

Minutes of the Committee on Resources for Self-represented Parties

February 10, 2017

Members Present

Judge Barry Lawrence (chair), Christopher Martinez, Jessica Van Buren, Judge Douglas Thomas, Mary Jane Ciccarello, Shaunda McNeill, C. Sue Crismon, Professor Carl Hernandez, Judge Catherine Roberts, Judge Elizabeth Knight, Carol Frank (phone), Leti Bentley (phone), Virginia Sudbury, Susan Griffith, Jaclyn Howell (phone)

Members Excused

Tyler Cameron, Lisa Collins, Judge Douglas Thomas

Guests

Commissioner Joanna Sagers, Jacob Kent, Commissioner Thomas Patton (phone)

Staff

Nancy Sylvester

(1) Welcome, approval of minutes, recognition of exiting member, and rescheduling the April meeting.

Judge Barry Lawrence welcomed everyone to the meeting. He then entertained a motion on the minutes. Professor Hernandez made the motion and Shaunda McNeill seconded it. The December minutes were approved unanimously. He then noted that Eric Mittlestadt had resigned from the committee due to his no longer staffing the OCAP Committee and also due to the end of his term. He thanked him for his service and introduced Jacob Kent, who will be taking over for him. The committee members then introduced themselves to Mr. Kent.

The committee discussed the best date for the next meeting and settled on April 21, 2017.

(2) Recognition of Self-Help Center

Judge Lawrence next noted that the Self-Help Center had been recognized by the Moab Valley Multi-Cultural Center for the work they've done together. He congratulated the Self-Help Center for their work.

(3) Strategic Plan

Judge Lawrence raised the discussion the committee had at its last meeting regarding amending the strategic plan or acting on the current opportunities before it. He said his preference is to not amend the strategic plan at this point and instead work from the list of individual needs and opportunities.

(4) Subcommittee Updates

Judge Lawrence then went through the subcommittees listed in the meeting materials. He said he is thinking of things in terms of tangible projects that everyone could do. He asked for feedback on the reworking of the subcommittees and also asked whether anything needed to be added or deleted from the list. The committee had a discussion on the items listed.

Ms. Crismon suggested that access to justice issues may need to be better divided out and maybe a separate subcommittee. Virginia suggested that the pro se calendar may need to be its own category. Judge Lawrence noted that there are so many different pro se calendars, he asked whether we should have supervisory authority over them. Ms. Sudbury suggested that the unbundled services section could have some supervision over this.

Rule 16

Commissioner Sagers said they are working on 5 calendars and are working on adding a 6th. She said she is bringing in the double pro se cases at 90 days in, attorneys are working with them, they are finalizing paperwork, they are having mediated conferences, and doing income verification. Ms. Sudbury said it is going really well but they always need more volunteers. Com. Sagers said she thinks this is one of the more effective tools in terms of getting litigants through the process. Mary Jane tracks information on the pro se calendars. Each week, Mary Jane gets from court services a list of those cases assigned to Commissioner Sagers. Ms. Ciccarello sends the list to the clerks and they put the cases on Commissioner Sagers's special calendars if the specific indicators are present.

Ms. Ciccarello tracked July-filed domestic cases in January. In the normal course of things, these cases should have been done by January. Of 92 cases filed and assigned to Commissioner Sagers, 54 of the cases had all pro se parties (over 50% totally pro se is consistent with other statistics). Ms. Ciccarello did not track those cases where a lawyer started on the case, including those cases where one lawyer is representing a party. As of January, in 35 of 54 cases, findings and decrees had been entered. People finished. Of those 35, 16 had been asked to come to the special calendar, they came, they got help, and they finished. Many pro se's are using OCAP and never appear in court. But 16 got help. 8 are pending and had not received help. 5 cases pending where they had gotten help and mediation was occurring. There was one case where a lawyer entered on a limited scope basis, and one case where a lawyer entered and the case completely finished.

Commissioner Sagers said in the first month they did this in July, she had 15 scheduled with 4 no-shows. 11 out of the 15 submitted final documents. Four needed extensions and help with alternate service. One needed help with findings, and one needed help on divorce education. One came back and asked for help once they got stuck. Judge Lawrence clarified that this is in addition to the pro se calendars, which Commissioner Sagers confirmed was true. Commissioner Sagers said she thinks her dismissal calendar numbers are going down because they are getting help up front. She is having Rule 16 calendars once a month and only for pro se litigants. Eventually, she anticipates there will be a shift and the clerks on the frontline are going to have fewer questions. There will be fewer phone calls. Ultimately, there will be fewer minute entries saying this party needs to bring in this, or didn't do alternative service right.

Judge Lawrence asked whether this was able to be duplicated. Ms. Sudbury said yes, but there was a need for more volunteers (attorneys and mediators). Ms. Ciccarello said this has a huge impact on people's lives. They get finality and clarity on the process.

Judge Lawrence noted that this is also happening in the Fourth District and asked Ms. Griffith and Commissioner Patton to weigh in on it. Ms. Griffith said in Fourth District where there are defaults, she talks to the attorneys regarding amending the petition to make sure it's the way it needs to be. She has found through looking back at the petition that a default is not necessarily what the parties wanted and can lead to problems down the road.

Commissioner Patton said for purposes of the Rule 16 conferences, he is ignoring stipulated divorces. He assumes they are going to get through okay. But in every divorce where an answer is filed, they have a scheduling conference. If a case has at least one pro se litigant, he asks if they want to go on the pro se calendar. Commissioner Patton said Ms. Griffith's assistance in getting attorneys to the pro se calendars has been invaluable. They've been getting 90% of contested pro se divorce cases settled and on the others they are narrowing the issues and having a two hour trial, for example, on custody.

Regarding her own special calendars, Commissioner Sagers going to do one more month of this and then report back. She said the report from the Domestic Case Process Improvements Committee is due in July. One of the recommendations will be to have Rule 16 conferences in all domestic cases, which will reduce the burden on the courts and clerks over time. Commissioner Patton said the feedback from attorneys at scheduling conferences is that they appreciate it when the court tells the pro se litigant what they need to do. He said some of the challenge with a few pro se litigants is that they don't want to be divorced so they don't comply. The committee also noted that there are few mediators who volunteer in both 3rd and 4th district, which is tremendously helpful.

Ms. Crismon said down in St. George this could be duplicated because there are retired Las Vegas attorneys living down there who can volunteer through the inactive attorney rule. Ms. Griffith said in her experience there are a lot of volunteer attorneys who come back because the work is satisfying. Commissioner Patton noted that the attorneys are drafting the needed documents in court and emailing them to the clerks who are printing them out and they're getting signed right there.

Ms. Crismon said there has been a proposal to give CLE credit for volunteering, but it's not been without controversy. They hope to get 1 hour of CLE credit for 5 hours of pro bono work. This has been floated in Rule 6.1. There seems to be some traction on this after three years.

(5) Summary of New York's Court Navigator Report

Mary Jane Ciccarello gave a synopsis of New York's Court Navigator report. In essence, New York's efforts have been successful in helping pro se litigants in landlord-tenant cases. In 2014, the chief judge of New York looked at using non-lawyers to help with the high amount of pro se litigants there. Tom Clark, National Center for State Courts, and Rebecca Sandefur wrote the report and did the evaluation. This was centered in the city of New York even though it was statewide. There are over 200,000 non-payment of housing people in the system. There are housing courts there and even though the navigator is not there representing the person, they can speak for the court patron if the judge asks questions. Another type of

navigator helps with case management. The principle findings are: 1) with non-payment of rent navigators – patrons were 56% more likely to say they were able to tell their side of the story. They had better faith in the system if they got their day in court; 2) they were also 84% more likely to have defense recognized by court. The reality is if 200,000 people get evicted, they are on the streets, so there is an impact beyond the court.

With holistic case management, 0% who got helped experienced eviction. This is having a huge impact on these people in these cases. General conclusion: this is worth doing. There are limited resources, so what can be done without spending a lot of money? There is a need for ongoing supervision. Nothing can happen without a court staff person. The New York state system has administrative judges and staff attorneys staffing these programs. There are always multiple staff on site. Navigators should be supervised by on-site staff during all hours. Court staff must be educated about how this works. Other conclusions include that there is a need for better plain-language forms, and them making better known to the public. People without formal training can provide meaningful assistance to those who don't have a lawyer. The researchers recommend sustaining the program and replicating it.

Judge Lawrence asked Ms. Ciccarello whether this was something that could be duplicated here in Utah. Ms. Bentley said they are doing this down in Moab and getting more English speaking people asking for the navigator help (in the past, it's only been Spanish speakers). Even though this is the report of NY, Ms. Ciccarello said they have senior navigators in Elder courts in CA, for example, helping older people through the system. The law library here having student interns helping with OCAP is one example of a navigator in Matheson. Judge Lawrence noted that if it's successful in Moab, this should be duplicatable, especially in the rural areas where there are few lawyers. The Self-Help Center has been in Moab and done training down there at the Moab Multicultural Center. The Center is also in constant contact with the Self-Help Center, so when someone is in their office, they can get help more immediately. The training and support is very important. Ms. Bentley said they are now attracting people from Monticello, Green River, Blanding, etc. She said people are coming because they have hear about the success of the program. With the collaboration and help, it's been very successful. Mary Jane suggested bringing in the group, Grand Families, which is part of Children's Services and is a non-profit social services agency. It provides a lot of help to grand families who are raising children. The Self-Help Center is involved with them because the grandparents are having to go to court to get guardianship, for example. Wherever the Self-Help Center can train volunteers with these organizations, it is helpful.

Judge Lawrence asked Ms. Bentley for statistics, but Ms. Van Buren said she'd provide them. Judge Lawrence said he wanted to track the progress on this and asked that they be brought to the next meeting.

(6) Other Subcommittee Updates

Self-Help Center

Ms. Ciccarello noted that the Self-Help Center started a training program for the court clerks because they were asking for the assistance from the 7th district. Since e-filing, their roles are changing dramatically. They want to be relevant to the court and more helpful. Lawyers aren't at counters any more; it's only pro

se litigants. Because of the new courthouse in Price and remodeling the courthouse in Moab, they wanted to shift and reinvision how they physically relate to people coming to their counters. There would be traffic flow where there are work stations: computers, printers, telephones with privacy walls, and clerks can sit down and do OCAP, find things on website, sit with them and put paperwork together. It's fascinating that the clerks brought up that they want the barriers to come down. Regarding the self-help training program, there are 13 modules based on available materials and a self-study unit. When ready, the clerk signs up on a shared Google sheet calendar. A staff attorney or Ms. Ciccarello then calls and tests them and goes through the unit. It's not meant to be pass-fail. Clerks feel empowered. They now understand the process and pro se litigants' perspectives. Ms. Ciccarello said she just completed the virtual piece with a Moab clerk yesterday, who shadowed Mary Jane in the Center.

Another change down in the 7th District is that clerks now have laptops, which means they can shift the computer around to show a litigant what's on the screen. They also have flex time and work a day from home one day per week. A future goal is to have a pro se litigant at a work station in the 7th District courthouse connect virtually with an at-home clerk when necessary. The Self-Help Center is now training clerks in 6 of 8 districts and is particularly interested in very rural areas. Clerks are now part of the process and they are not a hindrance to the pro se litigant. They are engaging with them instead.

Self-Help Webpage

Ms. Ciccarello then went through the new Self-Help Resources webpage on www.utcourts.gov, which is much more user friendly. It has bigger icons and less white space and small print.

Outreach

Judge Lawrence discussed that there is some effort that will be made to reach out to retired and inactive attorneys and make sure they know they can participate in the pro se calendars.

Regarding parental termination cases, Judge Lawrence said Lokken and Associates, which has the Salt Lake contract in juvenile court parental termination cases, last week said they'd handle the privately initiated cases in district court if the litigant fills out the affidavit of impecuniosity. Judge Knight noted that there is a hodge podge of contracts in areas outside of Salt Lake. Ms. Ciccarello said Parental Defense Alliance may be good to reach out to. Judge Lawrence said he'd look into what the Judicial Council was doing on this issue.

AAA Taskforce

Ms. McNeill said she has statistics on how many lawyers have signed up on Licensed Lawyer. She then discussed that Ron Bowmaster, IT director, came to the last AAA meeting to talk about the ability to do remote hearings. The Bar is going to publicize this more. Ms. Sylvester discussed that there is a pilot project that will initiate in 7th district. Ron Bowmaster will talk to Terri Yelonek about the kind of cases in which it is suitable for remote hearings to happen. MJC said a list of standards is needed for dealing with remote hearings and pro se litigants. Ms. Griffith gave the example of a woman who had to appear in a modification after moving out of state following her husband almost killing her. The committee had a discussion on the need for standards since remote hearings can be prejudicial to pro se litigants. Jessica Van Buren and Susan Griffith said they would work on them for next meeting.

Rural services

Ms. Griffith talked about the Bookmobile in rural areas idea, which has stalled a bit, but is a really good idea.

Lawyer of the Day

Ms. Ciccarello discussed Lawyer of the Day program statistics. This fiscal year to date (July 1, 2016 to February 8, 2017) there were 330 referrals to the program. 28 lawyers are volunteering. Ms. McNeill is one of the volunteers.

(7) Other Business/Future Meetings

The next committee meeting will be April 21, 2017.

The meeting adjourned at 2:05 p.m.