

UTAH STATE BAR COMMISSION MEETING

MINUTES

Friday, August 26, 2022

Law and Justice Center

AGENDA

In Attendance: President Kristin “Katie” Woods, President Elect Erik Christiansen, and Commissioners Tom Bayles, Traci Gunderson, Matt Hansen, Chrystal Mancuso-Smith, Mark Morris, Andrew Morse, Shawn Newell, Cara Tangaro, and Tyler Young.

Ex-Officio Members: Nate Alder, Kim Cordova, Cedar Cosner, Dean Elizabeth Kronk-Warner, Camila Moreno, Allison Phillips Belnap, Margaret Plane, and Dean Gordon Smith.

Not in Attendance: Commissioners Rick Hoffman, Greg Hoole, Beth Kennedy, and Marty Moore, and Ex Officio members Past-President Heather Thuet, Shalise McKinlay, Brittany J. Merrill, and Gabriela Mena.

Also in Attendance: Executive Director Elizabeth A. Wright, General Counsel Nancy J. Sylvester, Utah Court Representative Nick Stiles.

1. President’s Welcome and Reports: Katie Woods

1.1 Report on National Conference of Bar Presidents Meeting: Katie Woods

Ms. Woods reported that Elizabeth Wright, Nate Alder, Kim Cordova, Erik Christiansen, Camila Moreno, and Ms. Woods attended the ABA Conference in Chicago in August. She reported that it was very helpful to gather with other Bar leadership. Ms. Wright noted that it has been valuable to attend to network and discuss issues facing Bars across the country. Ms. Cordova noted that the ABA passed a resolution reaffirming the importance of the practice of law being limited as much as possible to lawyers. Ms. Moreno reported on the YLD meetings (hybrid). Ms. Alder noted that states in the west are viewed as more creative and innovative. Mr. Alder spoke further about Resolution 402. Mr. Alder noted that the ABA created a center on innovation to help lawyers be more innovative to get ahead of the large legal tech. ABA Resolution 402 says that non-lawyer ownership is anathema to the practice of law. He noted that the CCJJ several years back said that

they wanted states to innovate. There was a compromise struck.

Mr. Morris observed that Utah does not align itself with all the ABA's position. He also observed that the notion that innovation is bad is problematic.

1.2 Retreat Reminder – October 14-15: Katie Woods

Ms. Woods reported that the Commission's next meeting will be at the S. J. Quinney College of Law. A future meeting will be held at the J. Reuben Clark Law School. After the meeting, there will be an opportunity to mix and mingle with students.

Ms. Woods noted that the October meeting will be a retreat right outside of Zions National Park. The retreat kicks off on Friday, October 14th at 1 p.m. Saturday, October 15th, will be a program from 9 a.m. to 12 p.m. This will be a team building exercise. There will also be a communication strategy discussion.

Ms. Woods further reported that November 4th is the Fall Forum, with Governor Cox as the lunchtime keynote speaker, and that November 15th is tentatively the Legislator Breakfast.

1.3 Report on Mental Health Provider Review: Andrew Morse & Martha Knudson

Ms. Woods reported that the contract is up with Blomquist Hale and the Commission is studying vendors. She asked that Mr. Morse and Ms. Knudson report on the study effort. Mr. Morse reported that the committee is studying what would be best moving forward for well-being and the Bar. He noted that the Bar would continue to offer counseling, but also build out well-being resources on a web-based platform. Ms. Knudson noted that the Well-being Committee is trying to do something new that is proactive and preventative. The idea is to intervene early rather than when the wheels come off. She asked that the Commission think about what the Bar's values are. Ms. Wright noted that this is one of Bar's bigger budget items and it is important that the Bar is using its resources to maximize lawyer well-being.

2. Information Items

2.1 Report on Chancery and Division Court Development: Senator Kirk Cullimore, Representative Brady Brammer and Frank Pignanelli

Mr. Pignanelli introduced the lobbyist team and observed that Utah has some fantastic lawyer legislators who are working on good projects. He said Rep. Brammer had approached him at the last lawyer legislator breakfast about the idea of a chancery court and Senator Cullimore has been working on division courts with the judiciary. Rep. Brammer noted that Frank and his team are good for the Bar's interests at the Legislature. He noted that the Legislature is losing some of the best lawyer legislators this year. That means they are no longer there to lend a voice for lawyers.

Regarding chancery courts, Rep. Brammer noted that his practice is civil litigation and specifically in corporate matters. He said that there is a lot of uncertainty in the litigation process for corporations, and even though judges usually get this right, it can take a long time. Most large

corporations go to Delaware because of its chancery courts. He noted that there is a significant advantage to bringing this here for Utah's business environment. This is meant to be a signal that Utah is open for business and business issues will be handled efficiently and effectively. He said he has been studying this for the past year with a task force. Rep. Brammer said this will be patterned after the Arizona business court. In response to questions, he noted that the request to have the case heard in a chancery court would be made at the time of filing or within 21 days, or the court could remove it.

He said that anything related to cryptocurrency would automatically be sent to these courts, along with business litigation that is Tier 3 and above. Rep. Brammer noted that there would be new judges specifically confirmed for this purpose. Delaware's chancery court publishes all its opinions. He opined that, overall, this would reduce the caseload. Senator Cullimore said the judges would have statewide jurisdiction. Mr. Hansen asked if this could be created by rule. Rep. Brammer said part of this could, but the statewide jurisdiction must be created by the Legislature. He said there was also a public relations piece to this that is created by making it a creature of statute. Rep. Brammer said this will be at least a 2-year process because of things like the nominating process, procedural processes, and facilities. Rep. Brammer said there are six to seven states that have some form of business/chancery court. Arizona is the most recent one.

Ms. Tangaro noted that there are similar issues in the criminal justice system. She said that having criminal commissioners, for example, would be a solution so that decisions are consistent across the state. Rep. Brammer said that now that we have remote hearings, there is more of an appetite for specialization. Senator Cullimore said the Legislature has probably not been the obstacle.

Mr. Alder noted that there are some examples in the courts already of specialization, such as the guardianship assigned judge in Third District. He also noted that ADR could be used to reduce caseloads. He noted that efficiencies would be created by having more support around the judge.

Regarding division courts, Senator Cullimore spoke of the issues with de novo hearings in district courts following justice court resolutions. He said Judge Paul Farr has led this effort and the task force has met for 18 months. Division Courts will hear all misdemeanors, all small claims matters brought by businesses, and debt collections and evictions. 60-70% of all filings in district court would move to the division courts. These cases are not complex, although the caseloads would be large. He said that appeals would go straight to the Court of Appeals or the Supreme Court. The courts are trying to figure out what the cost is and have outsourced this analysis to the Gardner Institute. He opined that the Wasatch Front cities are the ones who want to hang on the most to their justice courts. He noted that he would rather have litigants show up and engage in the process, which the division courts may encourage.

The guests were excused, and the Commission then discussed the presented items.

3. Action Items

3.1 Appoint Commission Ex Officio Members: Katie Woods

Ms. Tangaro moved to appoint the ex officio members listed in the materials. Mr. Morse

seconded. The motion carried.

3.2 Appoint Committee Chairs: Katie Woods

Ms. Woods noted that Lauren Shultz would be the NLTP chair. Tyler Young moved to appoint the committee chairs listed in the materials with that addition. Chrystal Mancuso-Smith seconded. The motion carried.

3.4 Appoint Commission Liaisons: Katie Woods

Ms. Mancuso-Smith noted that she was already attending the Pro Bono Commission and Matt Hansen said he was already active with the Prosecution Council so that may mean Tracy Gunderson could be excused as liaison. Ms. Woods said there may be some movement on the liaison assignments as those details are sorted out.

Mark Morris moved to appoint the commission liaisons listed in the materials. Shawn Newell seconded. The motion carried.

4. Discussion Items

4.1 2023 Summer Convention Location: Katie Woods

Ms. Woods noted that the Bar does not currently have a contract in place for Summer Convention 2023. She noted that there is historical data in the materials on attendance numbers. Summer Convention attendance at out-of-state locations has declined over the years. She noted that it has become more costly to travel out of state. The Fall Forum and the Spring Convention have better attendance and better revenue. She proposed building out the Fall Forum and Spring Convention and broadcasting the annual meeting throughout the state. She noted that the annual meeting is required.

Ms. Wright noted that this year's Summer Convention took a loss, which is partially explained by the unprecedented fuel and inflation costs. She noted that this was true despite large sponsorships.

Ms. Tangaro noted the draw of having judges and said she was on board as long as the other conventions were really built out. Ms. Woods said this would include building out the tracks on different types of practices.

Ms. Cordova said it would be beneficial to not get rid of the Summer Convention completely, but rather to have a banquet for the awards.

Ms. Woods noted that the convention would still offer CLE, but it would be virtual. She also proposed having it in June so that people can get their CLE's before the deadline. Mr. Alder noted that it is important to ensure that the Bar keep the vendors involved. Mr. Alder also noted the importance of surveying the members. Mr. Bayles proposed partnering with the local bars to participate in the convention virtually around the state. Mr. Morris noted that the content of the CLE is really critical. He said the practice-specific tracks are very important. Mr. Alder said for

the next 3-4 weeks, there needs to be a big push to build out this new style of convention.

Mr. Morse made a motion to move forward as discussed. Mr. Morris seconded the motion with the amendment that Ms. Woods gets two chairs on board immediately. The motion carried.

Mr. Bayles said the Bar should follow up with the affinity bars to get them involved. Mr. Alder said the Commission should crowdsource ideas on the Summer Convention and send them to Ms. Woods and Ms. Wright.

5. 11:00 a.m. Information Items

5.1 ABA Delegates' Meeting: Kim Cordova and Camila Moreno

Kim Cordova and Camila Moreno reported on this item at the beginning of the meeting.

5.2 Judicial Council Report: Margaret Plane

Ms. Plane reported on the budget process of the Judicial Council and noted that the current discussions are around recruiting and retaining staff and judicial officers, including and especially positions that require law degrees. She noted that Judge Pullan had put a lot of thought into the Supreme Court's budget and its constitutional authority to regulate the practice of law. This goes to the Innovation Office discussions. The Supreme Court would have its own line item that the court spends so that the Judicial Council does not take over the Supreme Court's policy decisions regarding the practice of law.

The Commission then discussed the Innovation Office.

6. Adjournment

The Commission adjourned at 12:15 p.m.

7. Executive Session

An executive session was held.

8. Consent Agenda

The following items were approved by consent:

1. Approve amendments to Fee Dispute Rules to make them consistent with the Rules of Professional Conduct.
2. Approve 2022-23 Committee Charges
3. Approve Minutes of July 6, 2022 Commission Meeting.

