



Utah Supreme Court's Task Force on Regulatory Reform

Approved Meeting Minutes

April 29, 2020

Zoom Conference

3:00 p.m.–4:30 p.m.

Attendees:

Justice Deno Himonas, Co-Chair
John Lund, Co-Chair
Steven Johnson
Justice Christine Durham (Ret.)
Gillian Hadfield
Nathanael Player
Lucy Ricca
Dean Gordon Smith
Larissa Lee
Rebecca Sandefur
Heather Farnsworth
Margaret Hagan
Thomas Clarke

Excused:

Heidi Anderson
Rep. Brady Brammer
Brody Arishita

Staff:

Tyler Hubbard, Law Clerk, Supreme Court
Michaela Choppin, Recording Secretary

Guests:

Jason Velez, 1Law

1. Welcome and approval of April 15, 2020 minutes: (John Lund)

John Lund welcomed everyone to the meeting and asked for approval of the minutes.

Steven Johnson moved to approve the April 29, 2020 minutes. Justice Himonas seconded the motion, and it passed unanimously.

2. Discussion—Update on publication of rules and standing order; need to modify the UPL provision; grant approval and search for Project Manager, Economist, and Data Analyst (Justice Deno Himonas, Larissa Lee, Lucy Ricca, and Tom Clark)

Justice Deno Himonas reported that the Standing Order was published on Friday, along with a press release. The Standing Order will be out for comment for 90 days. Informal comments have been received indicating that there may need to be changes to the “Unauthorized Practice of Law” (UPL) definition. John Lund inquired what those changes would look like. Larissa Lee

explained potential edits that have been made to Rule 14-802. Edits have been made to the beginning of the rule, which would now cite paragraphs (c), (d), and (e). These paragraphs include information about Licensed Paralegal Practitioners, other exceptions and exclusions, and the Legal Sandbox. The most substantive edits would be in paragraph (e); this paragraph would exclude both those participating in the Sandbox and those who have been approved to exit the Sandbox to practice law.

Justice Himonas asked everyone what they thought about the language and the timing of making a change to the rule. Mr. Lund agreed that the language seemed to be straightforward and follows the same pattern as implemented with Limited Paralegal Practitioners. In regards to timing, Mr. Lund inquired if it might not be the best timing to confuse things with another rule change. Justice Himonas replied that this rule change would not be controversial if the decision to move forward with the Sandbox is formalized. For now, the Rule could be left alone until more inquiries are received. Otherwise, Justice Himonas stated that the rule change can be adopted and put out for public comment at the same time. Lucy Ricca pointed out that there is language in the Standing Order that authorizes Sandbox participants to practice law on a temporary basis, possibly making the change a non-issue.

Justice Himonas reported that the grant approval was received today from the State Justice Institute. Additionally, the Judicial Council voted to accept those funds. That approval will also apply towards the online dispute resolution program. The next step is to notify the Legislature, which will be done by Ms. Lee.

Justice Himonas stated that the next step for the Task Force is to look for a project manager, an economist, and a data analyst. These positions are needed in addition to the roles already filled by Lucy Ricca and Tom Clark. The three new positions will need to be put out for bid.

3. **Discussion**—Communications Outreach and proposed Q and A (John Lund, Lucy Ricca, and Rob Jepson)

Lucy Ricca reported that she has seen two articles from the ABA Journal and Law 360, which had positive, even-keeled reporting. Ralph Baxter will be sending materials to Above the Law and American Lawyer and we will see what comes from that.

Heather Farnsworth shared that she would be meeting with Bar Reform Committee later in the day. Justice Himonas suggested a joint meeting with the Committee if they have a lot of questions.

John Lund added that he will meet with the Young Lawyers Division tomorrow with Justice Himonas. Justice Christine Durham stated that she had made contact with the Women Lawyers Board and it is under advisement as to what kind of forum can be created. Nathanael Player reported that he reached out to Utah Legal Services, Legal Aid Society, Disability Law Center, the Timpanogos Legal Center, and some other groups. Mr. Player has found that there are also concerns from a group of lawyers on Facebook, who are worried that the value of their services will be devalued in this context. Justice Himonas replied that it might be best to create

educational sessions for small firms, solo-practitioners, and mid-sized firms. From what the Task Force has heard from potential Sandbox participants, those companies are often lawyer-driven and offer additional opportunities for attorneys.

Justice Himonas will be presenting to the Utah Association of Justice next week. The Task Force is also reaching out the University of Utah faculty to facilitating something there. Dean Gordon Smith added that it would be worthwhile to facilitate the same thing at Brigham Young University. Mr. Lund responded that representatives from the University of Utah have asked about how they can facilitate things locally. It was suggested that they think about rural practitioners and how they might be able to help those people with strategies to better help their clients with technology.

Ms. Ricca added that a workshop is being planned. It will be online and will discuss the proposed structure of the Sandbox, the application process, possible models, and the data. It would be helpful to have at least one session like that and more if there is additional interest.

Mr. Player shared that there is support within legal aid groups to train workers in Domestic Violence Shelters with giving legal advice regarding protective orders. This concern is very timely because of COVID-19, but is also applicable in the future. Justice Durham added that it might be beneficial to reach out to housing advocates as well.

Justice Himonas inquired if anyone would be interested in writing an Op-ed discussing access to justice issues. Ms. Ricca added that a piece by Ms. Farnsworth and Justice Durham or by Justice Durham and Chief Justice Durrant would be great.

4. **Discussion**—Attracting and piloting COVID-19 participants

Justice Himonas stated that the Task Force is in a great position. The Task Force has funding, so now we can advertise for positions and work on finding successful participants who can highlight the value of the project. Ms. Ricca added that a decision-making process outline has been created. The next step is to meet with Heidi Anderson's group and discuss software. Ms. Ricca asked how the Task Force can frame what the scope of what it means to be COVID-19 related, as additional clarity around what a COVID-19 application means would be beneficial. Justice Himonas responded that he would be reluctant to do that, because almost everything that is related to access to justice, is also related to COVID-19. Mr. Lund added that some providers may offer a break in costs or free COVID-19 related services; the nature of the service would not change, but the accessibility in price would change.

Ms. Lee reported that one interested applicant is scheduled for tomorrow. There has been a sizeable jump in the number of people that are interested in email updates. Now would be a good time to send out another email asking if anyone else is interested in presenting for the Task Force. Tyler Hubbard drafted an email regarding the Standing Order and interested COVID-19 applicants that will be reviewed and possibly sent out.

5. **Discussion**—Old business/new business (all)

Justice Himonas discussed reaching out to Heidi Anderson and her team about being GDPR compliant. Currently, the comments page cannot be accessed by many people outside of the United States.

6. **Adjournment and next meeting:**

The meeting adjourned at 3:51. The next meeting will be held on May 13, 2020 from 3:00–4:30 p.m. via Zoom.