

# Utah Supreme Court's Task Force on Regulatory Reform

Meeting Minutes  
February 5, 2020  
Scott M. Matheson Courthouse  
Judicial Council Room, Suite N31  
450 S. State Street  
Salt Lake City, UT 84111  
3:00 p.m.–4:30 p.m.

## **Attendees:**

Justice Deno Himonas, Co-Chair  
John Lund, Co-Chair  
Larissa Lee  
Justice Christine Durham (Ret.)  
Thomas Clarke  
Lucy Ricca  
Heather Farnsworth  
Rebecca Sandefur  
Margaret Hagan  
Dean Gordon Smith  
Steven Johnson  
Heidi Anderson, Chief Information Officer, Administrative Office of the Courts  
Nathanael Player, Self-Help Center Director, State Law Library  
Brody Arishita, Application Services Manager, Administrative Office of the Courts

## **Excused:**

Gillian Hadfield

## **Staff:**

Tyler Hubbard  
Marina Kelaidis, Recording Secretary

## **Guests:**

Mike Harmond, Law Clerk, Supreme Court

1. **Welcome, introduce new members, and approve January 22, 2020 minutes:** (John Lund)

John Lund welcomed everyone to the meeting and welcomed the Task Force's new members: Heidi Anderson, Brody Arishita, and Nathanael Player. Each new member introduced themselves to the committee and gave a brief overview of their backgrounds working for the court.

*Justice Christine Durham moved to approve the January 22, 2020 minutes. Justice Deno Himonas seconded the motion, and it passed unanimously.*

2. **Discussion—Update on applicants/interest:** (Larissa Lee)

Larissa Lee reported that there has been a continued increase in interest expressed via the "Connect" tab of the Task Force website. As of this morning, there are 22 individuals

and/or groups who have expressed interest in participating in the sandbox and 50 individuals and/or groups who have signed up for updates. Ms. Lee reminded the committee that data received from the Connect tab is logged into a Google Sheet, which all Task Force members have access to on Google Drive.

Ms. Lee asked the committee to discuss how often the Task Force should be sending out email updates to those that have signed up for updates on the website. Justice Himonas recommended sending updates possibly twice a month. In addition, Justice Himonas suggested sending an update this week that includes the addition of the new Task Force members (Heidi, Brody and Nathanael) and a review of the recent data workshop. John Lund suggested also including the details of the next workshop scheduled for April 8<sup>th</sup> at CodeX. Mr. Lund also suggested including the new rules and Standing Order No. 15 in a future email update once they become effective. Justice Himonas recommended including a discussion on subject matter for email updates as a regular agenda item for future Task Force meetings. Tyler Hubbard will prepare an email update and send to Larissa Lee to distribute to subscribers.

3. **Discussion & Action—Notice and Application Form drafts:** (Lucy Ricca, Tom Clarke, Rebecca Sandefur)

Lucy Ricca presented the Notice and Application Form drafts to the Task Force and informed the committee that each complies with the proposed Standing Order No. 15. Ms. Ricca is working with Brody Arishita, Heidi Anderson and the court's IT department to put these forms on the website as well as make them more user friendly for entering data into each field. One of the goals of the application form is to identify and understand markers for potential risk, and to whom, which will allow the data team to create a risk matrix for sandbox proposals.

Justice Durham suggested both forms allow for more than one selection of target markets, in the event that a proposal may be targeting both individual and corporate consumers. Justice Durham also asked for the committee to discuss alternative phrasing for “inaccurate or inappropriate legal result” referenced in question 20 of the Application Form. Justice Himonas recommended replacing this phrasing with “inappropriate or otherwise flawed legal result,” to which the committee agreed. John Lund recommended that this wording would also need to be changed in the data collection document to remain consistent. Heidi Anderson asked the committee if there is a benefit to identifying the difference between “other” and “professional” on the Application Form, question 8.

Steve Johnson asked the committee to discuss if it would be pertinent to include a disclaimer either on the website or in the Standing Order informing sandbox participants that they are required to also maintain their other applicable professional licenses when operating within the sandbox to provide any kind of service or product. Larissa Lee

reported that she has received questions regarding this requirement and supports including this information wherever possible.

Justice Himonas recommended for Ms. Ricca to update the forms with the recommendations made and for the committee to continue to comment and revise the forms over email once the Standing Order becomes effective. Mr. Lund reminded the committee that an assertion of confidentiality must be made to sandbox participants that the information they are providing to the Task Force will remain confidential and only used for the evaluation of their participation. Justice Himonas proposed that confidentiality be addressed in the Standing Order.

4. **Discussion—Update on rules, standing order, legislative efforts, and AZ poll results:**  
(Justice Himonas and Lucy Ricca)

Steve Johnson reported that the Advisory Committee on the Rules of Professional Conduct recently met and made proposed changes to Rule 5.4A and Rule 5.4B. 5.4B is intended to be a substitute rule that will allow for the committee to make changes to the rules on a rolling basis depending on the success of the sandbox. Mr. Johnson also reported that the Rules Committee reviewed advertising rules 7.1-7.5 which were combined into a single rule under Rule 7.1. Mr. Johnson anticipates that with the progress made by the Rules Committee, Rules 5.4A and 5.4B will likely go out for public comment at the same time as Standing Order No. 15.

Justice Himonas reported that the Chief Justice highlighted the efforts of the Utah Implementation Task Force on Regulatory Reform in the State of the Judiciary Address before the Utah Legislature on January 27, 2020. Each of the Supreme Court Justices has also offered to make themselves available to field any questions on regulatory reform in Utah.

Justice Himonas reported that he has received the results of the Arizona poll and will disseminate them via email to the members of the Task Force for further review. Justice Himonas gave a brief overview of the poll results and recommended that these results can be used for the Task Force's purposes. A separate Utah poll is not necessary.

John Lund reported that in working with Lucy Ricca and Walter Montgomery on developing communication strategies, he has identified a need for representation of consumer opinion on regulatory reform, in addition to the representation lawyers are currently receiving. Mr. Lund asked the committee to discuss strategies for gathering more consumer responses to regulatory reform. Nathanael Player suggested organizing consumer focus groups for gathering and addressing consumer responses. Mr. Lund suggested for the Task Force to connect with more organizations in the Utah community outside of legal organizations. Heidi Anderson suggested creating a Facebook poll to reach a larger population of survey participants. Ms. Anderson explained that such a poll

would need to be curated by the Court's Facebook page, or the Task Force would need to create its own page.

Lucy Ricca reported that she, Tom Clarke, and Rebecca Sandefur participated in a teleconference with Anna Carpenter and Alyx Marx addressing benchmarking data and what additional data may be gathered. Ms. Ricca will draft a document listing more options for benchmarking data to the Task Force before the next meeting. Additionally, Ms. Ricca is working on drafting a Q&A outline for responding to common questions received from the public and/or media regarding regulatory reform in Utah. Ms. Ricca asked Task Force members to send her some of the common questions they have received that would be helpful to include in the Q&A outline.

5. **Discussion—Update on data workshop and other outreach efforts:** (Lucy Ricca, John Lund)

Ms. Ricca reported that the data workshop was overall very successful. They did not receive much resistance to collecting the data requirements outlined, as the workshop attendants felt that they were obtainable. However, the attendants did voice concern regarding gathering consumer demographic data and recommended for demographic data to be collected by the Task Force. John Lund agreed that this is a legitimate concern and that demographic data should be gathered by the oversight board instead. Tyler Hubbard reported that there was some assumption among the attendants that participation in the sandbox was intended to be only for litigators, to which they had to clarify that it is designed to be open to all individuals/groups. The next workshop is scheduled for April 8, 2020 at CodeX.

John Lund asked the committee for additional ideas on outreach efforts and methods. Margaret Hagan suggested that there is opportunity to present the sandbox at the upcoming SLRN conference in early March, and other similar conferences with similar attendees. Ms. Hagan suggested that it may be possible for Task Force representatives to be shoehorned into upcoming conferences/workshops by offering focus groups, dinners, etc. for events for which they cannot get on the agenda. Tom Clarke presented a concern that the kinds of organizations that may produce the most innovative ideas may not be attending these kinds of conferences. Mr. Clarke suggested creating some materials that are targeted at non-legal providers to help cultivate the message that their ideas and innovations are welcomed in the sandbox. John Lund, Lucy Ricca, and Mr. Clarke will connect with Walter Montgomery to further explore expanding outreach efforts and devise an execution plan.

Justice Durham reported that she has been asked to write an article for Adjudicature Magazine addressing regulatory reform in Utah. Justice Durham will co-author the piece with other members of the Task Force.

6. **Update on grant proposal:** (Larissa Lee, Mike Harmond)

Mike Harmond reported that the grant proposal has been submitted to the State Justice Institute. The proposal will go before the SJI board in March 2020 and it will go before the Judicial Council later this month. After the Judicial Council approves, the proposal will be forwarded to the Utah Legislature.

7. **Other business:** (all)

Heather Farnsworth reported that the Utah State Bar's Reform Committee has expressed some concern regarding potential conflicts of interest between members of Task Force and sandbox participants. Ms. Farnsworth suggested the Task Force organize a meeting with the Bar's Reform Committee to help connect these two groups and increase the communication with the Bar. A joint meeting was scheduled for Tuesday, February 18 from 5:00-6:00 p.m. at the Utah State Bar's building.

8. **Adjournment and next meeting:** (all)

The meeting adjourned at 4:30 p.m. The next meeting is scheduled for February 19, 2020 for 3:00-4:30 p.m.