



Utah Supreme Court's Task Force on Regulatory Reform

Meeting Minutes
May 27, 2020
Zoom Conference
3:00 p.m.–4:30 p.m.

Attendees:

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

Excused:

Rep. Brady Brammer

Staff:

Tyler Hubbard, Law Clerk, Supreme Court
Helen Lindamood, Intern, Reg Reform TF

Guests:

Kim Paulding, Ex. Director, Utah Board
Foundation (UBF)
Lori Nelson, Board President, UBF
Peggy Hunt, Board Vice President, UBF
Shawn Teigen, Study Administrator, UBF
Kai Wilson, Study Consultant, UBF
David McNeil, Data Expert, UBF
Stacy Butler, Director, Professor, Innovation
for Justice at University of Arizona
Jason Velez, 1Law
Tyler Felt

1. Welcome and approval of May 13, 2020 minutes: (J. Himonas, John Lund)

J. Dino Himonas welcomed everyone to the meeting and introduced, guests, Kim Paulding, Executive Director of the Utah Board Foundation, and Stacy Butler, Director of Innovation for Justice Lab at University of Arizona. He then asked for an approval of the minutes.

Steven Johnson moved to approve the May 13, 2020 minutes. Ms. Farnsworth seconded the motion, and it passed unanimously.

2. Discussion - Guest Speaker, Kim Paulding and Stacey Butler, speaking about the work at the Innovation for Justice Lab at the University of Arizona and Answering Task Force Questions about the Recent Access to Justice Report conducted by the Utah Bar Foundation

Ms. Butler introduced herself and her attending colleagues: Lori Nelson, Peggy Hunt, David McNeil, Kai Wilson, and Shawn Teigen.

Ms. Butler introduced herself. As the director for the Innovation for Justice Lab at University of Arizona, she works on legal access research and regulation reform in Arizona, similar to the work of the UBF and the Task Force. Most recently, her focus has been in the field of domestic violence, studying the gaps in legal services and how to fill them. Currently, she is working to supplement regulation on proposed licensure for domestic violence advocates. As a result of her recent research, a pilot has been implemented running a random control trial to see if the proposed legal certification for domestic violence advocates makes a significant improvement in access to justice.

Ms. Butler is interested in running similar program for Medical Debt. According to her research, medical debt is about 50% of debt and there is additional interest in light of COVID-19. Ms. Butler plans to begin data gathering in the fall, with goal to start implementing changes with community leaders in Spring 2020 based on her research. Ms. Butler joins the meeting today as she is interested in running project with a partner entity in Utah after her initial research this Fall.

Ms. Paulding reminded the Task Force of the publication of the recent access to justice report. UBF is currently seeking grants for reforms targeted at debt and eviction related legal issues, the most pressing issue for low income Utahans. She opened the floor to questions from the Task Force about the report.

- To determine what went into “Financial Problems” umbrella, UBF used previous justice gap report and compared with similar reports conducted in previous 4-5 years to create a category that could be quickly included in phone surveys for efficiency.
- When surveyors talked to people about financial issues, did we get any more specific information about where these issues stemmed? The report drilled down on medical and financial issues but did not examine more specifically what the source of these financial issues were.
- UBF cannot extrapolate from the survey what portion of the debt found was medical debt because the survey is already completed. Best approach moving forward is to look at Ms. Butler’s data and assume that this trend persists nationwide. Kaiser Foundation reports 52% of debt collection actions contained medical debt.
- The report found that eviction was correlated to poverty. UBF had non-random study to survey persons who had previously sought low-cost legal services. Persons above 200% poverty line less likely to report eviction issues. Anticipating this becoming more of an issue in light of COVID-19 as governors’ moratoriums on evictions are

not extended. Local orgs expressed significant frustration, landlords not cooperating with tenants to access other government funding such as UT's rental assistance fund. This impacts under 200% poverty persons most significantly.

UBF top goal is trying to find ways to address financial needs and legal issue, seems to be the same page for the Task Force. Attorneys cannot volunteer away the justice gap issue. Pro Se calendar fund includes a paid attorney at every family law pro-se hearing in addition to volunteer attorneys. Perhaps a modelling solution after Ms. Butler and her colleagues have in Arizona would be effective in areas such as housing and debt.

Ms. Hunt suggested it would be ideal to coordinate these services better and more effective and support long term community change. Medical data is lumped in with other sources of debt but the medical bills are often is what "tips the scale" for bankruptcy. Ms. Butler asserted her data indicates support for this claim but would need to confirm.

J. Himonas expressed hope that there will be projects that are a good fit for the sandbox that Ms. Butler and Ms. Paulding would not otherwise be able to facilitate and extended an invitation to UBF and Ms. Butler to attend presentations from applicants.

Mr. Clarke brought up the aim in regulatory reform is to create better services, but we should be cautious about creating new certified roles for every service provided. The cost for such systems could be prohibitive and leave consumers frustrated by seeking services but only having some of needs met from one professional. Ms. Butler explained that the goal is to build programming that empowers professions to seek solutions to problems in various legal areas, but due to COVID-19, forced to pick one priority, medical debt most aligned with the pressing pandemic needs. J. Durham noted the Task Force should consider a template for certification creation moving forward so as to avoid the challenge Mr. Clarke mentioned. Ms. Hagan mentioned the work of Legal Link in California, which involved training social providers without legal services in their packages to help better screen clients for legal referrals.

3. Discussion—Communications Outreach and Potential Presentations (John Lund, Lucy Ricca, Rob Jepson, J. Durham, and J. Himonas)

The Task Force is continuing to coordinate CLEs for Women Lawyers of Utah, Bar's Young Lawyer's division, Non-Profit Lawyers, potentially consolidated the events to prevent fatigue.

J. Durham noticed critiques coming from mainstream, high level professionals. Some people in the bar with extensive UTSC practice are concerned that raising their concerns about the proposed rules changes would be detrimental to their legal careers. Currently, the comment form requires either name or email even if commenting anonymously. The Task Force discussed potential solutions, including gathering confidential information separately from the public comment function to bring to Task Force, would allow for more input and give Task Force opportunity to truly address all concerns. It is important to bring in other reasons people are

unwilling to express concerns, technical access, quiet voices, etc., to further address concerns, particularly business concerns as compassionately.

There is an upcoming presentation to University of Utah's professors in works with Anna Carpenter

The Task Force is considering additional Q&A session for the Bar, perhaps a smaller discussion panel with law community members more skeptical of the proposed changes.

4. Discussion—Applications (J. Himonas, Lucy Ricca, John Lund, and Tom Clarke)

The Task Force has received six applications so far. The small review group (Mr. Lund, Ms. Ricca, Ms. Lee, Ms. Sandefur, Mr. Clarke) is reviewing applications on a rolling basis, with the goal to bring two applications for full review by next week. The small review group is also discussing how to uniformly evaluate applicants and craft a decision tree.

Ms. Ricca plans to update the application for the Sandbox's full launch to prevent reoccurring gaps in applications. This may include building a "model" application to help participants understand what the Task Force is looking for when discussing risk.

The small review group has also been discussing how much data to collect from participants who only seek to change ownership structures without otherwise innovating legal services. For now, erring on the side of more description for court review that may be needed, say, in 12 months so as to support J. Himonas in the review with the court. Full Task force may need to be flexible in reviewing applications to go before the Supreme Court as the Court's scheduled conferences currently are scheduled the morning before bi-weekly Task Force meetings.

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

Ms. Ricca confirmed the small group is finalizing feedback for the first of the most complete applications. She anticipates these applications will be ready for full Task Force review next week.

Ms. Anderson said things are moving along with the sandbox. There is no additional news but will look into adding "(optional)" text on the original comment form to encourage anonymous comments.

6. Adjournment and next meeting:

The meeting adjourned at 4:21. The next meeting will be held on June 10, 2020 from 3:00–4:30 p.m. via Zoom.