

**MINUTES**  
**Utah Judicial Council**  
**Committee on Court Forms**  
 Administrative Office of the Courts  
 450 South State Street  
 Salt Lake City, UT 84111  
 June 10, 2019  
 12 - 2 pm  
 Judicial Council Room

**MEMBERS:            IN ATTENDANCE:    EXCUSED:**

Randy Dryer, <i>Chair</i>	•	
Kim Allard	•	
Cyndie Bayles		•
Judge Randy Birch	•	
Chris Cope		•
Guy Galli	•	
Judge Elizabeth Lindsley	•	
Kara Mann	•	
Comm. Russell Minas	•	
Nathanael Player	•	
Stewart Ralphs	•	
Judge James Taylor		•
Jessica Van Buren	•	
Mary Westby	•	

Guests:  
 Judge Barry Lawrence  
 Waine Riches  
 Annie Kaufman – Law Library  
 Intern  
  
 Staff:  
 Brent Johnson - excused  
 Minhvan Brimhall – recording  
 secretary

**I. WELCOME AND APPROVAL OF MINUTES:**

Randy Dryer welcomed the committee members to the meeting. The Committee discussed the minutes from the May 13 meeting. No revision was made to the minutes. Judge Lindsley moved to approve the full minutes. Stewart Ralph seconded the motion. The motion unanimously passed.

**II. DECLARATION SUPPORTING DEFAULT JUDGMENT FOR USE IN ALL DEBT COLLECTION CASES PROPOSAL:**

Judge Barry Lawrence is the liaison between the Third District Court judges and the Debt Collection Bar. Judge Lawrence identified an issue in Third District Court where judges were not receiving enough information from practitioners to support debt collection claims when a third party collector is involved. Judge Lawrence has asked to see the contractual breakdown between the debtor and collector, as well as between collector and third party agent to show basis for claims being filed. Some attorneys have not receptive to the request. In an attempt to create a uniformed, usable form, Judge Lawrence created an omnibus affidavit to be submitted in court that would list all claims and the amount being sought. The Debt Collection Bar did not like the form and felt it was offensive to attorneys, citing Utah Rule of Civil Procedure 11. Judge Lawrence will work on revising the form in an effort to come up with a version satisfactory to the collection bar. Once the form is ready for review, Judge Lawrence will bring it back to this committee for discussion. Judge Lawrence would recommend inviting a member of the Debt Collection Bar to be present at that meeting as well.

Mr. Dryer recommends that Judge Lawrence meet with the Board of District Court Judges for their input on any proposed changes made by the Debt Collection Bar. This committee will review the form once a consensus is reached by the Board and Debt Collection Bar.

Due to his work on debt collection cases, Judge Birch would like to be on the review committee and discussion group in working with the Debt Collection Bar. Judge Lawrence will include Judge Birch in the next group meeting.

**III. WARNING LANUAGE IN CAPTION:**

Judge Lawrence presented his idea to have the warning language for dispositive motions to be highlighted in caption. If a debt collection attorney files a motion, self-represented litigants may not know that a response needs to be filed within days, or a judgment will be entered against them. The block notice on the front of the form would provide litigants in debt collection cases the warning needed to avoid a judgment made against them.

The committee discussed that the warning is already provided in the form in both English and Spanish. Judge Lawrence is concerned that the warning on the second or last page would not be seen by the litigant who may not be paying full attention to the form. Judge Lawrence noted making his proposal mandatory will require a rule change.

The committee discussed that a rule change may be needed to require the proposed notice in the caption of the form. The committee discussed the option of created non-generic forms that would better suit the substantive context of the form. The committee determined that the Debt Collection Subcommittee will need to review and weigh in on any proposed changes to the form.

Mr. Dryer recommends Judge Lawrence's proposal be referred to the Debt Collection Subcommittee with a charge to review the form to determine if additional notice is needed in the caption, or if it could be included in the body of the form. Judge Lindsley further proposes that this committee communicate with Judge Lawrence the steps that will be taken by the subcommittee in reviewing his proposal and asks that if he is planning to present his proposal to the rules committee. This committee will share any recommendations made by the subcommittee with the rules committee. With no further discussion, Nathanael Player seconded Judge Lindsley's motion. The committee unanimously voted to approve.

**IV. SIGNATURE BLOCK:**

Kim Allard proposes a new signature block for LPP forms in which the party needs to attest to the truth of the statement, and the attorney or LPP would also sign the document. The signature block would be used as a style guide on appropriate LPP forms. The signature block would allow for LPP's and attorneys to sign the document as the preparer of record. Self-representing litigants would still sign the form on their own behalf.

The committee discussed and made recommended language changes to the document. With no further discussion or additional changed, Mr. Ralphs moved to approve with the recommended changes. Judge Randy Birch seconded the motion. The motion was unanimously approved.

**V. SETTLEMENT AGREEMENT FORMS:**

• **Settlement Agreement - Debt Collection cases:**

- Mr. Player reviewed the settlement agreement for debt collection cases. The LPP Committee asked this committee to prepare separate settlement forms for debt collection cases and eviction cases that LPPs could use in settlement cases.

With no further discussion, Mary Westby moved to defer the form to the Stylistics Committee for further review as it applies to use by LPP's. Stewart Ralphs seconded the motion. The motion was unanimously approved.

• **Settlement Agreement – Eviction cases:**

- No action was taken at this time as the form has been referred to the Stylistic Committee for further review.

**VI. MOTION TO SET ASIDE DEFAULT OR JUDGMENT , ORDER ON MOTION TO SET ASIDE DEFAULT OR JUDGMENT:**

○ **Motion:**

- This is an updated version of an existing form. LPPs specifically requested this form. The committee discussed minor language changes and formatting of the form.

With no further discussion, Mr. Ralphs moved to approve the form as drafted by the committee. Commissioner Minas seconded the motion. The motion was unanimously approved.

• **Order:**

- The committee discussed the order. With no concerns or recommendations for changes, Mr. Ralphs moved to approve the form. Commissioner Minas seconded the motion. The motion was unanimously approved.

**VII. MOTION TO DELAY ENFORCEMENT OF JUDGMENT, ORDER ON MOTION TO DELAY ENFORCEMENT OF JUDGMENT:**

○ **Motion:**

- The committee discussed and made recommended changes to this form. The committee discussed removing the word “expedited” in the text body of the form as it would not be applicable in this motion.

With no further discussion, Mr. Ralphs moved to approve the form as drafted by the committee and the removal of the word “expedited”. Ms. Westby seconded the motion. The motion was unanimously approved.

● **Order:**

- The committee discussed the order. With no concerns or recommendations for changes, Stewart Ralphs moved to approve the form. Guy Galli seconded the motion. The motion was unanimously approved.

**VIII. ADDITIONAL OCAP DOCUMENTS:**

These are the last set of OCAP divorce forms that have not been reviewed. This committee will review the certification of readiness for trial, proposed settlement, and motion for leave to amend as the first items at the next meeting.

Items for discussion only: Ms. Allard asks for this committee to decide if the documents should be kept or removed from the series.

- Affidavit of jurisdiction and grounds for divorce – The committee discussed whether the affidavit is required by statute and could be included as part of the divorce petition. Ms. Westby moved to refer to the Stylistics Committee for review of statutory requirements. This committee will review the document at another time. Judge Birch seconded the motion. The motion was unanimously approved.
- Income verification and compliance with child support guidelines – The document is meant to be used a proof of income in child support cases. The documents have been included in the stack of forms that are being submitted but may not be properly filed. No concerns were raised by the committee and no recommendation for changes was proffered. With no further discussion, Mr. Ralphs move to refer the document to the stylistic committee for review. Mr. Galli seconded the motion. The motion was unanimously approved.
- Motion to make military retirement order a private record – The federal government no longer requires social security document to be listed on private documents. By removing the social security number in its entirety, the document can be classified as a public document. The committee recommended including at least the last four digits of the security number on the document as a means to remain in compliance with rule 4-202 identification purposes, and no action is needed to move on motion to make document classified. Mr. Player moved to remove this document from the list of required OCAP documents. Mr. Ralphs seconded the motion. The committee unanimously approved the motion.

**IX. OCAP POLICY BOARD SUBCOMMITTEE REQUEST:**

Due to time constraint, this item will be reviewed at the next meeting.

**X. ADJOURN:**

With no further discussion, the meeting was adjourned without a motion. The meeting adjourned at 2:11 pm. The next meeting will be on July 8, 2019, from noon to 2 pm in the Judicial Council Room.