

## **Minutes of the Committee on Resources for Self-represented Parties**

June 10, 2016

### **Members Present**

Lisa Collins, Sue Crismon, Carl Hernandez, Judge Barry Lawrence, Shaunda McNeill, Eric Mittlestadt, Virginia Sudbury, Mary Jane Ciccarello, Jessica Van Buren, Judge Marsha Thomas, Carol Frank, Judge Doug Thomas, Chris Martinez

### **Members Excused**

Judge Ryan Evershed, Susan Griffith, Shaunda McNeill, Jaclyn Howell-Powers, Leti Bentley

### **Staff**

Nancy Sylvester

### **Guests**

Tyler Felt

### **(1) Welcome, Approval of minutes/Announcements.**

Judge Marsha Thomas welcomed everyone to the meeting and introduced Tyler Felt, a self-represented party who would like to make pro se e-filing a priority. The committee reserved on approving the minutes because there was not a quorum. Judge M. Thomas then discussed her annual presentation to the Judicial Council on behalf of the committee where she gave an update on the strategic plan priority. She reported that the Council members were very engaged; the Council heard the many projects the committee is working on. She noted that Rob Rice was also there and there was a question about Self-Help Center funding, to which she responded that she would be back with a request by the committee for additional SHC funding. Judge M. Thomas also noted that Judge Noonan requested statistics on self-represented parties in juvenile court.

Judge M. Thomas then mentioned that Barbara Procarione is retiring from the committee. She has been a member since 2001. Judge M. Thomas expressed appreciation for Ms. Procarione's dedication to the committee. Ms. Sylvester has been communicating with the clerks of court to find Ms. Procarione's replacement. The position she occupied was technically the urban clerk of court position, even though she was a rural clerk.

The minutes were approved later in the meeting once a quorum was established.

### **(2) Update on Subcommittees and Strategic Plan Priorities**

Ms. Ciccarello reported on the last meeting at which the committee prioritized the priorities the SHC has in its queue. They are as follows: Court navigator; pro se calendars; order drafting, forms, and website were tied for 3<sup>rd</sup>; volunteers and student interns; training court staff; rule 16 calendar; committee work. The rule 16 calendars, order drafting, and pro se calendars are really all in the same category. The priority, she said, is the court navigator program and the calendars and order drafting. Regarding the

navigator program, there was limited one-time funding recently for one of her staff to train local court staff about the SHC resources, which was successful. Ms. Ciccarello also trained the Multicultural Center staff on what the SHC does. Ms. Ciccarello interviewed several pro se litigants in front of the Center staff so that they could see how the SHC helps them. Ms. Ciccarello said they are also doing some training with law students and interns in the law library on court resources. They are given assignments to study them and then are tested on them. Court staff are also frequently engaging in Google chat with Ms. Ciccarello. Regardless of funding, they are going to keep trying to continue the court navigator efforts. Judge D. Thomas then mentioned that he had brought up the program in the local judges' meeting.

Regarding the pro se calendars, Commissioner Sagers changed her calendars to mornings specifically so she could have self-help center staff available. Judge D. Thomas asked whether there are pro se calendars in areas other than domestic relations. Judge Lawrence mentioned the debt collection calendar where a few attorneys volunteer. The landlord tenant calendar in West Jordan also has volunteer attorneys. Typical landlord-tenant calendar can have 25 evictions and most tenants do not have attorneys. This just started two weeks ago. On the debt collection calendar, the attorneys often work to negotiate on behalf of the debtor.

Judge Lawrence and Ms. Crismon discussed the challenges of volunteer attorneys. There is a lot of excitement initially, but then it can tend to dwindle. Judge Lawrence mentioned that retiring attorneys are an untapped resource. Several committee members discussed drafting a bar journal article about what retired attorneys are able to do under newly amended rule 14-803. Both Ms. Ciccarello and Ms. Crismon noted what ULS, Timpanogos Legal Center, and the SHC are doing with these retired attorneys, including those who have moved from other states. Ms. Crismon noted that there is talk of creating an emeritus bar section and there are several firms who have discussed offering office space to retired attorneys doing pro se work.

Judge Lawrence said the easy thing about the debt-collection calendars is that settlements are simply put on the record. He noted that he was working to see if adding a notice about the availability of attorneys at the calendars could be done. Ms. Ciccarello mentioned that she texts the litigants for the domestic calendars to remind them they are there along with volunteer lawyers. Ms. Sylvester discussed what Salt Lake City is doing with respect to text notifications and also that text notifications in all cases was a recommendation of the Pretrial Release Study Committee. Judge Lawrence and Ms. Ciccarello noted that Utah Dispute Resolution has also been staffing many of these calendars and their help is tremendous. Mr. Martinez said there is a core group of family law attorneys that volunteer at the domestic calendars. There are others that come and go, too.

Judge D. Thomas said about 9 years ago, there was an attorney who volunteered to simply mediate at the debt collection calendar, which was extremely helpful. Mediators are not used at the debt-collection calendars now, but probably should be. They are used right now on the domestic and landlord-tenant calendars.

In Second District at the child support hearings where the State is involved, volunteers attend the hearings to represent the respondent, Ms. Ciccarello noted. Judge Lawrence and Judge D. Thomas then mentioned that there are parental termination cases when attorneys aren't available, but only when the

cases are filed in district court, such as in the case of an adoption and it's contested. Judge Lawrence said Tyler Needham tries to fill requests for volunteer attorneys in those cases. Judge D. Thomas noted that the district and juvenile courts have concurrent jurisdiction in these cases and he has gently encouraged the parties to refile in juvenile court where counsel is available. Legislation has been proposed a few times to fill this gap, but hasn't gone anywhere. This won't get handled until we have legislative support. Ms. Ciccarello mentioned the U.S. Supreme Court case of *Turner v. Rogers*, 564 U.S. 431 (2011), where a state must provide safeguards to reduce the risk of erroneous deprivation of liberty in civil contempt cases such as child support cases.

Ms. Ciccarello said staffing the pro se calendars takes an extra 14 hours per week beyond the normal SHC duties. Ms. Van Buren discussed quantifying the extra things the SHC does. To do the things the committee prioritized, the committee needs to take all of the attorneys full-time, which will cost about \$91,000. The committee then discussed the court budgetary process. Ms. Van Buren said she would prepare a building block request for that amount to the Council. Every year they are in existence, the numbers of people the SHC helps go up. This year, the amount will be over 21,000. Judge M. Thomas said she'd send out a follow up email about the request. Later in the meeting, the committee unanimously moved to recommend the budget request.

### **(a) Forms**

Ms. Van Buren reported on forms and the way the process can be improved. The process currently involves Ms. Van Buren, Ms. Ciccarello, and Brent Johnson meeting regularly to discuss new forms and requests for new forms. They do primarily district court forms and some appellate. The Board of District Court Judges gives its approval on the forms once they review them. Earlier this year, the Board pushed back, though, stating the belief that there may be too many forms and not enough attorneys involved. Ms. Van Buren said they have been focusing since then on updating existing forms and creating webpages that explain but don't contain forms. Ms. Van Buren mentioned the possibility of this committee instead being the approving body for the forms. There is no rule requiring the Board's approval, although they should be looped in. The forms are also used in different court levels. Committee members noted that attorneys also use the forms, not just self-represented parties. Judge M. Thomas mentioned that this effort has always been ad hoc and it may be time to formalize it. This committee is the only one that has any sort of charge about forms. In the beginning, the forms subcommittee was large but got whittled down to what it is now. The committee then discussed the upcoming paralegal practitioners, who are only going to be able to practice using court forms. Judge Lawrence offered to go talk to the Board about their concerns around the forms process.

### **(b) Rule 16 Subcommittee**

Ms. Sylvester updated the committee on the work of the Rule 16 subcommittee, whose charge came from the Paralegal Practitioner Study Committee's report. The focus is on more intense domestic case management at an early stage by having case conferences 30-60 days after an answer is filed. The subcommittee includes Commissioners Patton, Sagers, and Conklin, Judge Lawrence, Chris Martinez, Virginia Sudbury, Mary Jane Ciccarello and Commissioner Conklin's case manager, Debbie Carlsen. The two Fourth and Third District commissioners are working on a pilot project and Second District is still

assessing what it will be doing. Judge D. Thomas mentioned that he wanted to make sure there was reporting back to the Domestic Case Process Improvements Committee by the Rule 16 subcommittee. Commissioner Conklin and Ms. Ciccarello are both on each subcommittee. It was decided that Commissioner Conklin would report back.

### **(c) Lawyer Directory**

The committee discussed the new lawyer directory, which is populated with over 400 updated attorney profiles now. Several committee members have reviewed the directory and the Bar has been working with the Self-Help Center on using it for referrals. The Bar is continuing to push its members to update their profiles. Ms. Sylvester noted that the Bar is working on a big push while people are paying Bar dues to update their profiles because the login information is the same for both. All of the Bar members are part of the directory, but they need to opt in to say they are receiving clients and update their practice areas.

Ms. Sylvester also updated the committee on the Courthouse Steps Clinic, which is a AAA Taskforce project. It's now housed at the Matheson Courthouse. It's a paid clinic and the SHC has already referred a client to it. They tracked her progress and she was delighted with the experience.

Judge Lawrence reiterated his hope of having a chart of all of the pro bono and low bono efforts happening around the state. Judge M. Thomas noted that Ms. Van Buren and Ms. Ciccarello had started a document on this.

### **(3) Pro Se E-filing issue**

Judge M. Thomas said she had spoken with Ron Bowmaster, director of IT, about pro se e-filing. He said it had been on their list for a while, but they were administering e-filing according to the Council's rules. The CORIS system will be rewritten over a two year period, but their hope is to make pro se e-filing part of it. Tyler Felt came to the committee today to discuss this issue. Ms. Collins said the appellate courts will have both pro se and attorney e-filing as part of their system. Judge Lawrence raised concerns about training on e-filing for pro se litigants and the kinds of filings that may come in when it's opened up. Ms. Frank said this will involve clerks reading every pleading as it comes in, just as they are doing now. Mr. Felt expressed his concerns about pro se e-filing not being available since it creates wide gaps between those who have an attorney and those who don't in terms of access and fairness. For instance, attorneys can e-file at any time, but pro se litigants must walk into the courthouse to do so. There is also a cost issue in terms of service. The courts on the Wasatch Front don't accept emailed pleadings. Judge Lawrence noted how busy the clerks are that work for him. Mr. Felt said the technology is already available here in Utah and also in other states so that the pleadings don't have to just be emailed. Mr. Felt said he used the resources made available for attorneys to train himself on how to e-file. He requested that the committee add pro se e-filing to the strategic plan. Ms. Frank said the clerks will be spending a lot of time helping pro se litigants through this process. Mr. Felt noted that he requested that the mandatory e-filing rule be changed to allow it for pro se litigants. He's also been communicating with the Technology Committee on this issue and the General Counsel's office. Judge M. Thomas turned the question to the committee of what it would like to do on this issue. Ms. Van Buren noted that the committee could say we support pro

se e-filing in the strategic plan. Ms. Ciccarello also said it would be worthwhile to explore how much emailing of pleadings happens.

Judge M. Thomas said she would draft some proposed language for the strategic plan about these issues. Mr. Felt thanked the committee for its time and said he'd be happy to act as a resource on pro se litigant issues in the future.

#### **(4) Other Business/Future Meetings**

The next committee meeting will be August 12, 2016.

The meeting adjourned at 2:04 pm.