

Agenda

Committee on Resources for Self-represented Parties

April 1, 2016
12:00 to 2:00 p.m.

Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Executive Dining Room

Approval of Minutes/ Announcements	Tab 1	10 minutes	Mary Jane Ciccarello
Updates on Subcommittees & Strategic Plan Priorities <ul style="list-style-type: none"> • Rule 14-807 • Unbundled services • Forms • Lawyer directory • Pro se e-filing (proposed priority) • Virtual Services 	Tab 2	20 minutes	<ul style="list-style-type: none"> • Carl Hernandez • Virginia Sudbury • Jessica Van Buren • Shaunda McNeill • Judge Marsha Thomas • Leti Bentley
Focus on Self-Help Center: analysis of current projects and budget constraints		85 minutes	Mary Jane Ciccarello
Other Business		5 minutes	Mary Jane Ciccarello

[Committee Web Page](#)

Proposed Bimonthly Meeting Schedule: Matheson Courthouse, Judicial Council Room, 12:00 to 2:00 p.m. unless otherwise stated.

- June 10, 2016
- August 12, 2016
- October 14, 2016
- December 9, 2016

TAB 1

Minutes of the Committee on Resources for Self-represented Parties

February 12, 2016

Draft. Subject to approval

Members Present

Judge Marsha Thomas, Carol Frank (remotely), Jessica Van Buren, Sue Crismon, Mary Jane Ciccarello, , Shaunda McNeill, Chris Martinez, Virginia Sudbury, Judge Barry Lawrence, Barbara Procarione, Judge Douglas Thomas (remotely), Jaclyn Howell-Powers (remotely)

Members Excused

Leti Bentley
Lisa Collins
Judge Ryan Evershed
Eric Mittlestadt
Carl Hernandez
Susan Griffith

Staff

Nancy Sylvester

Guests

Kiki Neofitos

(1) Approval of minutes/Announcements.

Judge Marsha Thomas welcomed everyone to the meeting and asked for corrections to the December minutes. Several minor corrections were made. She then asked for a motion to approve the minutes. A motion was made and seconded. The December 2015 minutes were approved as corrected. Jessica Van Buren introduced her guest, Kiki Neofitos, who is a Hinckley Institute intern. She helps people fill out OCAP forms in the library. They take 1 hour appointments, including over the phone.

(2) Update on Subcommittees and Strategic Plan Priorities

(a) Forms

Ms. Van Buren reported on forms. She said they have been updating the motion forms, based on changes to rules like Rule of Civil Procedure 7. There are 2 new webpages. Shaunda McNeill helped look over the debt collection page; included on the page is a link to a debt collection answer form. The forms are intended to be neutral. Sue Crismon noted that ULS has a hardship affidavit, too. Another page is a separate page on alternative service. They also recently revised the adult name change page. It was one of the oldest on the website.

Ms. Van Buren then reported on the appellate forms. She reminded the committee that there was an effort to modernize the forms and guides and then move forward with a pro bono project. The forms

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have been posted since the fall. Lisa Collins has had a lot of positive feedback. They are also doing a CLE for attorneys and paralegals on the appellate process and plan to have a CLE on the pro bono project in the spring.

Ms. McNeill then brought up an OCAP issue on consent to service. She said there is no acceptance of service form. There was a discussion about some of the issues on acceptance of service. There is a potential false default as part of a form called "Acceptance of Service, Waiver, and Consent." The form basically says, "I accept service and I allow for this to go forward and all of the terms of the petition." This then creates a default in OCAP, which is erroneous. If someone is accepting service, they are entering an appearance, not defaulting. The committee decided that it should write a letter to the OCAP board and have Eric Mittlestadt take it back to the OCAP committee.

Judge Lawrence noted if someone accepts service, they need to understand they had better answer or it will be a true default. Mary Jane said the Self-Help Center just advises people to go through the full service process. Barbara Procarione said when both parties come in, they will explain that by signing the consent form, they agree to everything in the divorce packet. Sometimes they say that's fine, other times not. Ms. Procarione said they won't let the parties sign the form if there is a disagreement.

(b) Lawyer Directories & Referral Sources

Judge Thomas noted that some of the committee members had met with Patricia LaTulippe, who had done research on unbundled services in other states.

Unbundled Section of the Bar

Virginia Sudbury reported on the unbundled section of the Bar progress. Virginia said Connie Howard at the Bar is providing them space and drinks for a brown bag CLE on unbundled services. She already has around 40 attorneys that are interested. It includes all kinds of practitioners, not just domestic. Judge Lawrence asked for clarification on the project. Ms. Crismon said Ms. Sudbury is making a living on unbundled services. She said she charges, for example, \$200 per hour to do an evidentiary hearing. She does a Rule 75 limited appearance and puts it on the record what the scope is. It's not low bono; she does charge the full amount but for discrete tasks, rather than getting a retainer up front. Sue said clients feel like they have more control over their case. The brown bag is tentatively scheduled for March 11.

Pro Se Clinic & Order to Show Cause Clinic

Ms. Sudbury then reported on the Pro Se calendar. Commissioner Sagers has now expanded the calendar to include free mediators from Utah Dispute Resolution. Cases are being resolved if they are close to being done. They are informed on what informal hearings are. Judge Lawrence asked how many cases are referrals from judges. Should he be telling other judges to refer? Ms. Sudbury said yes, especially if they are missing one item. Judge Lawrence says he uses a stock minute entry on what is missing. He said he will send it to other judges and clerks. Ms. Sudbury said the calendar is currently expanding to 4th and 5th districts and commissioners would like it in Tooele. 5th district is also starting up a guardianship calendar. Ms. Sylvester mentioned that she may have a law student in her department this summer and asked how the student could be involved. Mary Jane said the student would be most helpful doing the

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drafting of orders and other documents with the Self-Help Center. Ms. Crismon brought up issues with Tooele and there was a discussion about what was needed to do that calendar.

Chris Martinez discussed the Pro Se Clinic, which he said complements the pro se calendar well. He said he can give legal advice and he doesn't screen for anything currently. He said he can appear on a limited scope basis if his schedule allows, but has over 100 full scope cases with his regular job. Mr. Martinez uses a conflict form and then helps on a variety of things. He said he typically sees 7 people on Thursday afternoons. Judge Lawrence asked if it dovetails with the calendar. Mr. Martinez said it does if the pro se calendar doesn't resolve everything.

Judge Thomas said it sounded like the clinic has been a success since Stewart Ralphs was here to report about it. Mr. Martinez confirmed that but said he has a concern on the pro se calendar with regard to the volunteers. They need a greater rotation of different attorneys. Sustainability is a question.

There is a pro bono attorney recruitment event in March at the Law and Justice Center the information for which Ms. Sylvester will send around to the committee. Committee members can come to talk to the attorneys about the domestic pro se calendar. Ms. Crismon asked how we can activate the attorneys that are less active. The committee discussed waiving CLE fees. Ms. Ciccarello discussed doing a series of free CLE's if people sign up to do one pro se calendar. Judge Lawrence noted that there is an untapped market with people who are retiring and want to exercise their skills. Judge Marsha Thomas talked about using students and judicial assistants and said the committee will have a focus group on this. Ms. Ciccarello then brought up that the Self-Help Center needs more funding to help with these projects. Ms. Sylvester discussed writing a Bar Journal article to educate attorneys on this issue, especially retiring attorneys, and suggested providing more recognition for those who help.

Judge D. Thomas then brought up the Standing Committee on Children and Family Law. He said the committee has been given the charge to examine all structures and processes surrounding family law in the courts, including the commissioner system and whether there should be a family court. He noted this is not about juvenile court, though, only district. These discussions may have an impact on those processes. He offered an invitation to the committee members to send him ideas on what they would like to see in the best of all possible worlds to improve domestic relations processes, such as incentives to lawyers who provide help to pro se litigants, specialized calendars, etc.

Update on AAA Task Force

Ms. McNeill then showed the beta version of the Bar's new lawyer directory. She said the head of the AAA subcommittee preparing it wanted this committee's feedback. Committee members said a "sounds like" feature would be helpful. They also said the terms need definitions. Ms. McNeill said lawyers will have more comprehensive options to pick what they want in their profiles. There was a suggestion to have the top 5 or 6 most common scenarios and then a "more" button. Ms. McNeill said the AAA Committee felt that level of experience wasn't important. She said there will also be a question mark after each term on fee terms. Committee members noted that there should be income screening on this because there could be bad referrals if a patron is low income.

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Ms. McNeill then discussed other AAA updates including that there is a bill in the legislature to increase the cap on small claims. She also noted that the Bar Commission will vote shortly to make Courthouse Steps Bar administered; Courthouse Steps will stay at the Bar for now rather than using space in courthouses.

Pro Bono Efforts List

Judge M. Thomas noted that it was overwhelming when she started with the committee to grasp what all of the pro bono efforts were. So Ms. Van Buren and Ms. Ciccarello started a list of the efforts. Ms. Ciccarello said New York has an annual report that frames their efforts nicely. She said she would like to make our list as comprehensive as possible and organize it eventually like New York's. Judge Lawrence suggested putting it in the Bar Journal. Ms. Crismon noted that the list was missing the Bar's signature programs and offered to email them to Ms. Van Buren. The committee then discussed the list's audience. If it is meant for the public, it would require a different approach. Ms. Crismon suggested organizing it by pro bono and modest means.

Ms. Van Buren requested that the committee send her information on missing projects. A committee member noted that And Justice For All has information about all legal non-profits in Utah.

(c) Education

Updating Self-Represented Parties Curriculum for Justice Courts

Judge M. Thomas reported that she had assisted in updating the curriculum in justice courts. Mr. Martinez asked whether the curriculum included how to refer self-represented parties to resources. There was some discussion about that. Ms. Crismon asked about QR codes, noting that some low income people may not type in web addresses but do know how to use a QR scanner.

(d) Malpractice Insurance

Judge M. Thomas briefly discussed malpractice insurance and said some efforts are still not covered. Ms. Crismon suggested taking each project and sitting down with Elizabeth Wright at the Utah Bar to figure out what is covered. They can look at the insurance policy and see if it can be interpreted broadly.

(e) New Assignment from Judicial Council

Ms. Sylvester then updated the committee on a new assignment from the Judicial Council involving early case conferences in domestic cases. She said this new charge from the Judicial Council closely correlates to what the Standing Committee on Children and Family is undertaking. Judge Lawrence said Rule 26 may have interfered with Rule 16 early case conferences. He said he doesn't know a case exists if no hearing is scheduled. Mr. Martinez said if every case had an early case conference, his work load will increase significantly. Ms. Sylvester said the subcommittee would be working on details and addressing those concerns later in the month.

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(f) Update on Implementation of Law Student Assistance Rule 14-807

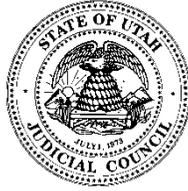
Ms. Sylvester updated the committee on the law student assistance rule, the amendments of which are now in effect. She said she and Carl Hernandez had written a Bar Journal about the amendments and that would be coming out later in the month.

(3) Other Business/Future Meetings

The next committee meeting will be April 1, 2016.

The meeting adjourned at 1:53 pm.

TAB 2



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Committee on Resources for Self-represented Parties
From: Nancy Sylvester
Date: March 25, 2016
Re: Update on Pro Se E-filing

I spoke to Clayson Quigley about the potential for pro se e-filing and the following is based on that discussion.

Pro se e-filing is experiencing some traction right now, but it is not significant due to the CORIS rewrite, which is a Judicial Council priority. One pro se litigant was provided an e-filing account through a unique identifier (attorneys are now provided an account based on their bar number). The pro se litigant still has to pay for an e-filing provider and he is using Green Filing.

Tibera is the company that owns the Utah State Courts e-filing program and it also services Iowa. In Iowa, they are providing e-filing access to pro se filers as follows:

- 1) The pro se litigant can create an account online and file documents in their court case.
- 2) The pro se litigant cannot see the filings in their case until they go to the courthouse and present ID.
- 3) Once they present ID at the courthouse, the court then activates the account and they get access to all of the filings in their case (and, I assume, the case can move forward).

Our IT department is evaluating whether the system being used in Iowa is an option from a programming perspective. Then there will be a policy discussion, planning, and then development. There is potential for including this development in the CORIS rewrite (this would fall under the "like to do" rather than the "must do" list).

The question in my mind is related to budgets and equal access. If people must pay a 3rd party provider to be able to e-file, what does that mean for those who cannot afford that? If e-filing opens up for all pro se litigants, will there be a fund for impecunious litigants to pay for e-filing? I see a lot of issues with this, especially as we discuss tight budgets.

The argument that was recently made to the Management Committee regarding pro se litigant e-filing is that pro se litigants are at a disadvantage as compared to attorneys. Attorneys can file at any time of the day, whereas pro se litigants are limited to courthouse hours. But this

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efficient, and independent system for the advancement of justice under the law.**

Pro se e-filing
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begs the question of where one draws the line on access to justice when budgets are limited. Right now, e-filing is not required for pro se litigants, so maybe that's where the line is drawn. Attorneys are required to e-file, so they get the benefit of a system they can use any time of the day, whereas pro se litigants do not have the same requirement and therefore do not have to incur the extra cost. This is an issue the courts will continue to grapple with over time.

Self-Represented Parties Subcommittee Updates
April 1, 2016

Virginia Sudbury/Unbundled Services

We had our first exciting meeting of our proposed "Limited Scope Section" ("LSS") on 11 March. Since then, John Baldwin, Rob Rice, Russ Minas and myself had a conference call to gain some knowledge about a proper designation. Here is a summary of that conference call.

Rob suggested that we call ourselves a "section" rather than a committee, since it conveys a certain amount of gravitas and credibility. John noted that sections are typically more narrow in focus (i.e. practice area), they promote networking, and can solicit their membership with assistance of the Bar. Russ mentioned that another benefit of being a section is that we get a webpage.

John and Rob pointed out that a section collects funds from members, keeps them in a separate designated account, and is autonomous in its spending (it has discretion on how to spend those funds). Russ noted that it is not a great revenue generator.

A "division" is larger and more complex and possess a different membership demographic (i.e. Young Lawyers Division).

Next steps:

1. I draft a proposal, which will include projected membership, bylaws, mission/vision statement, dues, budget, anticipated CLEs, manner of organizing meetings, and so forth.) DeRae Preston, a member of the LSS, has kindly agreed to help me with that.
2. John Baldwin will send sample by-laws to VLS (done).
3. We arrange for room at the Bar for our next meeting, 15 April 2015.
4. Contemplate contacting the SL Tribune, when slightly more established (for purposes of reaching out to litigants).

Jessica Van Buren/Forms

The forms group is not currently working on creating any new forms, but we are working on revisions to numerous web pages.

In addition, we will be reviewing the bills signed into law in the just-completed legislative session to see whether any changes are needed to existing forms or web pages. The effective date of most bills is May 10th.

We will also look at recent changes to civil and appellate rules becoming effective May 1st to see if those changes will require any updates to forms or web pages.

Shaunda McNeill/Lawyer Directory

Lincoln Mead created my own log-in for the beta lawyer directory. I am hoping to be able to share that log-in with the subcommittee so they can do an in-depth review.

Leti Bentley/Virtual Services

I do not have much information on the virtual services. I sent an email to Mary Jane, Jessica V, and Judge Marsha Thomas. I asked if we are at some point going to start the virtual services. I think that maybe this will be a good opportunity to bring it to the table and start brainstorming. We can also talk about the court navigator pilot program. Jessica can give us the numbers from the surveys.