



Utah Supreme Court's Task Force on Regulatory Reform

Meeting Minutes
June 10, 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.)
Dean Gordon Smith
Brody Arishita
Gillian Hadfield
Heather Farnsworth
Margaret Hagan
Larissa Lee
Lucy Ricca
Nathanael Player
Rebecca Sandefur
Thomas Clarke

Excused:

Steven Johnson
Rep. Brady Brammer
Heidi Anderson

Staff:

Tyler Hubbard, Law Clerk, Supreme Court
Helen Lindamood, Intern, Regulation
Reform Task Force

Guests:

Jason Velez, 1Law
Tyler Felt

1. Welcome: (John Lund)

Mr. Lund welcomed everyone to the meeting. The approval of the minutes was postponed to the private meeting as J. Himonas was not yet present.

2. Statewide Survey of Public on Ethics and Communications Outreach (John Lund, Larissa Lee, Heather Farnsworth)

Last week, Task Force members, Ms. Lee and Ms. Farnsworth, held meetings with the Bar and the Bar Commission. The Bar is still gathering input in the form of polling from various groups within the Bar. They are not ready to make an official comment until they receive more input. Ms. Farnsworth is under the impression that the Bar intends to support the Task Force's efforts

with some recommendation to consider a sunset provision and additional recommendations for access to justice.

The Task Force is also continuing to work towards additional events, including J. Durham's effort to schedule an event with the Women Lawyers of Utah. Mr. Lund will discuss with Mr. Jespersen and Ms. Ricca on an additional general event which will include some generalized info on the applications the Task Force has received so far. The intent is to demonstrate the small business type applications make up the bulk of potential Sandbox participants. Further, the ultimate goal is to drum up support, even qualified support, as the comment period comes closer to ending on July 23, 2020.

The Task Force is now considering efforts to get more input from the public, rather than just the legal community. J. Himonas discussed with Shawn Teigen what his group would be able to accomplish in polling data, the potential budget, and time frame. Moving forward with this effort would include Task Force approval, acquiring funding, a Request for Proposal, and Task Force assistance in formulating poll questions. J. Himonas believes that getting this information would be very valuable to the Task Force. The polling questions could include asking about what kinds of alternate services like those permitted in the Sandbox that consumers would be interested in purchasing.

Ms. Ricca brought up continuing efforts to engage potential applicants in the rural/less populous areas. Ms. Farnsworth mentioned that the Small Firms Section of the bar may be the best route to accomplish this. Reaching out to districts of the Pro Bono group may also be a good effort. Mr. Lund is also creating a true/false style information quiz which the Bar seems willing to circulate.

J. Durham reminded the group that Washington State recently ended their certification program aimed at access to justice and recommended that the Task Force understand the details of ending the program so as to counter any criticism of the Utah initiatives.

3. Discussion—Applications (Lucy Ricca, John Lund, and Helen Lindamood)

There are seven applications in progress at the time. The Task Force discussed the first application on which they will be making a recommendation to the Supreme Court in the private portion of the meeting. One application has been postponed to the full launch of the Sandbox as it is not appropriately related to legal issues posed by COVID-19. The small group is in talks with three applicants to flesh out their applications. Two new applications were received this week which Ms. Lindamood anticipates the small group will begin reviewing in their Friday meeting. Ms. Ricca and Ms. Lindamood are also continuing to work on an updated application form to address the gaps in applications so far received.

4. Adjournment and next meeting:

The public meeting adjourned at 3:28. The next meeting will be held on June 24, 2020 from 3:00–4:30 p.m. via Zoom.

5. Private Meeting: Discussion of Sandbox Application 0002 and the Draft Recommendation to the Supreme Court (Lucy Ricca and John Lund)

Ms. Ricca briefly introduced the circulated application received and recommendation drafted by the small review group (Mr. Clarke, Ms. Lee, Mr. Lund, Ms. Ricca, and Ms. Sandefur).

The small group is recommending that the Supreme Court authorize the applicant to enter the Sandbox to give legal services from a business entity which is not entirely owned by attorneys and to use to technology to supplement the legal advice offered. The small group determined that the application should be admitted under the early admittance to the Sandbox because the applicant is ready to execute their proposed service. Further, the services the applicant intends to offer are particularly beneficial to consumers most affected by the COVID-19 pandemic because the applicant will be offering services related to housing and employment at a rate lower than those currently otherwise available. The drafted recommendation includes the small group's evaluation of the risk posed by the proposal as well as the requirements on data reporting, expert review of initial services, and consumer disclosures. Mr. Lund clarified that the requirements in the applicant's recommendation were built around the specific areas of law which the applicant is seeking to offer services in within the Sandbox.

The Sandbox discussed and confirmed that their recommendation to the Supreme Court is only for the services they have specifically outlined. Assuming the Supreme Court authorize the applicant's proposal, should the business model or scope of services which the applicant would like to offer in the Sandbox change, she would need to seek new or additional authorization from the Supreme Court. Should an admitted applicant perform legal services beyond those specified in the authorization, she would be subject to the standard penalties and consequences of unauthorized practice of law as they are currently executed outside of the Sandbox.

Mr. Player moved to approve discussed adjustments to the small group's draft of the requirements of the applicant on expert review of initial services. Dean Smith seconded the motion, and it pass unanimously.

Dean Smith moved to approve and advance the recommendation to the Supreme Court with added language to clarify that the scope of the authorization is limited to that in the recommendation and clarification the Task Force is requesting all the applicant's consumer complaint data if authorized. J. Durham seconded the motion, J. Himonas abstained, and it passed with no objections.

J. Himonas moved to approve the May 27, 2020 minutes. Mr. Lund seconded the motion, and it passed unanimously.

6. Adjournment:

The private meeting adjourned at 4:19 p.m.