existing and proposed LLLT programs in other states to identify the best component ideas from different existing, nascent, or proposed programs, along with new ideas generated by members of the Workgroup and the Task Force as a whole.

If a decision is made to move forward with a LLLT program in Utah, the third set of issues involves who can and will design, adopt and implement various aspects of the program, and under what authority. Included in this set of issues is the existing authority of the Utah Supreme Court to adopt a LLLT program in Utah, the cost of implementing and enforcing such a program in personnel and other resources, and the education, training, testing and certification requirements for the program.

## II. **Whether a LLLT program (or similar program) should be adopted in Utah?**

### a. **The justice gap in Utah**

The American Bar Association Task Force on the Future of Legal Education predicted there will likely be a role for limited legal assistance to be delivered by non-lawyers. The driving force behind this idea is access to justice for those who cannot afford traditional legal assistance. “[M]ultiple state and federal studies show[] that 80 to 90 percent of low- and moderate-income Americans with legal problems are unable to obtain or afford legal representation. The economics of traditional law practice make it impossible for lawyers to offer their services at prices these people can afford.”<sup>1</sup>

Utah is not immune to this “justice gap.” According to data provided by Kim Allard, Director of Court Services for the Utah Administrative Office of the Courts, 98% of respondents in debt collection matters represented themselves during the 2014 fiscal year. The same for 97% of respondents in eviction cases, 84% of petitioners seeking protective orders, 84% of respondents in divorce proceedings, and 64% of petitioners in divorce proceedings. Other important legal needs, such as the preparation of wills and estate plans, go unmet entirely or are met through online services with individualized professional analysis or counseling.

The remainder of this section evaluates the potential that some of these gaps in access to justice in Utah might be met by LLLTs. To do so, we determined it would be useful to break legal needs into more fine-grained categories of legal services, which allowed a more precise analysis of which needs might be met by LLLTs, and which might be less appropriate, inappropriate (i.e., requiring the services of a fully trained attorney), or possible with increasing levels of training and certification. We then set out the Workgroup’s preliminary assessment of which legal services might be provided by LLLTs and under what circumstances, and potential barriers to designing and implementing such a system.

### b. **Identified gaps in legal services for underrepresented Utahans**

The Workgroup identified the following gaps in legal services in the state of Utah:

- i. Intake counseling, attorney identification and referral. Consumers with potential legal issues may have difficulty ascertaining whether they could benefit from legal advice or assistance, and if so, how to get it. One example is an individual whose family

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<sup>1</sup> Robert Ambrogi, *Washington State moves around UPL, using legal technicians to help close the justice gap*, ABA JOURNAL (Jan. 1, 2015, 5:50 AM), [http://www.abajournal.com/magazine/article/washington\\_state\\_moves\\_around\\_up\\_l\\_using\\_legal\\_technicians\\_to\\_help\\_close\\_the..](http://www.abajournal.com/magazine/article/washington_state_moves_around_up_l_using_legal_technicians_to_help_close_the..)

member brings home a pit bull and wants to know whether it is desirable to consult an attorney, and if so, how to find an appropriate one. Some who do not go directly to an attorney can meet this need currently through single access entry facilitators (operators of the Court's Self-Help Center) who are available to inform individuals whether they could benefit from legal advice.

- ii. Procedural and other navigational information. Consumers need both procedural information and legal advice when it comes to handling their legal issues, and consumers who choose not to retain counsel or seek legal advice could still benefit greatly from information on navigating the legal system. An individual who wants to request a particular kind of court order may have no idea what court has jurisdiction, what forms are needed and where to obtain them, how to file the request, etc. Self-Help Center staff is available to assist *pro se* litigants with this navigation.
- iii. Form preparation. Consumers who do not choose attorney representation could still greatly benefit from assistance with form preparation. Of the 14,088 divorce cases filed in 2014 neither party had counsel in 60% of the cases.<sup>2</sup> *Pro se* consumers can access court-approved forms and the Online Court Assistance Program (OCAP) at <http://www.utcourts.gov/selfhelp/>. Forms submitted incorrectly on the front-end can generate inefficiencies and additional work and costs for both litigants and the courts later in the process. Currently, Self-Help Center staff is available (both downtown at the Matheson Courthouse and virtually by phone and email) to guide consumers through the preparation of *pro se* forms.
- iv. Mediation representation and settlement agreements. Current rules allow non-lawyers to “represent” other parties in mediations [before a certified mediator?] Although the applicable rules do not expressly authorize those services to be provided for a fee, nothing currently prohibits that practice. It is also not clear whether this exception to the unauthorized practice of law rules extends to other negotiations, and if not, why such a distinction exists. Consumers who participate in mediation are often responsible for drafting their own settlement agreements and stipulated findings of fact, conclusions of law, and order forms. By default, court clerks currently shoulder the responsibility of assisting consumers with best practices in document preparation. Forms that are not filled

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<sup>2</sup> Report and Recommendations on the Future of Legal Services in Utah, 9 (July 29, 2015).

out correctly can unnecessarily impact court resources on the back-end or result in further litigation.

- v. Post-litigation documents. Pro se litigants are often responsible for preparing orders and drafting final documents for the courts. As with items 2 and 4 above, forms that are filled out or filed incorrectly can impact court resources and can result in prolonged litigation.
- vi. Follow-up information. Once a legal proceeding is complete, the consumer may need procedural information about where to get certified copies, where to seek enforcement, etc.

### c. Potential of a LLLT program to close these gaps

The Workgroup identified the following ways in which a LLLT program might help close the existing service gaps:

- i. Intake counseling, attorney identification and referral. LLLTs may be trained to conduct initial client interviews, ascertain needs, advise whether they can be provided through LLLTs or require attorney representation, and otherwise inform clients of available options. A LLLT program might be structured in such a way as to facilitate the referral process (in addition to the Utah Bar's ongoing efforts to improve its web-based attorney identification service) for issues that are beyond the competence of the LLLT or other resources.
- ii. Procedural and other navigational information. Self-Help Center staff members operate as facilitators, and a LLLT program could be structured similarly. In order for this to be successful, and to distinguish the role of an attorney from that of a LLLT, it would be important to define clearly the difference between providing legal information and providing legal advice, and to train LLLTs to understand the distinction so they do not exceed their competence or engage in the unauthorized practice of law. That distinction may also vary across different substantive areas of law, and LLLT licensing to provide legal information, therefore, may be by category of practice. [The LLLT Workgroup will try to draft appropriate suggested definitions.]
- iii. Form preparation. Given the large number of consumers who interface with the legal system *pro se*, there may be a place in the market for LLLTs to charge for form preparation. This would be facilitated by updated, standardized, and in some cases simplified court-approved forms across the Utah court system. One

accompanying recommendation might be a review of existing court-approved forms to identify those that may be simplified without compromising necessary substantive information.

- iv. Mediation settlement agreements. In cases where the mediator will not draft settlement documents, LLLTs might serve a useful function in observing mediations and then working with the parties to draft settlement agreements and court forms, subject to scrutiny and approval by the parties for accuracy.
- v. Post-litigation documents. LLLTs might be able to assist *pro se* litigants (and the courts) with these forms by listening to the court record and then preparing the documents with the use of pre-approved forms.
- vi. Follow-up information. Currently Self-Help Center employees are available to assist, but there may be a market for LLLTs to operate in this space as well. The same distinctions between legal information and advice should apply as in (ii).

#### **d. Potential barriers and challenges to establishing a program**

Despite support for the use of LLLTs, and the ongoing development of LLLT or similar programs in other states, the idea of a LLLT program is potentially controversial. According to a survey conducted by the Futures Commission of the Utah State Bar, 64% of the Utah attorneys surveyed either disagreed or strongly disagreed with the proposal to explore limited licenses for certain practice areas (with 45% strongly disagreeing). One potential barrier to establishing a LLLT program in Utah, therefore, may be opposition from members of the Utah State Bar. The nature and magnitude of any such opposition, however, may depend on the exact proposed program design. As suggested above, a fine-tuned approach to a LLLT program, which is clear about LLLT training, certification, and scope of practice, could minimize opposition from the practicing bar.

In addition to this general opposition to the idea of LLLTs from some attorneys, the Workgroup identified the following specific concerns about a LLLT program, set forth with potential strategies to minimize or overcome those barriers:

1. Barrier: Lack of rural markets. The ABA Commission on Legal Education Report identified a LLLT program as a method of placing legal services in rural areas. If there is no viable legal market for attorneys in rural areas in Utah, however, there may be no viable market for LLLTs either. This would then be a “non-solution” to the problem of access to justice in rural Utah, and could result in training of LLLTs who desire to establish practices in rural communities but cannot do so viably.

Responses and solutions: The Task Force role is not to conduct market research on the viability of rural or other markets, as opposed to potentially suggesting ways to remove barriers to market entry by persons who have LLLT training, for those legal services deemed appropriate, and then to allow individuals to test what markets are viable and how. As with any form of free enterprise, some business models will work and others will not, and market entrants will adapt and innovate accordingly. Presumably, however, LLLT businesses (in rural or other areas) might be able to exist in areas for which there is no viable market for law firms because LLLTs may have less educational debt, lower overhead, and lower income expectations. The option for an attorney to practice with one or more LLLT may also make a rural law practice more viable, because the combined practice could allocate matters efficiently according to complexity, and therefore allow more services to be provided at lower costs. Another possibility would be for the State to provide some initial subsidies for LLLT start-up businesses.

2. Barrier: Nature of LLLT clientele and markets. LLLTs who become successful enough may no longer serve low-income clients, defeating the purpose of creating the program. Some question whether LLLTs will be able to charge less than the Modest Means program already in place.

Responses and solutions: As mentioned above, market forces will dictate factors such as billing rates or unbundled costs for LLLTs, and it may be expected that a range of services might be offered at varying prices for different consumers. Some LLLTs may start with lower prices and grow to serve more sophisticated audiences willing to pay more as they gain experience. Those firms will either retain their existing markets as well, or others might enter the market to fill any gaps. Utah enjoys a superb Modest Means program, which can continue to grow, but the data presented above indicated that Modest Means lawyers still fill only a fraction of the existing gap in legal services, and a multi-faceted approach to filling the justice gap in Utah may still be viable and appropriate.

3. Barrier: Gaps in representation. If a LLLT takes on a client but the case develops beyond the scope of the LLLT's competency and license to practice, the client could be placed in a state of limbo while being handed off to an attorney or navigating the rest of the case pro se.

Responses and solutions: This is similar to what occurs when a Nurse Practitioner hands off a complex case to a physician, when a general physician refers a patient to a specialist, or when an accountant refers a client to a tax attorney. One option discussed above is to give LLLTs the authority to refer clients to appropriate attorneys for matters that are too complex for them based on their own professional judgment or beyond the scope of their licensing authority. Another option would be for LLLTs to practice along with attorneys, with LLLTs handling matters within their competence and

authority but handing cases off to their partners with a JD where appropriate. Either method would ensure reasonable continuity of representation. LLLTs should be trained to understand, identify, and communicate situations in which the timing of obtaining an attorney is essential (for example, where a statute of limitations is imminent). The availability of affordable LLLTs may increase the degree to which otherwise unrepresented members of the public understand those deadlines, and either increase attorney referrals in appropriate cases, or at least reduce the number of *pro se* cases that are filed late or for which other important deadlines are missed.

4. Barrier: Service quality. The quality of legal services may decline. Practicing law requires a particular legal education, and a JD provides the public value of legal competence. A legal education teaches numerous skills and attitudes that are an instrumental part of engaging in the practice of law. Among others, these skills include professionalism, oral communication and listening, general research skills, task organization and management, creative thinking, and inference-based analysis. These skills are taught and reinforced throughout the three years of legal education.

Responses and solutions: If a LLLT program is adopted, the level of required training and certification should match the nature of services that can be provided. At a minimum, training should include issues of professionalism, responsibility, civility and ethics similar to those conveyed to law students. It would also be important for LLLTs to be trained carefully to understand the line between authorized and unauthorized services they may provide, perhaps with a clear admonition to err on the side of attorney referral (or to seek an opinion from the appropriate licensing authority) in close cases, and to obtain the level of professional judgment necessary to understand when a case is beyond their ability, even if technically authorized. A LLLT program could also be structured in ways that allow variable training levels authorizing different kinds of service provision.

5. Barrier: Administrative costs: A LLLT program will lead to increased administrative costs for dealing with a whole new class of legal practitioners.

Responses and solutions. An appropriate certification and licensing program clearly would result in administrative costs to ensure consumer protection, and in particular to ensure that LLLTs are properly trained and that they limit their practice to authorized legal services. The best way to minimize those incremental costs, and to ensure proper coordination of legal services licensing (attorneys and LLLTs), is likely to combine certification and licensing within the existing administrative system for licensing attorneys. Ultimately, as with any licensing program, the State must decide whether any increased administrative costs are justified by the resulting benefits to consumers of legal services.

6. Barrier: oversaturated legal markets. To some, the legal market is already oversaturated, and the addition of non-attorneys engaging in the practice of law will stress the market. This may reduce the number of available jobs for lawyers.

Responses and solutions. This argument seems belied by the number of unrepresented or self-represented parties in legal matters. To the extent that the legal market is currently saturated, it is that segment of the market that can afford to pay full attorney prices, and not necessarily in those markets for which no affordable services are available. For several reasons discussed above, the availability of LLLTs may increase the market for JD-provided services where necessary, while allowing other legal needs to be met by LLLTs.

OTHERS??????

### **III. Building a Potential LLLT program**

#### **a. Models of LLLT and similar programs across the country**

The Workgroup looked at the following states' proposed or existing programs: Arizona, California, Colorado, Oregon, and Washington. The Workgroup also examined Utah's program for paralegals.

##### **1. Arizona.**

Arizona has had a Legal Document Preparer program in place since July 1, 2003. A regulatory board oversees the program and there is a formal complaint and discipline process. The Supreme Court oversees certification and renewal of certification. There is an examination fee, an application fee, and a licensing fee. The Supreme Court administers these revenues and expenses. Legal Document Preparers are subject to background checks and rules of professional conduct. Legal Document Preparers can engage in the following work for a person or entity not represented by a lawyer:

- a. Prepare or provide legal documents.
- b. Provide general legal information—but not specific advice, opinions, or recommendations—about possible legal rights, remedies, defenses, options, or strategies.
- c. Provide general factual information about legal rights, procedures, or options.
- d. Provide forms and documents.
- e. File, record, and arrange for service of legal forms and documents.
- f. May not sign any document other than some specified notices.

Minimum education and experience, testing, and continuing education include the following [source: Arizona Code of Judicial Administration Section 7-208]:

- g. A high school diploma or GED and two years of law-related experience as a court employee or under the supervision of a lawyer or a certified legal document preparer.
- h. A certificate of completion from a paralegal or legal assistant program approved by the ABA.
- i. A certificate of completion from a paralegal or legal assistant program that is institutionally accredited and that requires 24 semester units, or the equivalent, in legal specialization courses.
- j. A certificate of completion from an accredited educational program designed specifically to qualify a person for certification as a legal document preparer.
- k. A degree from a law school accredited by the ABA or institutionally accredited.
- l. Examination on legal terminology, client communication, data gathering, document preparation, ethical issues, and professional and administrative responsibilities. 20 CLE hours per 2-year certification cycle.

And for a business:

- a. Certification as a business entity.
- b. Designated principal who holds individual certification as a legal document preparer.

## **2. California.**

California created a Limited License Working Group on March 6, 2013 to explore, research, and report the feasibility of creating a limited license to enable certified individuals to provide limited, discrete legal services to consumers in defined subject matter areas. Meetings continue. [Source Website of the California State Bar <http://www.calbar.ca.gov/AboutUs/BoardofTrustees/LimitedLicenseWorkingGroup.aspx>]

California also has a Legal Document Assistants program in place. Legal Document Assistants must register with the county clerk of the county of principal place of business and of any other county in which they perform services. There is bi-annual registration and bonds required for individuals and businesses (\$25,000 for an individual; \$25,000-\$100,000 for a business, depending on its size).

Legal Document Assistants can engage in the following work for compensation (self-help services to a self-represented individual):

- a. At the individual's specific direction complete in a ministerial manner legal documents selected by the individual.
- b. Provide general published factual information about legal procedures, rights, or obligations that have been written or approved by an attorney.
- c. Make published legal documents available.
- d. File and serve legal forms and documents at the specific direction of the individual.
- e. May not provide advice, explanation, opinion, or recommendation about possible legal rights, remedies, defenses, options, selection of forms, or strategies.

The following are the minimum education, experience, testing, and continuing education requirements for Legal Document Assistants:

- f. A high school diploma or GED and 2 years of law-related experience of the supervision of a lawyer.
- g. A baccalaureate degree in any field and 1 year of law-related experience under the supervision of a lawyer.
- h. A certificate of completion from a paralegal program approved by the ABA.
- i. A certificate of completion from a paralegal program that is institutionally accredited and that requires 24 semester units, or the equivalent, in legal specialization courses.

### **3. Colorado**

A subcommittee of the Colorado Supreme Court Advisory Committee is examining the Washington state LLLT program. The subcommittee held its first meeting in June 2015.

### **4. Oregon**

A task force studying limited legal licensing issued a report and recommendations in February 2015. The following is an excerpt from the recommendation:

The Task Force recommends that the Board of Governors consider the possibility of the Bar's creating a Limited License Legal Technician (LLLT) model as one component of the BOG's overall strategy for increasing access to justice. It further recommends, should the Board decide to proceed with the LLLT concept, that it begin with the suggestions developed by Task Force Subcommittees. The Task Force also suggests that the first area that be licensed be family law, to include guardianships.

Should the Board decide to proceed with this concept, the Task Force recommends a new Board or Task Force be established to develop the detailed framework of the program. For the reasons set out herein, the

BOG should review the recently established Washington State Bar Association LLLT program and consider it as a potential model.

The task force recommended a minimum of 4,160 hours or 2 years of substantive law-related experience supervised by a lawyer with 2,080 hours or 1 year of experience in the specialty practice area in which the applicant is requesting licensure. These hours must be completed within 3 years of passing a core curriculum exam. Minimum education, testing, and continuing education requirements would include a associate degree, 45 quarter credit hours of legal studies in core curriculum requirements (paralegal studies), instruction in an approved practice area for the number of credit hours determined by the board, a core curriculum exam, a practice area exam, 45 CLE hours every 3 years (with a 3 year rotating reporting cycle).

The task force recommended a regulatory board with administrative support from the state bar association to verse the program. There would be an examination fee, an application fee, a background check, a character and fitness review, an oath, an annual licensing fee, and a professional liability insurance requirement for all limited legal licenses. Anyone holding a limited legal license would be subject to the rules of professional conduct and privileged communications. There would be a complaint and discipline process.

The task force recommended the following authority in family law:

- a. Provide approved forms, assist client to choose which forms to use. Assist in completing forms in a ministerial capacity and without giving legal advice.
- b. Provide generalized explanations of the law without applying it specifically to the client's case or fact pattern.
- c. Explain options without offering legal opinions.
- d. Review approved documents completed by the client to determine if they are complete and correct.
- e. Review and interpret necessary background documents and offer limited explanations necessary to complete approved forms.
- f. Provide or suggest published information about legal procedures, legal rights and obligations and materials of assistance with children's issues.
- g. Explain court procedures without applying it specifically to the client's case.
- h. File documents at the client's request.

The task force discussed but did not decide the following:

- i. What entity should oversee the program?
- j. How would the program be implemented initially?
- k. How would the initial implementation be financed?

- l. Should legal technicians have to contribute to a client protection fund?
- m. Should legal technicians have to maintain client trust accounts?
- n. What entity should provide malpractice insurance?
- o. What activities and roles should be permitted of legal technicians?
- p. How should legal technicians with licenses from other states be treated?
- q. How should legal technicians who have a primary office outside of Oregon be handled?
- r. What responsibilities should legal technicians have depending on whether they are under the direction and supervision of a lawyer? Is supervision relevant?

## 5. Washington

Washington adopted a Limited License Legal Technician program in 2012. Seven candidates passed the first Legal Technician exam on May 11, 2015.

LLLTs in Washington have the following authority (within an approved practice area for which the technician qualifies) [Source: Washington Rule APR 28 and implementing regulations]:

- a. Obtain relevant facts, and explain the relevancy to the client.
- b. Inform the client of procedures, including deadlines and documents that must be filed, and the anticipated course of the proceeding.
- c. Inform the client of procedures for filing documents and service of process.
- d. Provide the client with self-help materials prepared by a lawyer or approved by the Board.
- e. Review documents or exhibits of the opposing party and explain them to the client.
- f. Select, complete, file and effect service of approved forms, federal forms, forms the content of which is specified by statute, or forms prepared by a lawyer. Advise the client of the significance of the forms.
- g. Perform legal research.
- h. Draft legal letters and documents beyond what is permitted in paragraph (f) if the work is reviewed and approved by a lawyer.
- i. Advise a client about other documents that may be necessary to the client's case, and explain how the additional documents may affect the client's case.
- j. Assist the client in obtaining necessary documents or records, such as birth, death, or marriage certificates.

The following are the minimum education, testing, continuing education, and experience requirements of the LLLT program: an associate degree, 45 credit hours

of core curriculum instruction in paralegal studies, instruction in an approved practice area for the number of hours determined by the regulatory board (currently 15 credit hours in family law, the only approved practice area), a core curriculum exam, a practice area exam, and 10 CLE hours per year.

A regulatory board with administrative support from the state bar association oversees the Washington LLLT program. The association's board of governors approves the program's budget. LLLTs must pay an examination fee and an application fee, complete a background check and character and fitness review, pay an annual licensing fee, maintain an IOLTA account, and abide by the rules of professional conduct. LLLTs are subject to privileged communications and a complaint and discipline process.

## **6. Utah**

Utah currently has a paralegal program in place. There are no minimum education, testing, experience, or continuing education requirements for Utah paralegals. "A paralegal is a person qualified through education, training, or work experience, who is employed or retained by a lawyer, law office, government agency, or [o]the[r] entity in the capacity of function [that] involves the performance... 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." Paralegals are authorized to do anything a lawyer can do, so long as the work is: (1) specifically delegated, and (2) under the ultimate supervision of a lawyer or for a lawyer for which the lawyer is accountable [source: Rule 14-113].

The Workgroup offers the following observation: A paralegal can be employed by a lawyer of freelance on a contract basis, but, in the latter event, must work for the lawyer and not the client. The phrase "absent such assistance" has no antecedent. According to the words of the rule it appears that a paralegal can essentially practice law, provided it is under the supervision of a lawyer. This is overbroad. We need to research whether there are any appellate opinions or ethics advisory opinions that limit this authority.

## **7. Other States**

Nearly all states have pro bono programs in which lawyers or non-lawyer offer information, advice or representation for qualified individuals.

The Connecticut Bar Association's Task Force on the Future of Legal Education and Standards of Admission issued a June 2014 report recommending the state modify its practice rules "so that nonlawyers be permitted to offer some basic legal services to the public."

The Massachusetts Bar Association voted in March 2014 to endorse the recommendations of the ABA Task Force on the Future of Legal Education, including the licensing of people other than those with law degrees.

Other states have held low-level meetings about limited licensing but have taken no official steps.

**Source.** Robert Ambrogi, *Washington. State moves around UPL, using legal technicians to help close the justice gap*, ABA JOURNAL (Jan. 1, 2015, 5:50 AM), ([http://www.abajournal.com/magazine/article/washington\\_state\\_moves\\_around\\_upl\\_using\\_legal\\_technicians\\_to\\_help\\_close\\_the](http://www.abajournal.com/magazine/article/washington_state_moves_around_upl_using_legal_technicians_to_help_close_the). Last visited August 7, 2015.)

### **b. Analysis and potential applicability to Utah**

The American Bar Association Task Force on the Future of Legal Education viewed Washington's efforts as a positive step toward achieving the goal of increasing access to legal services through a LLLT program. Although this may be true, and while the Washington experience might provide useful lessons for any nascent program in Utah, several aspects of the Washington program may be not be ideal for Utah's needs.

In reviewing the categories of needs delineated by our sub-group, it appears Washington applied a broad approach when a surgical approach may be more effective. This is true for several reasons. First, the educational and experiential requirements of Washington's program are so arduous it remains to be seen whether or not the graduates can provide assistance at rates significantly less than those provided by licensed lawyers. Second, Washington's program, while allowing the LLLTs to perform several "lawyer" tasks, the LLLTs cannot appear in court nor can they participate in negotiations.

The Washington program does go further than the other programs that presently exist in other states or are under consideration, because Washington's LLLTs can discuss the facts and the law particular to a specific case. All other programs allow the legal technician to discuss general legal principles but may not apply those legal principles to the facts of the case. Other states also do not allow the technician to give legal advice.

Most of the programs in states that have adopted legal technicians or a similar license have solved the solution addressed by our Workgroup regarding filling out forms or drafting legal pleadings. This may apply to the issue identified regarding drafting final pleadings after mediation, so long as the individual was clear that person was not representing both parties in the matter. *Utah Ethics Advisory Opinion 05-03*.

A surgical approach, or more measured approach, would be to use either Utah's existing paralegal structure, a new LLLT program, or a combination thereof, to

define precisely what those individuals could do without the supervision of an attorney, and any training and certification requirements necessary and appropriate to those kinds of services. Presently, that would continue to exclude appearing in court or negotiations. See *Ethics Advisory Opinion 99-02* (a non-lawyer does not violate the unauthorized practice of law in negotiating a matter so long as supervised by an attorney.) Utah's educational structure is also not so costly it would make it impossible for licensed non-lawyers to charge rates significantly lower than those commonly charged by new attorneys or others.

Washington's program does not seem to be the right fit for Utah because it does not address the all categories of identified needs in Utah and it is not yet clear whether it will serve the purpose of access to justice sufficiently. Utah has an existing paralegal structure that could meet many of the specified needs without dramatic overhaul. The principal difference is whether or not Utah would allow paralegals to work for a client as opposed to working for an attorney. Other needs might be met by licensing LLLTs for specific categories of legal service, discussed above.

The areas that need better definition are when and if a non-lawyer could give legal "advice", how to define what constitutes legal advice (as opposed to information), and when and if a non-lawyer could engage in negotiation outside of the current context of mediations. Presently, only Washington allows a non-lawyer to give legal advice but it does not allow non-lawyers to negotiate. Identifying the needs and working from there to find solutions that actually address then needs rather than creating a sweeping change that may or may not achieve the goal appears to be a better approach.

#### **IV. Implementing a LLLT program in Utah [This section to be tackled next, after coming to consensus on the above sections.]**

##### **a. Legal authority**

Under both the Utah Constitution and state statutes, authority to establish a LLLT program would reside with the Utah Supreme Court. At a minimum, the following provisions appear relevant (with particularly relevant language italicized).

##### 1. Utah Constitution Article VIII Section 4:

The Supreme Court shall adopt rules of procedure and evidence to be used in the courts of the state and shall by rule manage the appellate process. The Legislature may amend the Rules of Procedure and Evidence adopted by the Supreme Court upon a vote of two-thirds of all members of both houses of the Legislature. Except as otherwise provided by this constitution, the Supreme Court by rule may authorize retired justices and judges and judges pro tempore to perform any judicial duties. Judges pro tempore shall be citizens of the United States, Utah residents, and admitted to practice law in Utah. *The Supreme Court*

*by rule shall govern the practice of law, including admission to practice law and the conduct and discipline of persons admitted to practice law.*

2. Utah Code section 78A-3-103:

(1) The Supreme Court shall adopt rules of procedure and evidence for use in the courts of the state and shall by rule manage the appellate process. The Legislature may amend the rules of procedure and evidence upon a vote of two thirds of all members of both houses of the Legislature.

(2) Except as otherwise provided by the Utah Constitution, the Supreme Court by rule may authorize retired justices and judges and judges pro tempore to perform any judicial duties. Judges pro tempore shall be citizens of the United States, Utah residents, and admitted to practice law in Utah.

(3) The Supreme Court shall by rule govern the practice of law, including admission to practice law and the conduct and discipline of persons admitted to the practice of law.

3. The Utah Courts' Judicial Council Rules of Judicial Administration define the practice of law as “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.” (Rule 14-802)

**b. Education and training**

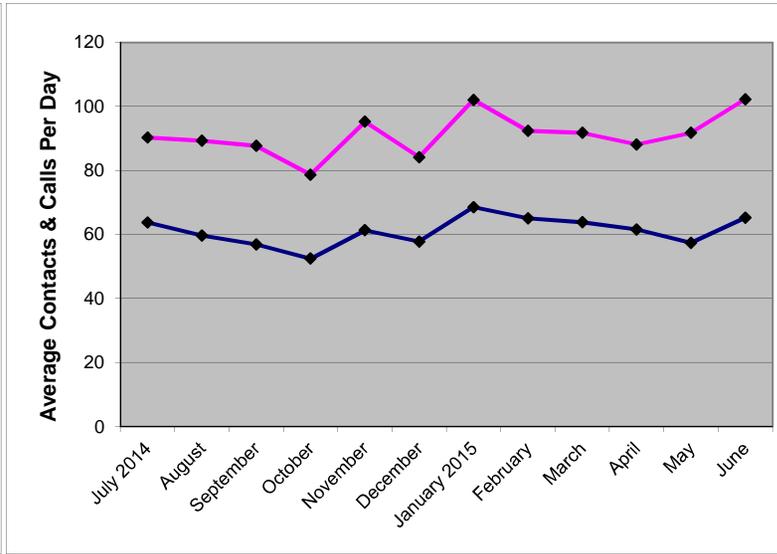
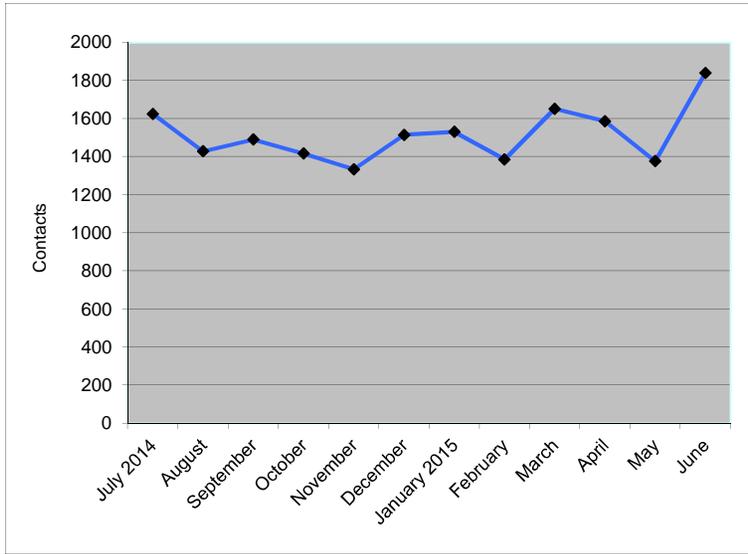
**c. Certification and licensing**

**V. Conclusions and Recommendations [ditto]**

# Tab 3

All Districts FY'15		Percent of Case Filings					Count				
		Both Parties with Attorney	One Party with Attorney	No Party with Attorney	Self Represented Petitioner	Self Represented Respondent	Both Parties with Attorney	One Party with Attorney	No Party with Attorney	Self Represented Petitioner	Self Represented Respondent
Case Type	Case Filings										
Adoption	1,352	1%	84%	14%	14%	4%	16	1,141	195	195	57
Civil Stalking	858	13%	18%	69%	79%	77%	110	154	594	676	663
Conservatorship	143	1%	84%	15%	15%	2%	2	120	21	22	3
Contracts	2,608	28%	71%	1%	1%	71%	737	1,856	15	27	1,859
Custody and Support	1,281	20%	49%	31%	36%	76%	253	627	401	459	970
Debt Collection	67,510	2%	98%	0%	0%	98%	1,018	66,486	6	13	66,485
Divorce/Annulment	13,227	19%	31%	50%	52%	80%	2,448	4,154	6,625	6,853	10,536
Estate Personal Rep	2,107	0%	87%	12%	12%	0%	4	1,842	261	261	1
Eviction	7,465	4%	83%	13%	13%	96%	311	6,182	972	989	7,137
Guardianship	1,622	1%	43%	56%	57%	3%	15	691	916	927	41
Name Change	1,014	0%	17%	83%	83%	1%	1	175	838	839	7
Paternity	1,043	36%	44%	20%	23%	61%	373	459	211	239	641
Protective Orders	4,744	23%	35%	42%	48%	71%	1,087	1,654	2,003	2,279	3,379
Small Claim	9	0%	22%	78%	78%	100%	0	2	7	7	9
Temporary Separation	85	19%	38%	44%	52%	73%	16	32	37	44	62

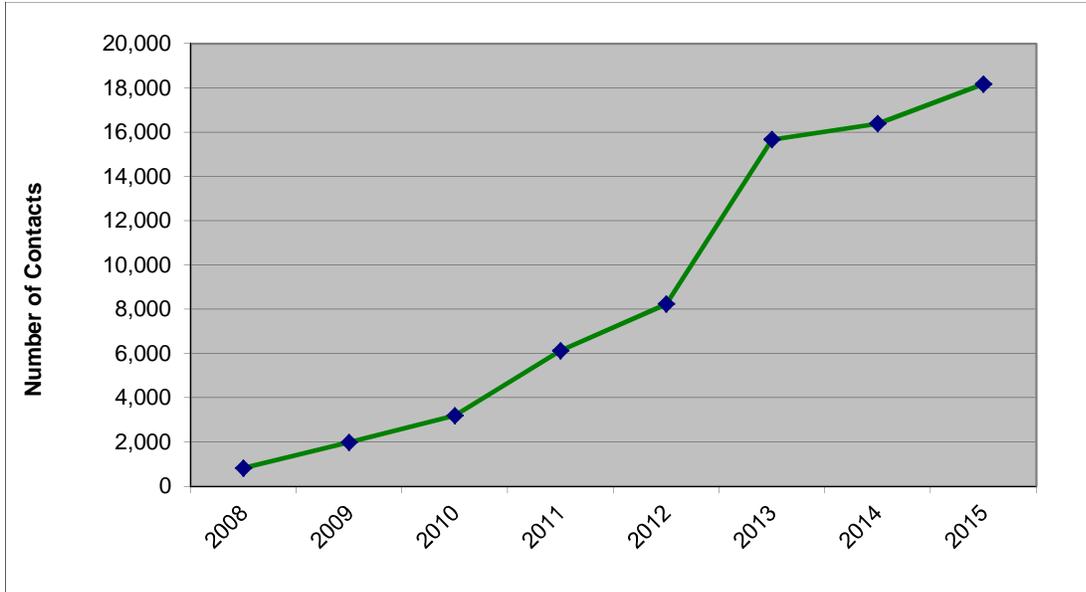
**Self-Help Center Contacts by Month  
FY 2014**



Month	Number of Contacts	Number of Calls	Number of Emails	Number of Texts	Number of Service Days	Contacts / Day	Calls / Day	Emails / Day	Texts / Day
July 2014	1624	1147	313	157	18	90.22	63.72	17.39	8.72
August	1428	954	337	121	16	89.25	59.63	21.06	7.56
September	1490	967	329	180	17	87.65	56.88	19.35	10.59
October	1416	944	271	164	18	78.67	52.44	15.06	9.11
November	1333	858	285	158	14	95.21	61.29	20.36	11.29
December	1514	1039	276	158	18	84.11	57.72	15.33	8.78
January 2015	1530	1028	307	155	15	102.00	68.53	20.47	10.33
February	1385	975	284	99	15	92.33	65.00	18.93	6.60
March	1651	1148	339	128	18	91.72	63.78	18.83	7.11
April	1586	1108	343	99	18	88.11	61.56	19.06	5.50
May	1376	860	305	157	15	91.73	57.33	20.33	10.47
June	1840	1174	429	159	18	102.22	65.22	23.83	8.83

<b>Total Contacts</b>	<b>18,173</b>
<b>Total Calls</b>	<b>12,202</b>
<b>Total Emails</b>	<b>3818</b>
<b>Total Texts</b>	<b>1735</b>
<b>Total Service Days</b>	<b>200</b>
<b>Average Contacts Per Day</b>	<b>90.87</b>

### Self-Help Center Calls and Contacts by Fiscal Year



<b>Fiscal Year</b>	<b>Number of Contacts</b>	<b>Number of Service Days</b>	<b>Contacts / Day</b>
2008	830	98	8.47
2009	1,992	163	12.22
2010	3,205	199	16.11
2011	6,135	201	30.52
2012	8,236	197	41.81
2013	15,666	196	79.93
2014	16,383	194	84.45
2015	18,173	200	90.87

<b>Total Contacts</b>	72,497
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<b>Finding Legal Help Page Total (English &amp; Spanish)</b>	<b>2,197</b>
<b>Self Help Main Page Total (English &amp; Spanish)</b>	<b>11,263</b>
<b>Self Help Contact Page Total (English &amp; Spanish)</b>	<b>3,537</b>
<b>Total Unique Pageviews for Self Help Resources on utcourts.gov</b>	<b>139,509</b>

**Finding Legal Help Main and Contact Pages (English & Spanish)**

/howto/legalassist/index.html	2135	144.68
/howto/legalassist/index-sp.html	39	167.23
/howto/legalassist/index.html?site=mobile	22	120.53
/howto/legalassist/index.html?site=print	1	21.00

**Self Help Main and Contact Pages (English & Spanish)**

/selfhelp/index.html	10501	63.25
/selfhelp/contact/index.html	3430	70.52
/selfhelp/index.html?site=mobile	727	66.16
/selfhelp/contact/index.html?site=mobile	86	85.54
/selfhelp/index.html?site=full	28	31.75
/selfhelp/contact/index-sp.html	14	71.50
/selfhelp/contact/index.html?site=full	7	28.57
/selfhelp/index-sp.html	3	32.01
/SELFHELP/index.html	3	129.00
/selfhelp///index.html	1	0.00

## LLLT 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

100% Access=A system in which we can provide some form of effective legal assistance to all people facing civil legal issues.

#### 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:*

Legal Aid Society of Salt Lake data (attachment #1)

United States Census Data-Utah,  
<http://quickfacts.census.gov/qfd/states/49000.html>

University of Utah S.J. Quinney College of Law Pro Bono Initiative data  
(attachment #2)

Utah Legal Services data (attachment #3)

Utah Legal Services 2006 Report,  
*The Justice Gap: The Unmet Legal Needs of Low-Income Utahns*,  
<http://www.utcourts.gov/committees/ProSe/Justice%20Gap.pdf>

Utah State Courts Access & Fairness Surveys,  
<http://www.utcourts.gov/courtools/reports.asp?measure=access>

Utah State Courts annual case load information,  
<http://www.utcourts.gov/stats/files/2015FY/?type=dist>

Utah State Courts FY15 pro se filings (attachment #4)

Utah Self-Help Center data (attachment #5)

Utah State Courts 2006 Survey of Self-Represented Litigants,  
<http://www.utcourts.gov/committees/ProSe/FinalSurveyReptToCouncilfrJVB2006-11-01.pdf>

Utah State Courts website analytics for July 2015 (attachment #6)

Timanogos Legal Center (attachment #7)

Other possible sources of data?

*Need gaps:*

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

*Recommendations:*

Establish a court-based access to justice commission that coordinates efforts among government agencies, courts, non-profit legal agencies, and bar to gather and distribute information on an ongoing basis

Establish ongoing assessment tool for any existing and new program

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

*Current information:*

Bookkeeping and tax services  
Commercial sites  
Community magazines and newspapers (not necessarily in English)  
Community organizations  
Community radio shows (not necessarily in English)  
Disability Law Center  
Domestic violence advocates  
Faith-based organizations  
Free legal clinics  
Friends and family  
Government agencies (e.g., DWS, ORS)

Homeless shelters  
Internet  
Law enforcement  
Lawhelp.org  
Mexican and other consulates  
Non-profit agencies  
Non-profit legal agencies  
Private attorneys  
Public libraries  
Schools  
Self-Help Center  
Utah 211  
Utah Legal Services  
Utah State Bar  
Utah State Courts  
Utah State Law Library

*Need gaps:*

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

More information 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 hire and pay those lawyers

*Recommendations:*

Courts and Self-Help Center should provide public education about legal issues, procedures, and court system

Courts and Self-Help Center should work closely with public libraries, schools, non-profit and community agencies, and government agencies to assure knowledge of legal resources

Courts and Self-Help Center should be able to provide information in Spanish and work with court interpreters to assist in other languages, including ASL and in formats for people with vision impairments and cognitive impairments

Courts and Self-Help Center should support and participate in other organizations' efforts to provide education on legal rights and court procedures, such as the free classes at the Mexican Consulate

Utah State Bar should develop and maintain an easily accessible lawyer directory that provides information about the lawyer's practice areas,

geographical location, willingness to provide reduced-fee and unbundled services, and languages in which the lawyer is competent to handle a legal matter

Development of a centralized legal information internet portal governed and maintained by a neutral organization of interested stakeholders (see, for example: <http://www.michiganlegalhelp.org/>)

### **3. How do people get legal forms?**

#### *Current information:*

- Commercial internet sites
- Friends and family
- Law libraries
- Legal clinics
- Private attorneys
- Public libraries and non-legal databases
- Self-Help Center
- Staples and OfficeMax and other commercial venues
- Utah State Courts

#### *Need gaps:*

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

Consumers purchase from commercial sites forms that are not appropriate for their circumstances

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

People need legal forms that are not court forms and there is no one reliable source of information about such forms (for example, other government agency forms, or transactional documents like powers of attorney)

#### *Recommendations:*

Courts and Self-Help Center should draft and post required court forms to the greatest extent possible, increasing current output

Courts and Self-Help Center should provide more public education about available court forms and other government-issued forms

Courts and Self-Help Center should increase current level of ability to work closely with libraries and government agencies to assure knowledge of available court forms

Courts and Self-Help Center should be able to provide more than currently available information about forms in Spanish and work with court interpreters to assist in other languages, including ASL and in formats for people with vision impairments and cognitive impairments

Make efforts to ensure that when a person searches for divorce information in Utah, and other common searches, the Court's website is in the top search results

#### **4. How do people complete legal forms?**

##### *Current information:*

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

##### *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 (e.g., school personnel, non-profit social services agencies) 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

*Recommendations:*

Develop and maintain a court-based education program for court navigators (commercial, non-profit, court staff, community and faith-based organizations, schools) to help people complete forms

Amend unauthorized practice of law rule to allow anyone to help people complete forms for free or for a fee

Self-Help Center increases staff resources to help people complete and review forms

Self-Help Center trains and supports other court staff to help people complete forms

Support a clinical program with the law schools to have law students help people complete forms under the supervision of a law school professor, or the State Law Library or the Self-Help Center

Support efforts by the Timpanogos Legal Center to help people complete forms with the help of volunteer attorneys and law students through remote services

Support efforts by private lawyers to establish unbundled legal services and other bar efforts to support lawyers who help clients with document preparation and review as a discrete task

**5. How do people navigate the judicial system?**

*Current information:*

Alone

Court staff

Court website

Mediation and in-court mediation programs

Notarios

Other pro bono programs (representation for DV victims in Davis County; SMAV; Signature adult guardianship program; pro se commissioner calendars in Matheson, virtual lawyer of the day partnership with Utah Legal Services, Legal Aid Society, and the Self-Help Center)

Private attorney (full or limited representation)

Pro bono in-court programs

Self-Help Center

State Law Library

*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

Lack of sufficient review of court processing of cases from the point of view of a self-represented litigant

*Recommendations:*

More information on the court website about going to court, handling your case on a pro se basis, discovery and disclosure issues

Development and support statewide to the greatest extent possible of in-court pro bono programs like the debt collection calendar in the 3<sup>rd</sup> District

Court review of how cases handled primarily by pro se litigants are processed by the courts (what procedures are redundant, unnecessary, causing delay and possible dismissal of cases for reasons that could otherwise be easily handled?)

Development and support statewide to the greatest extent possible of early resolution programs for domestic cases, including collaboration between court staff, Self-Help Center, non-profit legal agencies, Utah Dispute Resolution

Support of unbundled section of the Utah State Bar

Support of efforts to allow private attorneys to provide discrete, limited scope services, for a fee in non-traditional settings

Support of interaction of the Self-Help Center with Utah Legal Services and other non-profit legal agencies for a remote services delivery system of legal advice through volunteer lawyers

Ongoing pro se classes with incentive to attend

## **6. How do people exit the judicial system?**

### *Current information:*

Alone  
Court staff  
Judges  
Non-profit community agencies (e.g., Multicultural Center in Moab)  
Private attorney (full or limited representation)  
Pro bono in-court programs  
Self-Help Center

### *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

### *Recommendations:*

Develop and maintain a court-based education program for court navigators (commercial, non-profit, community and faith-based organizations, schools) to help people understand court procedures, draft orders and other final paperwork, and understand the meaning of their orders

Development and support statewide to the greatest extent possible of early resolution programs for domestic cases, including collaboration between court staff, Self-Help Center, non-profit legal agencies, Utah Dispute Resolution

Training and support of judges to allow them to help pro se parties understand orders and how to follow them

Court interpreters translate orders into Spanish and other languages and/or formats as required

Court staff draft final orders

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

### *Current information:*

- Alone
- Friends and family
- Government agencies (DCFS, ORS)
- Law enforcement
- Legal clinics
- Personal management of issue
- Private attorneys
- Self-Help Center
- State Law Library

### *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

### *Recommendations:*

Establish a court-based access to justice commission that coordinates efforts among government agencies, courts, non-profit legal agencies, and bar to foster better communication about helping the people follow, enforce, and modify court orders

Increase Self-Help Center resources to provide helpful information to people trying to understand, follow, enforce, and modify court orders

Develop and maintain a court-based education program for court navigators (commercial, non-profit, community and faith-based organizations, schools) to help people understand court procedures, draft orders and other final paperwork, and understand the meaning of their orders

## **Summary of Recommendations for Immediate Implementation**

### Utah State Courts:

- Continue to expand information on website
- Continue to draft, approve and post standardized forms on website
- Expand Self-Help Center staff and resources
- Establish and maintain education program for court navigators
- Identify and train court staff in each courthouse to serve as a court navigator
- Approve new rule on unauthorized practice of law
- Support and expand early resolution in-court program in domestic cases and debt collection cases
- Review and reform of court procedures of all case types handled primarily by pro se litigants from the point of view of the pro se litigant
- Establish an access to justice commission
- Establish and maintain assessment tools to track effectiveness and sustainability of access efforts

### Utah State Bar:

- Establish and support an unbundled section

- Create and maintain an easily accessible and useable lawyer directory that clearly states the lawyer's contact information, areas of the state where the lawyer will handle representation, legal areas of expertise, languages in which lawyer is competent to handle legal matters, legal areas in which lawyer offers unbundled services, and fee schedule and payment system
- Implement recommendations of the Futures Report and of the AAA Task Force

Other?

**Attachment #1**

**Legal Aid Society of Salt Lake 2014-2015**

Program	Primary Clients	Secondary Clients (household members of clients)
Domestic Violence Victim Assistance Program (protective orders, civil stalking injunctions, child protective orders, dating violence orders)	2,505	6,160
Bridge the Gap (family law cases that have existing protective orders)	19	62
Domestic Relations (divorce, parentage, guardianship)	116	291
Sexual Assault (family law with sexual assault component)	24	76
Adult Guardianship	14	
Assisted Pro Se (limited scope)	257	515
Family Law Clinic (Matheson and West Jordan Courthouses)	8,069	
Total	12,624	7,104

LAS does not track the number of people declined for service.

LAS does not make referrals to pro bono attorneys but directs those people to Utah Legal Services.

LAS staff: 5 attorneys, 13 paralegals (2 are domestic relations paralegals)



## **Attachment #2**

### **PRO BONO INITIATIVE DATA**

How many clients were helped?

2014: 1,643 clients were helped at a PBI Legal Clinic.

Our PBI Legal Clinics operate year-round and are staffed by volunteer law students and attorneys.

PBI currently operates:

American Indian Legal Clinic

Community Legal Clinic: Salt Lake

Community Legal Clinic: Ogden

Debtor's Legal Clinic

Expungement Legal Clinic

Family Law Clinic

Medical-Legal Clinic

Rainbow Law Clinic

Street Law Clinic

How many people were not eligible for whatever reason for PBI help but were referred to other legal resources?

Every person who comes into a PBI Legal Clinic is able to talk w/a supervised law student. We do refer clients out to other legal resources such as, Self Help Desk, ULS, LAS, Disability Law Center, etc.

How many volunteer attorneys work with/through PBI?

We average around 80-100 volunteer attorneys. Some of the attorneys will volunteer on multiple projects and/or PBI Legal Clinics.

How many students?

Our number of student participation varies from semester to semester. For example, the Class of 2014 had a participation rate of 80%.

How many other volunteers, paralegals, non-lawyer professionals?

I use U of U Pre-Law LEAP students (the number varies per semester/year), U of U Language Students to assist w/translation, and we just started using volunteer paralegals last year.

Scope of PBI services?

PBI has a three part mission: to provide skill building legal opportunities under the direct supervision of attorneys; to develop placements where alumni can volunteer, network and serve as mentors to law students; and to demonstrate the professional responsibility of those in the legal profession to provide pro bono legal services to the underserved in the community who otherwise would not have access to the justice system.

**Certificate of Service:** If you complete at least *50 volunteer hours by graduation*, you will be eligible for the *Certificate of Service* is signed by the Chief Justice of the Utah Supreme Court, Utah Bar President, College of Law Dean, and the Director of PBI.

**What types of pro bono placements are listed through PBI:** We have three categories: Law firm/solo practitioners, Law-related agency placements, and Pro Bono Initiative (PBI) Free Brief Advice Legal Clinics.

**Attachment #3**

**Utah Legal Services 2014**

**Staffing**

26.45 attorneys, including administrators who do not necessarily carry a caseload.

19.9 paralegals not including those who do the initial intake/eligibility work.

Some paralegals represent clients at agency hearings (Social Security and other benefit programs, Immigration, housing authorities).

**Case types:**

**Clients:**

Area	Primary	Secondary	Total
Housing (61-69)	2991	2973	5964
Food (73)	70	86	156
Heat / utilities (7)	5	5	10
SSI, SSDI (74, 75)	975	798	1773
Medicaid, Medicare, other financial (51-59, 71, 72, 76-79)	490	345	835
Vocational Rehabilitation	0	0	0
Education (11-19)	15	31	46
Independence/ Communication (43)	3	0	3
Other employment (21-29)	220	215	435
Adoption (30)	66	114	180
Divorce (32)	3506	4102	7608
Divorce & Child Support / Custody	0	0	0
Child support and custody (31 & 38)	1447	1724	3171
Paternity, visitation (35, 36)	61	86	147
Modification of existing orders	0	0	0
Domestic violence (37)	1306	1943	3249
Child abuse (42, 49)	154	197	351
Guardianships/ Conservatorships (33,44)	153	138	291
Adult services (other) 34, 39, 81, 83, 85, 89, 91, 93, 94, 97-99)	1500	1043	2543
Small estates and consumer protection (95-96, 1-6, 8-9)	2106	2064	4170
Abuse and neglect (86)	7	20	27
Disability Based (82, 84)	6	4	10
Indian and Tribal law (41, 92)	63	121	184
Short Term Assistance / I&R etc (All others)	157	294	451
<b>Total</b>	<b>15301</b>	<b>16303</b>	<b>31604</b>
Legal advice & representation	8658	10829	19487
Brief service (clinics)	145	203	348
Information and Referral - very limited depending on client eligibility	6498	5271	11769

Pro bono case types:	Clients:
	<b>Grand Total</b>
Bankruptcy/Debtor Relief	250
Collection	7
Contracts	3
Adoption	2
Paternity/Custody	56
Divorce	192
Guardianship/Conservatorship	5
Name Change	2
Domestic Abuse	25
Support	1
Stalking	2
Minor Guardianship/Conservatorship	7
Housing (Subsidized)	1
Homeownership (not foreclosure)	1
Private Landlord/Tenant	1
Mobile Homes	2
State Assistance (Foodstamps, etc)	1
SSI	1
Human Trafficking	2
Torts	2
Wills/Estates	10
Advanced Directives/PoA	14
Other	9
<b>Grand Total</b>	<b>596</b>

Attachment #7

**Timpanogos Legal Center**

Clients helped:

Between July 1, 2014 and June 30, 2015 we helped 741 clients at the Family Justice Center clinic.

Volunteer attorneys work with/through TLC?

In 2014 we had 17 attorneys perform 322.5 hours of service at the Family Justice Center clinics.

How many students?

In 2014 we had 23 students perform 389 hours of service at the Family Justice Center clinics.

Scope of TLC services?

**Family Justice Center (FJC)--Walk in Family Law Clinic**

**When:** Every Tuesday evening from 5:00-8:00 p.m. unless it falls on a holiday. There is no clinic during the week between Christmas and New Year's Day.

**Where:** The Health and Justice Building located at 151 S. University Ave. in Provo.

**Type of Clinic:** This is a free walk in clinic (no appointment is necessary) for people with divorce, custody or family law related issues. Clients must be under 200% of the federal poverty guidelines.

The concept behind the Family Justice Center is to provide a "one stop shop" where clients can access services and information from Community Action, the Division of Child and Family Services, Victim Advocates, Department of Workforce Services, Centro Hispano, Housing, Timpanogos Legal Center, and other agencies. The greatest demand is for legal advice.

**Document Clinic—Prescreened and by appointment only**

TLC created a Document Clinic for pro se clients several years ago. These clients are representing themselves in court pro se. Clients sign a "Limited Scope Representation Agreement" allowing volunteer attorneys to help the client draft documents relating to divorce and custody cases (for example: Temporary Orders, an Order to Show Cause, Alternate Service and Modifications). We are very pleased to announce that this year we received funding from Legal Service Corporation to expand this clinic to a "virtual" document preparation clinic that allows us to serve clients in the Seventh and Fourth Judicial Districts (Grand, Carbon, Emery, San Juan, Wasatch, Utah, Juab and Millard counties). Through a platform called Zoom, the client, volunteer attorney, law student and TLC attorney can all see each other and the document being created. It allows an

attorney in Lehi to connect with a client in Moab and a student in Provo. It gives us much more flexibility in scheduling the clinics and it allows us to help people in rural counties, a population that is chronically under served. We have found that clients with well drafted documents can be very successful in getting the relief they request even if they are not articulate and do not have counsel to represent them in court.

**When:** Monthly by appointment only

**Where:** Online. If the client does not have computer/internet access we help arrange a suitable location.

**Who is eligible:** The client must be below 125% of the Federal Poverty Guidelines, be a citizen and have an appropriate case. Clients must be pro se (cannot be represented by counsel).

**How to be screened: Call Luisa at 801- 649-8895.**

### **Full Representation by a pro bono attorney**

TLC and Utah Legal Services continuously recruit private attorneys to take pro bono cases. We are able to place a limited number of cases with private attorneys who are willing to take the case at no cost to the client. In these cases, the attorney provides full representation, meaning the attorney will prepare the paperwork and go to court and mediation with the client. We have volunteer attorneys willing to help in a variety of matters. Clients are screened through Utah Legal Services and go through the Bar's Pro Bono Referral program. If a case is not placed our Program Manager finds a pro bono attorney to take the case if possible.

## **Court Navigator Education Program**

### **Concept:**

The purpose of the Court Navigator Education Program is to provide training and guidance to individuals helping self-represented parties complete court forms and understand court processes.

The Utah State Courts Self-Help Center administers the education program by providing an ongoing series of classes on how to navigate the court website; locate appropriate legal information, forms and resources; complete forms; file forms; attend court proceedings; and understand court orders.

Weekly classes are presented live in the Matheson Courthouse in Salt Lake City and are available by live video or other electronic connection and by video on the courts YouTube channel. In addition, online informational programs are available on the court website.

All classes and educational materials are available in English and Spanish.

Classes are free and open to the public but are aimed at educating individuals who help others complete forms and navigate the courts. The classes are not form completion workshops aimed at individual litigants.

In addition, the Self-Help Center offers ongoing support to people who are providing court navigation help to others. This support is in addition to the virtual services provided by the Self-Help Center to anyone contacting it.

### **Implementation:**

1. Change Code of Judicial Administration Rule 14-802. Authorization to Practice Law from:  
  
(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.  
  
to:  
  
(c)(3) Providing clerical assistance to another to complete a form filed in municipal, state, or federal court located in the State of Utah.
2. Increase Self-Help Center staff (for example, by increasing current 5 PT attorneys to FT and adding another FT attorney so that total staff equals 7 FTEs.)
3. SHC staff:

- develops a series of classes and educational materials in English and Spanish
  - recruits and supports outside teachers, in addition to SHC staff, to conduct classes
  - develops a series of educational online trainings to post on the court website
  - works with court website staff to post online trainings and videos of live classes
  - responds to questions on an ongoing basis from court navigators who have completed at least four offered classes
  - provides classes and ongoing support to court staff throughout the state who are designated as local court navigators
  - develops and presents classes and educational materials in ways adapted to adult learners
  - engages in an evaluation process that tracks the development of educational materials, the number of classes offered per year, the number of court navigators trained each year, the effectiveness of the classes and educational materials, and other relevant issues.
4. Local state courts identify at least one staff member in each courthouse to serve as a court navigator.

**Education Program:**

1. Court website and how to navigate it
2. Legal resources throughout the state and country
3. Court forms and OCAP
4. Basic civil procedure:
  - a. Starting a case
  - b. Service of process
  - c. Service of process in Mexico
  - d. Answering a complaint
  - e. Motion practice
  - f. Disclosure and discovery
  - g. Hearings
  - h. Pretrial conferences
  - i. Mediation and settlement
  - j. Trials
5. OCAP Programs
  - a. Divorce
  - b. Parentage
  - c. Minor guardianship
  - d. Adult guardianship
  - e. Enforcement of domestic orders

- f. Guardianship reporting
- g. Landlord-Tenant
- h. Garnishment
- i. Small claims
- 6. Other court forms
  - a. Answering a complaint
  - b. Motions
  - c. Modification of domestic orders
  - d. Temporary orders
  - e. Appeals
  - f. Expungement
  - g. 402 motions
  - h. Child support worksheets
  - i. Parenting plans
  - j. Probate
  - k. Name change
- 7. Hearings
- 8. Drafting final orders
- 9. Enforcing orders
- 10. Modifying orders
- 11. Setting aside orders
- 12. Collecting a judgment
- 13. Other

Live weekly classes will be offered throughout the year except for holiday and other court closures. Classes are two hours each.

All live classes occur in the Matheson Courthouse and in other locations from time to time.

Comments and issues to be discussed:

1. Elena's comments:

Regarding the draft. I would like to make some suggestions:

### **1) Certification / Legitimacy**

I truly feel that part of the process must include some sort of "certification" or added legitimacy to distinguish those individuals who have made the effort to take the training provided by the SHC.

Perhaps, this could be in the form of a court approved list, with names of those individuals or organizations who have completed the training for purposes of referrals. An obvious example is the court roster for mediators. For what I understand, the purpose of the list, is to add a sense of trust since those individuals have undertaken some sort of training and strive to abide by a code of ethics. Additionally, the roster also serves to alert the public regarding complaints against a specific individual.

### **2) Core Topics:**

The overall listing of suggested training topics looks really good. I understand it may take time to complete the modules that have not been completed, and this may require additional investment of time and resources. Without an incentive to encourage "notarios" or others to take this training, you may be left with a great deal of effort put into developing the core modules, and no real incentive or a way to recognize those who are striving to do the right thing. Hence, my recommendation #1

Additionally, there should be a code of ethics section added to the modules. An understanding of the rules or regulations that apply to providing these services is essential and should also be included. I hope that an increased awareness of what Court Navigators (if that is what we are going to call them), are expected to do or not to do, with help with curbing some of the unethical business practices currently taking place.

2. How should CJA Rule 14-802 be changed?
3. Is the Self-Help Center the appropriate court resource to support a court navigator education program? If not, then who?
4. Should there be a fee for the classes and/or certification?
5. If certification is required, then what enforcement mechanisms will be needed? Who handles enforcement?