Comprehensive Clerical Committee
Report and Recommendations

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Comprehensive Clerical Committee Report and Recommendations Executive Summary

The Comprehensive Clerical Committee was charged with studying clerical operations in the Utah State Courts, anticipating future influences on the current work of court clerks, and producing recommendations to assist the Judicial Council’s planning and decision-making concerning judicial and case management support operations. The following is a brief summary of the committee’s findings, recommendations, and anticipated outcomes detailed in this report.

Summary of Current and Future Trends:

The committee assessed clerical operations in the Utah State Courts, identified forces of change, and envisioned how judicial office support will continue to change. The following were determined to be significant trends and issues related to clerical operations which created the foundation of the committee’s analysis, planning, and recommendations:

- The satisfaction of court employees
- The impact of turnover and attrition
- The comprehensive advent and development of technological processes for court processes
- The development and need for job-specific training
- The demographic trends of the current and projected workforce

Summary of Recommendations:

The committee concludes that the work of judicial office support will need to be more dynamic, cross-functional, and proactive to meet future needs of the organization. Accordingly, the following recommendations will improve service to court patrons and produce a better organization for court employees:

- **Reorganize clerical operations into judicial and case support teams that enhance efforts to fulfill the court’s mission**
  - Judicial and case support is best organized according to two functions. The first function involves pre-case services, referring to all duties and tasks performed prior to the assignment of a case number. The second function refers to the support work required once a case has been assigned a number and transitions to a caseflow management process.
  - Caseflow management is “the entire set of actions a court takes to monitor and control the progress of cases, from initiation through trial or other initial disposition, to the completion of all postdisposition court work, in order to make sure that justice is done promptly.”
  - Therefore, the following teams are recommended to give structure to future operations:
    - **Judicial Services Teams** will handle all work done before a case is assigned to a Judicial Support Team. Most of this work is currently done at the front counter in a courthouse. This is the entry level to judicial office support operations.
    - **A Judicial Support Team** will be assigned to each judge. Once a case is assigned to a judicial support team, they will coordinate all case-related matters including

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court hearings, through conclusion of the case. These teams will consist of a Judicial Case Manager and Judicial Assistants.

- **Specialty Court Teams** will provide case management services for cases that are not tied to a specific judge, such as small claims cases. These teams will also consist of a Judicial Case Manager and Judicial Assistants.

  - **Cross-train staff to create teams of generalists that increase organizational efficiency**
    - Specialization in judicial office support places strain on the organization, is counterproductive to staff satisfaction, and poses unnecessary limitations on the work. This is of particular significance when applied to the projections of judicial support.
    - A team structure composed of cross-trained generalists will increase organizational flexibility, improve the quality of service, and offer a better environment to employees.

  - **Implement a program of professional development that offers greater opportunity, improved incentive, and competency growth for employees**
    - Currently, new clerical employees enter into a career track system which places wage increases for the first three years of employment only. The proposed career track provides incentives more evenly distributed through tenure, focuses on competency growth, and prepares employees for increased opportunity within the organization.
    - The proposed career track encourages employee self-direction and will produce a workforce possessing the skills and competencies needed for advancement in the organization.
    - The development track increases the breadth of court-related knowledge within the workforce, particularly as it pertains to understanding how all processes interrelate.

  - **Adopt the proposed implementation strategy to ensure an effective transition of this plan**
    - These recommendations present a significant and important adjustment for the organization. An implementation strategy is provided to achieve an effective transition.

**Summary of Anticipated Outcomes for the Utah State Courts:**

- **A structure and workforce better prepared for the future**
  - The current trends associated with clerical work suggest it will become a more dynamic, generalized, interpersonal type of work. These recommendations prepare the courts to take advantage of these trends.
  - A comprehensive advent of technological processes to court functions is expected. These recommendations prepare the organization to maximize the benefits of such.
  - 23% of the incoming office support employees have already earned bachelor degrees. This will likely increase in the future. The recommendations create an environment where aptitudes developed in college can be put to greater use and improves opportunities for employees to pursue higher education.

- **An organization that offers enhanced opportunities and incentive to employees**
  - These recommendations foster self-directed professional growth for employees.
  - Teams of generalists enable the organization to implement progressive practices – such as a new comprehensive approach to employee orientation, improved performance during times of turnover/attrition, and scheduling flexibility.
- **Minimization of turnover and attrition**
  - High turnover causes a great strain on the system. Coupled with specialization, it increases the stress and workload of more senior staff due to training and coverage. Cross-trained teams improve the self-sufficiency of teams and the quality of service rendered during times of turnover.
  - The professional development track should alleviate tensions associated with compensation, training, and lack of opportunity – each found to be significant factors in the court’s current high turnover rate.

- **A more effective and efficient form of service to court users and the public**
  - Judicial Support Teams consisting of employees who are fully prepared to work in the courtroom and manage cases, will benefit the public and increase continuity with judges.
  - The cross-trained and team-oriented work structure will improve data quality and records management, with greater consistency in practices.
  - These recommendations will enable the courts to operate more efficiently. Savings from these efficiencies should be reallocated to the reorganized workforce.
  - These recommendations should produce a long-term contribution to the fulfillment of the court’s mission; “to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.”\(^2\)

\(^2\) *Mission Statement, Utah State Courts*
Charter and Objectives:

The Court Administrator and Judicial Council had been considering the status of clerical positions in the Utah State Courts for some time. The Judiciary has responded to societal change by making appropriate adjustments in effort to continually serve the public effectively. However, as it pertains to clerical operations, there has been little (if any) adjustment to the job titles, job descriptions, and needed qualifications within the past 20 years. Furthermore, some relatively self-evident societal and technological changes—now and in the near future-present the Court an opportunity to improve the comprehensive efficacy of its judicial office support operations.

Hence, in May of 2007, after conferring with the Judicial Council and others, the Court Administrator appointed the Comprehensive Clerical Study Committee. The Committee was charged to study and understand all aspects of the courts’ current clerical operations, anticipate and consider future influences on clerical operations, and produce recommendations that enable the Judicial Council to adopt a plan that will benefit both the Utah State Courts and its employees in the future.

A successful plan would seek to achieve the following outcomes:
- An office support workforce that will be structured to best fulfill the courts’ mission
- Positions, job titles, and basic job duties that effectively support the proposed work structure
- A future office support workforce that will have the knowledge, skills, and abilities needed to keep the courts operating with the desired degree of efficacy
- An environment that will enable the Utah State Courts to attract and retain a highly qualified workforce
- Appropriate compensation for the proposed positions within the recommended restructure

Methodology:

The committee commenced meeting in June 2007. Initially the committee consisted of sixteen members with another two in staff support. The participants in committee meetings and processes would fluctuate according to need. The composition of the committee was designed to assemble a group “who could focus on the future.” The committee chair was Debra Moore, with Russell Pearson serving as the Vice Chair.

In an effort to both communicate the purpose of the committee and provide a forum for inquiries regarding the scope of its work, representatives traveled to every district in the state to conduct meetings with all clerical staff. These meetings proved to be beneficial, giving the committee a greater perspective pertaining to the concerns and challenges faced by the courts and its clerical workforce.

The committee adopted a five-phased action plan in order to give structure to the completion of its work. The five phases were as follows:

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3 See Appendix A, page 18  
4 Minutes, 26-Jun-07  
5 See Appendix B, page 19
(1) **Produce a reliable projection of future clerical operations.** As part of this process the committee endeavored to gain a comprehensive understanding of clerical operations as they currently exist. Afterwards, the committee would identify the most significant influences on clerical work and project the degree to which these influences would alter the substantive nature of its work and its processes.

(2) **Produce a proposed work structure and organization built upon the projections.** The purpose of this phase was to take the production of the first phase, and develop a strategy as to how best organize and accomplish the work as it is stipulated in the projection. This effort would include basic elements of organizational structure, position specific recommendations, and the needed knowledge/skills/abilities to accomplish the work.

(3) **Produce a plan to transition existing employees and facilitate effective change.** This phase would require the committee to consider how to best help the organization and the current members of the court team adjust to and capitalize on the suggested plan. Considerations were to include needed training, competency analysis, and cultural elements.

(4) **Produce a plan to recruit new employees to the proposed structure.** The objective of this phase was to ensure that some consideration was given as to what type of candidates would best fit the recommended positions and roles in the organization.

(5) **Achieve an effective plan to retain employees who make important contributions to the goals and mission of the court within the proposed structure.** Given the significant trend of shorter tenure in the clerical workforce, the final recommendations would ideally address the concerns pertaining to retention of those employees who make important contributions to the work of the judiciary. Regardless of the degree of change recommended by the committee, retention was an area targeted for the group to understand and find solutions.

The development of the committee’s ideas and work was completed by interim project teams. The project teams were managed by Jeff Mulitalo, and consisted of members of the committee who were assigned to participate (or who volunteered to do so) based on interest and expertise. The membership of the project teams varied from month to month allowing for committee members to participate and take greater ownership in the recommendations. The committee as a whole was used as an advisory board which would evaluate, modify, and adopt the production of the individual project teams.

For the purposes of this report, the cumulative work of the project teams and the committee will be summarized in three sections: firstly a summary of the current conditions of clerical work, secondly a summary of the significant influences and projections as to how they will (or should) influence clerical work, and finally the recommendations of the committee to improve current conditions and take advantage of the opportunities that the future presents.\(^6\)

**Overview - Current Conditions of Clerical Operations:**

An effort was made to assess and understand two aspects of clerical operations in the Utah State Courts. The first aspect is the clerical operation itself, meaning the clerical duties, tasks, and processes currently assigned to the clerical workforce. The second aspect is the conditions associated with clerical

\(^6\) The committee completed the work as it was outlined on the Committee Action Plan. However, based on the interconnected and synergistic nature of the individual project teams, it was not necessary to follow the action plan in the precise sequence of phases. This also explains why it is preferable to outline the committee’s work in a format other than a sequential reporting of the action plan.
work, meaning the environment, trends, and contexts specific to the Utah State Courts. Thus, clerical operations are the work completed by the clerical workforce whereas the conditions of clerical work are the interactions of operations with environmental factors.

_Clerical Operations:_
An effort was made to assess current clerical operations and produce a working definition of clerical work. The committee adopted a conceptual model of clerical work which provides a comprehensive view of the tasks and duties currently assigned to clerks. The model was organized by case-related and non case-related work. This conceptual model would serve as the foundational reference point in determining how clerical operations may change, according to the influences which were deemed to be significant.\(^7\)

_Conditions of Clerical Operations in the Utah State Courts:_
Efforts to understand the conditions of current clerical operations yielded several significant observations. Of these observations, four had particular influence of consequence:

- There are diverse practices applied to clerical operations within the state. While each judicial district performs the same clerical work, there were significant differences in work structure, duties, and assignment allocations. These variations exist in terms of district and geography.
- The current clerical operations structure can be experienced as a structure of disincentive for employees. The development of new knowledge, skills, or competencies can be encouraged but the structure does not provide much of an incentive for doing so.
- Specialization and compartmentalization are relatively common. While efficiency may seem to be achieved in the short-term, specialization contributes to several long-term deficiencies for the organization. High degrees of specificity in job tasks can produce teams that are not equipped to handle turnover, narrows competency growth of employees, and limits the professional development of the workforce.
- Turnover/attrition is a significant influence across the state. There is a substantial amount of turnover within the current career track, which is a system designed to give incentive for newer clerical employees to stay with the courts until they have completed the track (three years).\(^8\)

Of these observations, the impact of turnover was easily identified as both an undesirable outcome of the conditions facing clerical work, and a significant contributor to other challenges the organization faces. An analysis of clerical retention was commissioned to validate and better understand this trend.

_Retention Analysis Conducted by the Center for Public Policy and Administration:_
Tricia Jack completed a mixed method analysis of clerical turnover and retention.\(^9\) The top five issues driving turnover in order of weighted influence were as follows:

1. Compensation
2. Stress
3. Lack of Career Opportunities/Growth

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\(^7\) See Appendix C, page 20

\(^8\) According to the most recent figures provided by Human Resources (FY 07), the turnover within the career track is as follows: a 41% turnover for deputy clerks in their first year of employment, a 39% turnover for deputy clerks who have one to two years of tenure, and a 42% turnover for deputy clerks who have two to three years tenure.

\(^9\) An Executive Summary of the retention study is provided on Appendix D, page 21
4. Workload
5. Lack of Training

As aforementioned, turnover is a powerful outcome and contributor to some of the challenges facing clerical operations. For instance, while relatively low compensation has been identified as the predominant cause of the early departure of clerical employees, the departure of those employees places a strain on the system. The perpetual nature of open positions finds many teams shorthanded, leading to increased workloads and stress placed upon employees in effort to ensure all of the necessary work is completed. This strain is felt in many ways. For employees, it increases their workload while the position is open and during the training of the new employee. For managers, providing the needed training for new employees is an intensive drain on their time and intensifies their workload. Thus, turnover because of compensation aggravates the other reasons for high turnover (such as stress and workload) – and intensifies the feeling that there is no long-term payoff for increased effort (either in terms of salary or professional growth).

The findings of the retention analysis provided important consideration points for subsequent development of the committee’s recommendations. A complete report of the retention analysis can be accessed from the Human Resources department.

**Projections - Anticipated Trends and Expected Change:**

With an adequate sense of the successes and challenges currently facing clerical operations, the committee was prepared to look to the future and develop a feasible, reasonable, and clear projection of future judicial office support operations. For the purposes of this report, the term “office support” will be used in reference to the work, duties, and assignments which are outside the scope of duties assigned to judges, which are needed to realize the mission of the Utah State Courts. Because of the prospective nature of the committee’s work, office support may include work that is not currently associated with clerical positions.

The committee considered multiple types of influences on office support operations, and identified the most significant technological, sociological, and desired influences to produce the needed projections.

**Identification of Significant Influences on Office Support:**
The following influences were deemed to be reasonable and significant to the future of office support:\(^{10}\)

- The comprehensive advent of e-filing
- An increase of the services required for self-represented litigants
- An increase of other automations associated with technology
  - Examples include: a greater reliance on OCAP, e-payment, paperless filing and scanning
- An increased need for caseflow management, or processes that effectively manage the coordination of case-related activities and tasks
  - For the purposes of the committee’s work, caseflow management is stipulated to be “the entire set of actions that a court takes to monitor and control the progress of cases,

\(^{10}\) For a complete outline of these influences, see Appendix E, page 22
from initiation through trial or other initial disposition, to the completion of all postdisposition court work, in order to make sure that justice is done promptly.”

- A workforce pool with higher degrees of education, dynamics skills, and desires for growth
- An increase in attrition associated with the expected retirement of the baby boomers

Based on these identified influences, the committee approved a conceptual model that captures the projected adjustments of office support operations. This projected conceptual model reviewed the current tasks of clerical work line by line, and analyzed those duties against the significant influences. A projection was made on each duty, determining if it would require an increase in time/effort/resources, require a decrease in the same, or remain stable. This conceptual model was then used to formulate the committee’s projection of office support.

Comprehensive Clerical Committee Projection:
The Bureau of Labor Statistics suggested that, in general, clerical work will progressively move away from specialization. The committee ultimately agreed with this assessment, and felt that the courts should expect that “general administrative support duties [will] continue to be consolidated, [thus the Utah State Courts should] seek well-rounded individuals with highly developed communication skills and the ability to perform multiple tasks.”

The committee concluded that the work of office support in the Utah State Courts will ultimately have a higher degree of emphasis on quality control, analytical work, applied knowledge work, comprehensive communication skills, and an emphasis on cross-functionality.

Using five years as a reference point, the committee concluded that the office support of the future will incorporate the following elements:

1. A more comprehensive approach to customer service for court patrons and effective assistance to self-represented litigants
   - The office support workforce will need the ability to bridge cultural elements. This involves cultural sensitivity and language considerations.
   - The office support workforce will need the ability to explain and facilitate the use of resources and court processes, while demonstrating necessary tact with self-represented litigants

2. The application and use of general court expertise
   - The office support workforce will need to be generalists and be cross-trained in standard procedures.

3. A substantial amount of information management
   - The office support workforce will need the ability to manage the information provided through court services (eFile, ePay, OCAP), and will move from receiving files to reviewing and accepting submissions. This work will entail a high degree of quality control elements, analytical thinking, and technological work.

4. The work will cater to more self-directed efforts

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12 For further detail see Appendix F, page 23
13 See Appendix G, page 24
14 http://www.bls.gov/oco/print/ocos130.htm
• The office support workforce will need the ability to successfully perform multiple tasks to complete the dynamic and generalized work that will need to be completed.
• The office support workforce will need highly organized individuals who need little supervision in proactively facilitating the forward movement of cases for the organization and in serving self-represented litigants.

5. The work will require a greater degree of interaction
• The office support workforce will function in additive teams, where interaction takes a premium in ensuring cross coverage. Furthermore, the needs for effective interaction with the public will be increased.

Recommendations:

As a result of its efforts, the Comprehensive Clerical Committee concludes that the work of judicial office support will need to be more dynamic, cross-functional, and proactive to meet the future needs of the organization. In order to prepare for these needs, the committee recommends that the Utah State Courts should: (1) reorganize judicial office support operations around cases, (2) implement a team-oriented work structure of generalists, and (3) adopt the proposed implementation plan.

1. Reorganize judicial office support functions around cases

The analysis of current conditions, significant trends, and projections for judicial office support led the committee to conclude that the best method of organizing the work is to do so around cases. The committee produced a case-centered conceptual model of office support operations.\(^{15}\)

According to that conceptual model, judicial and case support can be organized into two general functions. The first function involves pre-case services, referring to all duties and tasks performed prior to the assignment of a case number. The second function refers to the support work required once a case has been assigned a number and transitions to a caseflow management process.

It is upon this case-centered conceptual model that committee produced its recommended work structure.

2. Suggested work structure

- Reorganize clerical operations into judicial and case support teams

The committee concludes that teams provide the needed capacity and flexibility to successfully organize office support and pre-case services and caseflow management. The following list of teams constitutes the recommended work structure for judicial and case support operations:

Summary of Suggested Teams:

Judicial Services Teams: Judicial Services Teams would be assigned all pre-case duties. Much of this work is done at the front counter in a courthouse. This is the entry level to judicial office support operations. These teams would vary in size, but would be supervised by a Judicial Services Manager and staffed by an undetermined number of Judicial Services Representatives.

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\(^{15}\) See Appendix H, page 25
Judicial Support Team: Judicial Support Teams will be assigned judges. Once a case is assigned to a Judicial Support Team, they will coordinate all case-related matters including court hearings, through the conclusion of the case. It is anticipated that a typical Judicial Support Team will consist of one Judicial Case Manager and two Judicial Assistants. However, there will be variation in the size, composition, and assignments of these teams.

Specialty Court Operations: The Specialty Court Operations Teams will provide caseflow management services for cases that are not tied to a specific judge, such as small claims cases. Like Judicial Support Teams, these teams will consist of a Judicial Case Manager and Judicial Assistants.

Each of these teams would report to a Team Manager, a mid-level administrative position.

- Create a system of cross-trained, generalist positions
  The proposed team structure will be most effective if all team members are fully cross-trained in the competencies, processes, and duties associated the team’s function. Thus, each position within the team structure requires a comprehensive ability to perform all functions associated with the objectives of that given team.

  The following is a brief summary of the proposed positions. An elaborated summary can be accessed on Appendix H which also contains the needed knowledge, skills, and abilities for each position.\textsuperscript{16}

Brief Summary of Positions:

- Judicial Services Representative: This is entry level position to case centered operations. These employees will perform all pre-case related duties, including assisting self-represented litigants, electronic filing, general court patron service, correspondence with public, fee receipting.

- Judicial Services Team Manager: This is the supervisory position of the Judicial Services Team. These employees will be responsible for all pre-case related duties, and will be

\textsuperscript{16} See Appendix I, page 26
involved in quality control efforts, management related activities, and exhibit complete proficiency in all pre-case work.

- Judicial Assistant: These employees perform all in-court related duties, including attending hearings, administering oaths, mark/record exhibits, make records, jury management, courtroom preparation, recording outcomes, preparing/distributing orders, etc.

- Judicial Case Manager: This is the supervisory position of the Judicial Support Teams and Specialized Support Teams. These employees will be responsible for all case centered duties, and will be involved in working with e-filed documents, electronically docketing pre and post dispositions, documents, case events, assisting self-represented litigants as case proceeds, coordinating case events, coordinating court calendars with agencies, monitoring progress of cases, preparing required notices, quality control of assigned cases, case pending maintenance, preparing cases for appeal, recording outcomes, correspondence with parties/counsel/judges, assignment of cases, management activities, and exhibit complete proficiency in all case centered work.

- Judicial Team Manager: This is a mid-level administrative position who accepts management responsibility for an unidentified number of Judicial Services Teams, Judicial Support Teams, and Specialty Court Operations Teams.

- Clerk of Court: There will be no modification to the title or statutory responsibilities of the Clerk of Court. However, some modification may be required to the administrative and other duties currently assigned to Clerks of Court.

- Implement a competency driven professional development program

An effective program for professional development must sustain the development of case support generalists. Achieving a workforce of cross-trained generalists will increase efficiency of services, accuracy of records, and enable the organization to initiate processes that will result in long-term gains.

Additionally, if the professional development program is to achieve the desired ends, it must provide greater opportunity, improved incentives, and competency growth for the employees.

The proposed career track places the emphasis on competency development, with a more evenly distributed set of incentives through tenure, and encourages self-directed growth. The committee proposes that within the Judicial Services Representative and Judicial Assistant positions there be a three leveled track. The first level of that track is entry level work for the given team, the second level suggests complete competence in the work of the given team, and the third level represents further preparation to fill other progressive positions in the organization.

Each level within the career track will be associated with an increase in wage as employees develop and apply knowledge/skills/abilities that are of value to the organization.

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17 See Judicial Council Rules of Judicial Administration, Rule 3-302 Clerk of the Court
18 See Appendix J, page 29
As a matter of succession planning, the qualifications for subsequent positions in the system are
designed be met within the career track. Therefore, with the exception of Judicial Services
Representatives, it is anticipated that the selection process would be predominantly filled by
internal candidates who have achieved adequate preparation through the career track. The
committee has produced a recommended set of qualifications for outside candidates.  

The committee believes that (1) organizing support operations around cases, (2) creating a structure
of support teams, (3) cross-training staff to be support generalists, and (4) implementing a new
professional development track will produce a working environment that benefits the organization
and its employees. The committee believes it will produce a more dynamic, cross-functional, and
proactive approach to the work of judicial office support.

3. Suggested implementation plan

Upon completion of these recommendations, there were three general areas pertaining to
implementation that were given careful consideration by the committee: organizational change,
cultural change, and training to needed competency levels. The committee proposes the following
guidelines for these efforts:

Training Plan:

This transition presents many opportunities for useful training and educational experiences for the
clerical workforce. This training plan is limited to the training that the committee deemed as
essential for a transition to the proposed judicial office support structure:

- A more complete training program for CORIS and CARE
- A comprehensive program to prepare all office support personnel to effectively help self-
  represented litigants
- A comprehensive training program to prepare all clerical workers to use and help others use
  internet services
- A training program that prepares the system for teamwork within the new structure
- A revised new hire program fully geared toward caseflow management

The committee produced a four phased transition plan to address these training needs. The training
plan can be viewed on Appendix L.  

The committee also recommends that each district select a training coordinator. The Second,
Fourth, and Third Juvenile are the only districts to have these positions. The purpose of these
positions is to develop and implement an effective training curriculum. The committee strongly
encourages the creation and filling of identical positions in each district.

For the purposes of these recommendations, training coordinators will serve an important purpose
in both the transition to the proposed judicial and case support operations and to the long-term
development of position specific educational needs. It is anticipated that they will be assigned
additional duties related to information dissemination and new employee orientation.

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19 See Appendix K, page 30
20 See page 31
Organizational and Cultural Change Plan:

The committee reviewed what would be a desirable plan to ensure the best possible transition for the organization. The following is a basic plan for the organization to use as a set of guiding principles and suggestions. They can be reviewed and modified as deemed necessary during implementation.

- **Produce and Empower Cultural and Organizational Leadership Teams**
  Most change efforts need a significant amount of support or “buy in.” It is recommended that one existing group be targeted and another group be created in order to achieve that support:

  Cultural Change Leadership Team: Organizational change research suggests that “managers are the primary change agents in most organizations. By...their role-modeling behaviors, they shape the organization’s change culture.”\(^{21}\) Thus, the change effort should view Trial Court Executives and Clerks of Court as an important change coalition. An effort should be made to engage these managers early and often, seeking to gain support through understanding.

  Organizational Leadership Team: The organizational coalition will consist of 12 members (one from each district and Court of Appeals). This group will serve as a “Judicial and Case Support Specialist Team.” They will receive some training, discuss the process with other district representatives, and serve as consultants to their own districts. It is strongly suggested that current district training coordinators serve on this coalition. For districts that do not have training coordinators in place, they should select an individual to serve in that capacity until a training coordinator is selected.

- **Understand and Build on Shared Values**
  The committee feels that the recommended changes have a lot to offer employees. An outreach plan should be instituted. Outreach efforts will include group facilitations, printed materials, and web-based materials. Outreach materials should emphasize the shared values and benefits the proposal will produce.

- **Promote, Troubleshoot, and Communicate (Consistently and Frequently)**
  Every phase of the transition should have generous amounts of communication, including opportunities to listen. This should happen consistently and frequently.

- **Facilitate Effective and Customized Organizational Transitions**
  There will be some challenges facing districts, including reorganization of people and existing structure. Each district will need an opportunity to apply the proposed changes to meet the realities of their district. Transitions involving employees should be competency driven, not position driven. This effort should place full ownership of these adjustments on the districts and produce minimal central oversight. Human Resources and the Organizational Coalition will provide the needed consultations and oversight. It is also highly recommended that individual districts include staff in some team oriented change processes.

- *Ensure All Adjustments Are Meaningful, Reasonable, and Reinforced*

Human Resources and the Change Coalitions must ensure that there are no superfluous actions taken or communications proliferated. Transitions should be implemented only as the system is prepared to sustain such. Change efforts should coincide with the progress of the general training plan. Once a transition has been completed, it should be reinforced in practice and recognition. An emphasis on the incremental, short-term steps should be used with the general workforce. An effective system of evaluation should be established and implemented.

The committee produced a four-phased plan for the organizational and cultural change effort. It elaborates in greater detail the application of these principles. This is provided on Appendix M.22

**Contrasting Systems: Comparison of Clerical Operations and Proposed Case Support Structure**

The purpose of this section is to contrast the current clerical system with the proposed case support structure. Three generalized observations about the court’s current system were provided earlier in this report. Accordingly, one of the first observations involved the diversity of practices applied to achieving the needed clerical outcomes. Therefore, the value of contrasting some aspects of detailed work processes is marginal.

However, there are benefits to contrasting the systems in terms of general differences of structure, workforce organization, workforce development, and the impact of turnover. A detailed document that contrasts these systems is also available.23 It is highly recommended to review that document in order to achieve a full grasp of the committee’s proposals.

**Work Structure**

**Clerical Operations:**
The current structure in clerical operations is a linear, hierarchical structure.24 This structure creates an environment of limited opportunity, where growth is connected to the structure (usually in terms of tenure). The limited nature of the structure has lead to a diversity of practices being applied to clerical operations.

**Case Support Operations:**
The proposed structure for caseflow management consists of connected and parallel work structures. It is projected that this structure will create increased growth opportunity and improved succession planning. It is also projected that a more consistent statewide application of practices for office support will result from this structure.

**Organization of Workforce**

**Clerical Operations:**
In general, the workforce is organized according to specialization of task(s). Teams are often organized by function, and new employees are

**Case Support Operations:**
The workforce is organized into teams of fully cross-trained generalists. Producing teams of comprehensively competent office support will

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22 See page 32
23 See Appendix N, page 33
24 See Appendix O, page 37
usually assigned to a specific area or duty. Specialization has several unintended consequences, most of which produce negative outcomes for the organization. Such negative outcomes include constrained flexibility during times of turnover, an indirect negative influence on records quality, and morale problems.

produce many long-term benefits for the organization. Some of the identified benefits include improved data/records quality, more efficient court patron service, and greater organizational flexibility.

Development of Workforce

Clerical Operations:
The development of the office support workforce in the clerical model has a career track built upon tenure. The career track offers wage increases at the completion of each of the first three years of employment. Thus, the career track places little incentive on competency growth, is front-loaded, and contributes to a sense of pay compression. The training and development effort is organized by a centralized education model. One of the most significant complaints coming from the clerical workforce is the lack of job-related and helpful training.

Case Support Operations:
The professional growth track is built upon the development of competencies that are of value to the organization. It encourages self-directed professional growth within the parameters of competency improvement. Furthermore, the proposed professional development track offers incentives to employees as they mature in the organization. The training and development model would be dispersed with training coordinators in each district facilitating job-specific training to the unique needs of each district. The proposal also enables the court to pursue a more comprehensive new employee orientation geared toward the strategic goals of caseflow management.

Impact of Turnover

Clerical Operations:
Turnover is among, if not the, most significant challenges facing the clerical workforce. Most of the difficulty associated with turnover is a result of the organization and work structure of clerical operations. The structure is one of disincentive for long-term growth. Furthermore, the tendency towards specialization places great strain on more senior employees during times of turnover while covering for vacant positions. This creates a heavy workload and stress, which also contributes to others looking elsewhere for employment. Teams are typically in a perpetual training cycle, where they invest time and effort preparing new employees. Often in return, these newer employees take their recently acquired knowledge and skills for employment elsewhere. Thus, for the organization, there is a large investment with minimal returns.

Case Support Operations:
It is anticipated that the implementation of the committee’s proposals will have a positive effect on retention. The proposed structure will have more to offer employees of the future, offering growth incentives in terms of competency and compensation. The professional growth track focuses on competency development and prepares employees for increased roles in the organization. The growth tracks will also aid employees for similar roles outside the organization – thereby providing incentive for employees who plan on pursuing others careers to achieve a longer tenure. Teams of cross-trained generalists are better suited to effectively manage times associated with turnover, decreasing the intensity of workload fluctuations. The diverse and fluid nature of generalist work should also decrease feelings of burnout.
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Appendix A: Committee Composition

Committee Members:

- Kim Allard
- Lisa Collins
- Hollie Curtis
- Sylvester Daniels
- Scott Hennessy
- Crystal Hughes
- Wendy Matheney
- Debra Moore (Chair)
- Diana Olsen
- Rob Parkes
- David Patton
- Russ Pearson (Vice Chair)
- Loni Page
- Kristen Rogers
- Angie Stefaniak
- Ray Wahl

Staff:

- Sandy Iwasaki
- Jeff Mulitalo
- Ken Embley
- Tricia Jack
Appendix B: Comprehensive Clerical Committee Action Plan

1. **A Projection of Future Clerical Operations (Completed December 2007)**
   
   *Taking into consideration the influence of anticipated changes, the committee will produce a document that produces a long-term projection of clerical operations. This document will be the foundation of the recommendations of the committee, and should be sensitive to clerical operations as a whole.*

   a. **Objective:** Delineate a feasible, reasonable, and clear projection of future clerical operations

   b. **Strategy:**
   i. Define the work as it currently exists
   ii. Identify projected influences in clerical operations
      1. Technological, sociological, and desired influences
   iii. Analyze current operations against projected influences
   iv. Produce projected operations

   c. Work and Project Development:
   i. **Task #1:** Produce an agreed upon stipulation of current clerical work and operations for the purpose of producing a foundation for projections. (Nov. 2007)
      1. District clerical assessment (Oct. 2007)
   ii. **Task #2:** Identify, study, and consider projected influences in clerical operations (Nov. 2007)
      1. Presentations and information will be provided by relevant personnel and experts
         a. Ron Bowmaster (Oct. 2007)
         b. Human Resources (Oct. 2007)
         c. Quality Assurance (Nov. 2007)
         d. Caseflow Management (Nov. 2007)
   iii. **Task #3:** Identify the most significant influences (Dec. 2007)
   iv. **Task #4:** Produce an agreed upon projection of future clerical work and operations (Dec. 2007)
      1. Using the stipulation of current clerical work as a foundation, analyze the foundation against influences deemed to be the most significant.

2. **A Proposed Work Structure and Organization**
   a. Organization of Work, Office Organization, Job Titles and Duties
      i. Evaluate the current structure
      ii. Other organizational structures
      iii. Individualized projections from districts
      iv. Working offsite, teams, centralizing
      v. Identify needs or parallel structures built on similar needs
   b. Compensation/Benefits (HR)

3. **A Plan to Transition Existing Employees**
   a. Career Opportunities
   b. Training

4. **A Plan to Recruit**

5. **A Retention Plan**
# Comprehensive Clerical Committee: Conceptual Model of Clerical Work

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## *Not In Court Processes

It should be noted that a significant portion of clerical work does not require any in-court activities. Examples include handling non-court mandatory traffic, misdemeanors, and default judgments.
Utah State Courts Retention Analysis: Executive Summary

The purpose of this report is to present the results of the Retention Analysis which was carried out with court clerks. The report presents reasons why clerks leave the courts and makes recommendations about how to reduce the level of turnover.

The analysis was carried out using mixed methodology. An online survey was sent to all clerks, followed by a series of focus groups which drilled down into some of the issues raised in the survey, and which explored ways to improve the situation. Between the survey and the focus groups, the following were given as the top five reasons for clerks leaving the Utah State Courts:

1. Compensation
2. Stress
3. Lack of career opportunities
4. Workload
5. Lack of Training

The research in the Utah State Courts with both clerks and managers informed us that low compensation relative to what they could earn in similar jobs elsewhere is the reason for high turnover. However, on further investigation, the problem is not just the compensation but the impact of this when combined with other factors such as stress, lack of opportunity to progress and workload. It is important to note that compensation issues are important but that other factors must be considered in conjunction with it. Raising compensation alone is unlikely to help the retention rate:

“Successful employee retention is a result of deliberate and targeted strategies on a number of different fronts. It won’t happen if we have a singular focus (e.g. on wages and benefits). It also won’t happen if we accept turnover as an inevitable cost of doing business” (MacLean, 2001, 8).

Some suggestions that participants had for improving the situation (excepting raising the compensation levels) are:
- Job enrichment
- Reclassification
- Improving work facilities and environment
- Revamping incentive awards
- Improving training
- Increasing technology
- Working with the Judiciary
- Improved performance management
- Increased employee involvement, through e.g. committees.

It is therefore recommended that a package of measures is used to address the turnover problem and increase the retention rate.

*The complete report of the CPPA retention analysis can be accessed from the HR office.*
Appendix E: Elaborated Outline of Projected Influences

The following influences that have been discussed by the committee in previous meetings, and in research efforts of the project team, were determined to be the most significant:

- **The comprehensive advent of e-Filing**
  - How will this influence clerical work in general?
    - Decrease front counter and mail time
    - Decrease the amount of time physically creating file and the filing processes
    - Increase in quality control
    - Reviewing and approving filed documents
    - Increase in auditing and analytical processes

- **An anticipated continuation of the increase of Pro Se/Self-Represented litigants**
  - How will this influence clerical work in general?
    - Increased clerical time explaining processes
    - Increased understanding of legal procedure
    - Increase in effective communications (counter/email/phone)
    - An increase in need to bridge language and cultural considerations

- **An anticipated increase in other automations associated with technology**
  - OCAP services becoming electronic
    - How will this influence clerical work in general?
      - If made electronic, significant decrease in counter time upon initial filings
  - E-Payment
    - How will this influence clerical work in general?
      - Decrease mail logs, phone payments
      - Decrease time in accounting and deposit processing
  - Paperless Filing and Scanning
    - How will this influence clerical work in general?
      - An increase in scanning on the front end
      - Eliminate pagination, pulling physical files for review
      - Eliminate file ambulation

- **A possible movement to or increased emphasis on caseflow management**
  - The project team felt as if this would be a long-term consideration/influence
Appendix F: Demographic Trends of Clerical Workforce

Current Clerical Staff:

There are 546 employee classified as clerical (this represents 47% of non-judicial workforce)
- 476 at staff level (deputy or lead clerk)
  - Average age 43
  - Average tenure 8.4 years
- 70 at management level (chief, assistant clerk of court, clerk of court)
  - Average age 50
  - Average tenure 17.9 years

Clerical staff by generation and age range:
- Traditionalists (64 and older) 26 or 5%.
- Boomers (44 to 64) 295 or 54%.
- Generation X (30 to 43) 138 or 25%.
- Generation Y (29 and younger) 87 or 16%.

Clerical Staff by Classification and Generation

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<thead>
<tr>
<th></th>
<th>Generation Y</th>
<th>Generation X</th>
<th>Boomers</th>
<th>Traditionalists</th>
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<tbody>
<tr>
<td>Deputy Clerks (370)</td>
<td>22%</td>
<td>27%</td>
<td>45%</td>
<td>6%</td>
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<tr>
<td>Lead Clerks (106)</td>
<td>4%</td>
<td>28%</td>
<td>65%</td>
<td>3%</td>
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<tr>
<td>Chief Clerks (34)</td>
<td>20%</td>
<td>20%</td>
<td>75%</td>
<td>5%</td>
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<tr>
<td>Asst. Clerk of Ct. (20)</td>
<td>5%</td>
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<td>95%</td>
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<td>Clerk of Court (16)</td>
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<td>100%</td>
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Incoming workforce (average age 33):
- Traditionalists (64 and older) 1%
- Boomers (44 to 64) 20%
- Generation X (30 to 43) 34%
- Generation Y (29 and younger) 45%

Educational background of incoming workforce (highest attained):
- High School 61%
- Associates 16%
- Bachelors 23%
Appendix G: Conceptual Model of Projected Clerical Work

## Comprehensive Clerical Committee: Conceptual Model of Clerical Work Projection

**Anticipated increase in needed time, effort, expertise**
**Anticipated decrease in needed time, effort, expertise**
No anticipated change in needed time, effort, expertise

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<tr>
<td>- Attending hearings and/or trials</td>
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<tr>
<td>- Administering oaths</td>
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<td>- Making the verbatim audio/video record</td>
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<td>- Making minute entries as time allows</td>
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<td>- Recording outcomes of hearings and/or trials*</td>
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<td>- Preparing cases for appeal</td>
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<tr>
<td>- Making minute entries and formalizing as necessary</td>
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<td>- Preparing orders</td>
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<tr>
<td>- Notifying agencies and parties as required</td>
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<td>- Building maintenance</td>
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<td>- Office supply maintenance</td>
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<td>- Training (on-going and new employee training)</td>
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<td>- Reconciling accounts and making deposits</td>
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<td>- Other accounting</td>
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<tr>
<td>- External accounting reviews</td>
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Appendix H: Conceptual Model of Caseflow Management

Comprehensive Clerical Committee: Conceptual Model of Caseflow Management

*The projected positions and work structure were built upon this framework, geared toward case management. It is important to note that some tasks may be performed by both case-related and non-case related workers or work structures.

### Case Related

- **Pre-Case**
  - Accepting/Rejecting e-Filed cases
  - Case filing (data entry of over-counter and mailed filings)
  - Fee receipting (of above)
  - Scanning
  - Customer service (Pro-Se litigants)
  - Payment receipting (counter and mail)
  - Phone/email correspondence
  - Mail processing
  - General legal research
  - Front desk/reception work

- **Case Management (Pre and Post Court)**
  - Electronically docketing pre and post dispositional, documents, and case events
  - Assisting Pro Se litigants as the case proceeds
  - Accepting/Rejecting e-Filed documents
  - Making files available for judicial use
  - Calendaring court events
  - Scheduling interpreters, mediators, and court reporters
  - When appropriate from reports
  - Coordinating court calendars with outside agencies and counsel
  - Monitoring progress of cases including providing judicial notice of cases that are ready to proceed
  - Preparing required notices
  - Notifying agencies and parties as required
  - Phone and email correspondence
  - Quality control
  - Scanning
  - Case pending maintenance
  - Processing warrants, writs, and bail bonds
  - Maintaining judgment records
  - Preparing cases for appeal
  - Preparing and distribution of orders and motions

- **In-Court**
  - Attending hearings and/or trials
  - Administering oaths
  - Making and recording exhibits
  - Recording outcomes of hearings/trials
  - Making the verbatim audio/video record
  - Preparing minute entries
  - Preparing and distribution of orders
  - Maintaining copies of verbatim court record
  - Jury management (attendance including summons)
  - Tape management and copies
  - Scanning
  - Courtroom preparation

### Non - Case Related

- **Administrative Support**
  - Maintaining exhibits
  - Sealing and purging records based on the retention schedule
  - Jury management (data entry, term maintenance)
  - Accounting
  - Archiving records
  - Computer backup and maintenance
  - Inventory
  - Building maintenance
  - Library management
  - Meetings
  - Non case-related secretarial tasks for judges
  - Payment of jurors and witnesses
  - Prepare and maintain attorney lists for judicial performance evaluation
  - Physical inventory
  - Purchasing activities
  - Interpreter Management
  - Training
  - Phone/email correspondence
  - Maintaining Audio/Video equipment
  - Travel
  - Trust checks
  - Collections

- **Management**
  - Case pending maintenance
  - Assignment of cases
  - Coordinating judges’ teams
  - Calendar management
  - Quality control
  - Management meetings/committee meetings
  - Troubleshooting office computer equipment
  - Office supply maintenance
  - HR related activities (selection process, employee relations, performance management, time sheets, leave accounting, career track management)
  - Staff meetings
  - Training (on-going and new employee training)
  - Reconciling accounts and making deposits
  - Other accounting
  - External accounting reviews
  - Purchasing activity
  - Building Maintenance
  - Budget preparation
  - File retention

---

*Not In Court Processes*

It should be noted that a significant portion of clerical work does not require any in-court activities. Examples include handling non-court mandatory traffic, misdemeanors, and default judgments.
Comprehensive Clerical Committee: Summary of Proposed Positions

**Judicial Services Representative**

**Judicial Services Representative Duties**
- Assist self-represented litigants or patrons with protective orders
- Accept or reject e-filed cases (after acceptance case will be assigned)
- Case filing (manual data entry, over-counter, and mailed filings)
- Scanning
- Customer service
- Fee receipting
- Mail processing (delivering pleadings to assigned teams)
- Payment receipting (counter and mail)
- Phone/email correspondence with public and minimal interactions with attorneys or judges
- General case research
- Front desk/reception work

**Judicial Services Representative KSAs**
- Customer service skills
- Knowledge of case filing, including requirements for several case types (civil, domestic, criminal, traffic, adoption, probate, small claims, etc)
- Knowledge of court procedure, with an emphasis on form processing and requirements
- Basic accounting skills
- Basic computer and internet skills
- Communication skills

**Qualifications**
- 2 years professional/office experience
- At least one year of customer service experience
- High school diploma

**Judicial Services Representative Development Track**
Judicial Services Representatives have a career track consisting of three levels for growth and promotion. This is outlined on the Career Track Schematic.25

**Judicial Services Team Manager**

**Judicial Services Team Manager Duties**
- Supervise the day-to-day operations of the Judicial Services Team
- Quality control
- Management and committee meetings
- Troubleshooting equipment/resources
- Office supply maintenance
- HR related activities
- Staff meetings
- On-going and new employee training
- Reconciling accounts and making deposits
- Other accounting
- Building maintenance
- Proficiency in all Judicial Services Representative duties

**Judicial Services Team Manager KSAs**
- Ability to supervise the work of others
- Ability to manage and lead teams
- Communication skills
- Time management skills
- Organizational skills
- Knowledge of case filing, including requirements for several case types (civil, domestic, criminal, traffic, adoption, probate, small claims, etc)
- Knowledge of court procedure, with an emphasis on form processing requirements
- Basic accounting skills
- Basic computer and internet skills

**Qualifications**
For internal candidates:
- A Judicial Services Representative 3 or higher

For external candidates:
- Bachelor degree
- Four years of related experience
- Supervisory experience

**Judicial Services Manager Development Track**
There is no proposed structure for this position.

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25 See Appendix J, page 28
Judicial Assistant

Judicial Assistant Duties
- Attend hearing and/or trials
- Administer oaths
- Mark and record exhibits
- Make the verbatim audio/video records
- Prepare minute entries
- Maintain copies of verbatim court record
- Jury management (maintain record of attendance and summons for upcoming jury trials)
- Tape management and copies
- Courtroom preparation
- Recording outcomes of hearings/trials
- Preparing and distribution of orders
- Scheduling in-court interpreter

Judicial Assistant KSAs
- Knowledge of court procedures and rules
- Knowledge of court expertise
- Communication skills
- Ability to be detail-oriented
- Basic computer skills
- Technologically savvy
- Ability to manage time effectively
- Ability to multi-task

Qualifications
For internal candidates:
- Judicial Services Representative 3 or higher
For external candidates:
- Four years of related experience

Judicial Assistant Development Track
Judicial Assistants have a career track consisting of three levels for growth and promotion. This is outlined on the Career Track Schematic. 26

Judicial Case Manager

Judicial Case Manager Duties
- Supervise the day-to-day operations of the Judicial Support Team
- Accept or reject e-filed documents
- Electronically docket pre and post dispositions, documents, and case events (these documents are over-counter or mail)
- Assist self-represented litigants
- Make files available for judicial use
- Schedule interpreters, mediators, and court reporters when appropriate from reports
- Calendar case events
- Coordinate court calendars with outside agencies and counsel
- Monitor progress of cases, including judicial notice of cases that are ready to proceed
- Prepare required notices
- Notify agencies and parties as required
- Quality control of assigned cases
- Case pending maintenance
- Process warrants, writs, and bail bonds
- Maintain judgment records
- Preparing cases for appeal
- Recording outcomes of hearings/trials
- Preparing and distributing orders
- Phone/email correspondence with parties, counsel, and judges
- Preparing and distribution of orders and motions
- Assignment of cases
- Management meetings/committee meetings
- HR related activities
- Team meetings
- Training (on-going and new employee)
- Other accounting
- Collections 27

(...continued on following page)

26 See Appendix J, page 28

27 The Specialty Court Operations team will be assigned case support for collections where appropriate. These teams will be supervised by a Judicial Case Manager who performs similar duties to that of their colleagues. Duties may vary as it pertains to need and the function of the operation.
(Judicial Case Manager continued...)

**Judicial Case Manager KSAs**
- Ability to think analytically
- Basic computer skills
- Knowledge of filings and procedure (several case types including civil, domestic, criminal, traffic, adoption, probate, small claims, etc)
- Knowledge of case proceedings and time lines
- Effective communication skills
- Customer service skills
- Organizational skills
- Ability to multi-task
- Ability to process a high volume of work
- Ability to be detail-oriented
- Ability to supervise the work of others
- Ability to manage and lead the work of a professional team

**Qualifications**
For internal candidates:
- Judicial Assistant 2 or higher

For external candidates:
- Bachelor degree
- Four years of related experience
- Supervisory experience

**Judicial Case Manager Development Track**
There is no proposed development structure for this position

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**Judicial Team Manager**

**Judicial Team Manager Overview**
The use of this position may vary by district (in terms of the number of needed positions), but Judicial Team Managers will be assigned the responsibility of managing the work of the mid-management teams (consisting of Judicial Services Managers and Judicial Case Managers). It is also anticipated that the composition of duties will vary by district. However, it is assumed that these positions will incorporate most or all of the following:

- Provide leadership and professional support to Judicial Services Teams, Judicial Support Teams, and Specialty Court Teams (where needed)
- Monitor the assignment of cases
- Quality control on a broad scale
- Management meetings/committee meetings
- HR related activities
- Reconciling accounts and making deposits
- Other accounting
- External accounting reviews
- Purchasing activities
- Budget preparation
- Sealing and purging of records
- Archiving

**Judicial Team Manager KSAs**
The contingent nature of this proposed position requires further consideration and implementation by Human Resources

**Qualifications**
- Bachelor degree, graduate degree preferred
- Five years related experience
- Three years supervisory experience

**Judicial Team Manager**
There is no proposed development structure for this position.
Appendix J: Career Track Schematic

Comprehensive Clerical Committee: Career Track

This schematic is an elaboration of the work structure schematic. This schematic illustrates the proposed career track and also demonstrates how the proposed structure lends itself to succession planning.
Appendix K: Qualifications for Internal and External Candidates (By Position)

**Judicial Team Manager**
Bachelor degree, graduate degree preferred
Five years related experience
Three years management experience

**Judicial Services Manager**
**Internal candidates:**
Judicial Services Spec. 3 or higher

**External candidates:**
Bachelor degree
Four years related experience
Supervisory experience

**Judicial Case Manager**
**Internal candidates:**
Judicial Assistant 2 or higher

**External candidates:**
Bachelor degree
Four years related experience
Supervisory experience

**Judicial Assistant**
**Internal candidates:**
Judicial Services Spec. 3 or higher

**External candidates:**
Four years related experience

**Judicial Services Representative**
2 years professional experience
At least 1 year experience customer service
High school diploma
Some college desired
Appendix L: Implementation Plan - Training

Recommended Phases:

The following model is for guidance purposes and is subject to change as circumstances deem necessary.

1. **Phase One: Improvements to Existing Practices**
   - Assessment, completion, and implementation of a thorough training program for CORIS and CARE
   - Assessment, completion, and implementation of a comprehensive training program to prepare all clerical workers to use and help others use internet services

2. **Phase Two: Preparation for New Emphases, Transition, and Structure**
   - Assessment, completion, and implementation of a training program to prepare all clerical workers to be effective in all aspects of Pro Se work.
   - Assessment, completion, and implementation of a customized training program that prepares all employees, managers, and institutional structures for teamwork as it applies to the proposed changes.

3. **Phase Three: Institutionalizing Changes**
   - A revised new hire program, incorporating the elements implemented in the preceding years, which is fully geared toward case management.

4. **Phase Four: Long Term Development**
   - Incorporation of training materials and programs deemed necessary for the long-term growth and benefit of the proposed changes.
This plan is meant to provide guidance on the change initiative in general terms. Action taken at each phase should be responsive to the real-time need and adopted change principles.

1. **Phase One: Communication, Ownership, and Outreach**
   - First Month: District management receives a thorough orientation to the proposal and is given an opportunity to review the details.
   - First Month: A collection of outreach materials are developed for presentations, facilitations, publication, and web-based communications.
   - First Month: The Case Management Specialist Team, or organizational consultant team, is formed and convenes.
   - First Quarter: Districts communicate the proposal to the general workforce and conduct basic facilitations.
   - First Quarter: Districts are given guiding principles for their reorganization efforts.
   - Consistent and frequent communications from Human Resources and Change Coalitions.

2. **Phase Two: Customized Planning, Coordination, and Reorganization**
   - Second Quarter: Districts produce draft of five year transitional plans and organizational adjustments. These plans should coincide with statewide plan.
   - Third Quarter: District transition plans finalized and ready for implementation.
   - Consistent and frequent communications from Human Resources and Change Coalitions.

3. **Phase Three: Implementation and Transition**
   - Current management oriented in greater detail regarding positions and further adjustments, and prepared to coach others to desired ends.
   - Case management standards and performance measures are completed.
   - Regular reports and consultations regarding ideas, challenges, and progress from each district.
   - Consistent and frequent communications from Human Resources and Change Coalitions.

4. **Phase Four: Institutionalization of Change and Long-Term Development**
   - Districts have organized sufficiently to sustain a new employee orientation that is comprehensively geared toward case management.
   - Effective system for evaluation implemented and used to create foundations.
   - Long-term development processes commence.
Appendix N: Comparison of Clerical Operations and Caseflow Management (pages 32-35)

<table>
<thead>
<tr>
<th>Structure</th>
<th>Clerical Operations</th>
<th>Case Support Operations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• A linear, hierarchical structure.</td>
<td>• Consists of connected and parallel work structures.</td>
</tr>
<tr>
<td>Influence of Structure</td>
<td>• The linear structure creates an environment where there are few opportunities for promotion. Thus, the long-term opportunity for advancement is at the mercy of retirement, resignation, or termination.</td>
<td>• Parallel work structures provide additional professional opportunity for employees and improved succession planning for the organization.</td>
</tr>
<tr>
<td>Workforce Organization</td>
<td>• High degree of process specialization.</td>
<td>• Work is organized around teams of fully cross-trained generalists.</td>
</tr>
<tr>
<td></td>
<td>• Teams organized to specific functions.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• New employees assigned to a specific area or duty.</td>
<td></td>
</tr>
<tr>
<td>Influence of Workforce Organization</td>
<td>• Specialization of employees constrains teams during times of high turnover, attrition, or absenteeism – leading to increased stress and workload for managers and teams.</td>
<td>• Increased effectiveness with fewer positions.</td>
</tr>
<tr>
<td></td>
<td>• Employees can become so specialized that they never achieve an understanding of the big picture and how all of the functions of the system interrelate.</td>
<td>• Significant reduction of stress on the part of management and employees because of increased coverage capacity of generalist teams.</td>
</tr>
<tr>
<td></td>
<td>• Employees can become so specialized that they restrict their future career options which essentially limits their long-term growth.</td>
<td>• Cross-training will increase the understanding of the big picture and how processes influence outcomes – thus helping to improve court patron service.</td>
</tr>
<tr>
<td></td>
<td>• Creates long-term limitations for the organization when tenured employees become so specialized that they are constrained.</td>
<td>• Alleviate loss of institutional knowledge or skills during times of turnover.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Generalists are better prepared to move between teams, reducing the creation of functional silos, and increasing the organizations</td>
</tr>
<tr>
<td>Workforce Development</td>
<td></td>
<td></td>
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<tr>
<td>-----------------------</td>
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</tr>
<tr>
<td>Career track built upon tenure (the first three years of employment).</td>
<td>Self-directed professional growth track structured around the increasing of valued competencies.</td>
<td></td>
</tr>
<tr>
<td>Centralized education model</td>
<td>Improved new employee orientation.</td>
<td></td>
</tr>
<tr>
<td>Lack of effective and comprehensive job specific training.</td>
<td>District-oriented education model lead by training coordinators.</td>
<td></td>
</tr>
</tbody>
</table>

| Influence of Workforce Development |  |
|------------------------------------|--------------------------|--------------------------|
| The tenure based career track places no incentive on growth. It only offers an incentive for staying. | Model empowers self-direction and personal incentives. |
| The incentive for staying is front-loaded, and after completing three years, an incentive for staying no longer exists. | Model prepares employees to fill vacancies, thus enhancing organizational succession planning. |
| The front-loaded career track contributes to pay compression, where those who have invested more years of service are in a similar pay bracket as to those who have just started. | Increased opportunity for growth in terms of wage, position, and professional development. |
| The lack of further opportunity for advancement in pay or responsibility increases turnover. | Incentives are driven by increasing competencies, knowledge, and skills that are of shared value between the organization and the employee. |
|  | Growth incentives more evenly distributed through tenure with the organization. |
• The incentive to stay for a short period of time creates an environment of perpetually training new employees. Employees gain skills then leave the organization for increased pay. This is a high investment, low return exercise for the organization.

• Without effective job specific training, professional growth is cumbersome and encourages limited specialization in job duties.

• The increased flexibility in scheduling and office coverage will enable a more effective and comprehensive new employee orientation. New employees will benefit from a multi-day orientation that focuses on job specific competencies.

• There will still be a high investment on the front end of training new employees, but the model maximizes the benefits of that investment.

• Greater flexibility and control over the development and offering of job-specific trainings.

• Training coordinators will allow for more frequent training, modifying training to unique district needs with reduced travel costs. This will produce more effective educational experiences, improve the efficacy of dollars spent, and potentially produce self-sustaining budgets in districts.

• Increased flexibility in scheduling and coverage should enable interested parties to pursue a higher education.

<table>
<thead>
<tr>
<th>Impact of Turnover</th>
</tr>
</thead>
<tbody>
<tr>
<td>• High degrees of turnover.</td>
</tr>
<tr>
<td>• Low compensation deemed most significant influence in turnover.</td>
</tr>
<tr>
<td>• A structure of disincentive for long-term growth.</td>
</tr>
<tr>
<td>• Perpetual training of new employees places a great strain on the system, managers, and teams – increasing the influence of stress and heavy workloads.</td>
</tr>
<tr>
<td>• Specialization creates great</td>
</tr>
<tr>
<td>• The proposed structure and organization should minimize turnover (according to the conclusions of the retention analysis).</td>
</tr>
<tr>
<td>• The increase of compensable factors in the proposed organization of the work should further enhance efforts to alleviate the compression problem.</td>
</tr>
<tr>
<td>• The professional growth track provides employees</td>
</tr>
<tr>
<td>Difficulty in covering needed work during times of turnover, attrition, or absenteeism.</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>- Specialization increases the impact of lost institutional knowledge during times of turnover.</td>
</tr>
<tr>
<td>- The increased scheduling flexibility and coverage enables a substantial workload reduction for teams when new employee orientation is managed by training coordinators.</td>
</tr>
</tbody>
</table>
Appendix O: Schematic of Current Clerical Operations Work Structure

- Clerk of Court
  - 3% of clerical employees

- Assistant Clerk of Court
  - 4% of clerical employees

- Chief Deputy Court Clerk
  - 6% of clerical employees

- Lead Deputy Court Clerk
  - 19% of clerical employees

- Deputy Court Clerk
  - Entry Level - 68% of clerical employees

(a) Disclosure. This rule applies unless changed or supplemented by a rule governing disclosure and discovery in a practice area.

(a)(1) Initial disclosures. Except in cases exempt under paragraph (a)(3), a party shall, without waiting for a discovery request, serve on the other parties:

(a)(1)(A) the name and, if known, the address and telephone number of:

(a)(1)(A)(i) each individual likely to have discoverable information supporting its claims or defenses, unless solely for impeachment, identifying the subjects of the information; and

(a)(1)(A)(i) each fact witness the party may call in its case-in-chief and, except for an adverse party, a summary of the expected testimony;

(a)(1)(B) a copy of all documents, data compilations, electronically stored information, and tangible things in the possession or control of the party that the party may offer in its case-in-chief, except charts, summaries and demonstrative exhibits that have not yet been prepared and must be disclosed in accordance with paragraph (a)(5);

(a)(1)(C) a computation of any damages claimed and a copy of all discoverable documents or evidentiary material on which such computation is based, including materials about the nature and extent of injuries suffered;

(a)(1)(D) a copy of any agreement under which any person may be liable to satisfy part or all of a judgment or to indemnify or reimburse for payments made to satisfy the judgment; and

(a)(1)(E) a copy of all documents to which a party refers in its pleadings.

(a)(2) Timing of initial disclosures. The disclosures required by paragraph (a)(1) shall be served on the other parties:

(a)(2)(A) by the plaintiff within 14 days after filing of the first answer to the complaint; and

(a)(2)(B) by the defendant within 42 days after filing of the first answer to the complaint or within 28 days after that defendant’s appearance, whichever is later.

(a)(3) Exemptions.

(a)(3)(A) Unless otherwise ordered by the court or agreed to by the parties, the requirements of paragraph (a)(1) do not apply to actions:

(a)(3)(A)(i) for judicial review of adjudicative proceedings or rule making proceedings of an administrative agency;

(a)(3)(A)(ii) governed by Rule 65B or Rule 65C;

(a)(3)(A)(iii) to enforce an arbitration award;

(a)(3)(A)(iv) for water rights general adjudication under Title 73, Chapter 4, Determination of Water Rights.

(a)(3)(B) In an exempt action, the matters subject to disclosure under paragraph (a)(1) are subject to discovery under paragraph (b).

(a)(4) Expert testimony.

(a)(4)(A) Disclosure of expert testimony. A party shall, without waiting for a discovery request, serve on the other parties the following information regarding any person who may be used at trial to present evidence under Rule 702 of the Utah Rules of Evidence and who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony: (i) the expert’s name and qualifications, including a list of all publications authored within the preceding 10 years, and a list of any other cases in which the expert has testified as an expert at trial or by deposition within the preceding four years, (ii) a brief summary of the opinions to which the witness is expected to testify, (iii) all data and other information that will be relied upon by the witness in forming those opinions, and (iv) the compensation to be paid for the witness’s study and testimony.
(a)(4)(B) Limits on expert discovery. Further discovery may be obtained from an expert witness either by deposition or by written report. A deposition shall not exceed four hours and the party taking the deposition shall pay the expert's reasonable hourly fees for attendance at the deposition. A report shall be signed by the expert and shall contain a complete statement of all opinions the expert will offer at trial and the basis and reasons for them. Such an expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the report. The party offering the expert shall pay the costs for the report.


(a)(4)(C)(i) The party who bears the burden of proof on the issue for which expert testimony is offered shall serve on the other parties the information required by paragraph (a)(4)(A) within seven days after the close of fact discovery. Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within 28 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted.

(a)(4)(C)(ii) The party who does not bear the burden of proof on the issue for which expert testimony is offered shall serve on the other parties the information required by paragraph (a)(4)(A) within seven days after the later of (A) the date on which the election under paragraph (a)(4)(C)(i) is due, or (B) receipt of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(i). Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within 28 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted.

(a)(4)(C)(iii) If the party who bears the burden of proof on an issue wants to designate rebuttal expert witnesses it shall serve on the other parties the information required by paragraph (a)(4)(A) within seven days after the later of (A) the date on which the election under paragraph (a)(4)(C)(ii) is due, or (B) receipt of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(ii). Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within 28 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted.

(a)(4)(D) Multiparty actions. In multiparty actions, all parties opposing the expert must agree on either a report or a deposition. If all parties opposing the expert do not agree, then further discovery of the expert may be obtained only by deposition pursuant to paragraph (a)(4)(B) and Rule 30.

(a)(4)(E) Summary of non-retained expert testimony. If a party intends to present evidence at trial under Rule 702 of the Utah Rules of Evidence from any person other than an expert witness who is retained or specially employed to provide testimony in the case or a person whose duties as an employee of the party regularly involve giving expert testimony, that party must serve on the other parties a written summary of the facts and opinions to which the witness is expected to testify in accordance with the deadlines set forth in paragraph (a)(4)(C). A deposition of such a witness may not exceed four hours.

(a)(5) Pretrial disclosures.

(a)(5)(A) A party shall, without waiting for a discovery request, serve on the other parties:

(a)(5)(A)(i) the name and, if not previously provided, the address and telephone number of each witness, unless solely for impeachment, separately identifying witnesses the party will call and witnesses the party may call;

(a)(5)(A)(ii) the name of witnesses whose testimony is expected to be presented by transcript of a deposition and a copy of the transcript with the proposed testimony designated; and

(a)(5)(A)(iii) a copy of each exhibit, including charts, summaries and demonstrative exhibits, unless solely for impeachment, separately identifying those which the party will offer and those which the party may offer.
(a)(5)(B) Disclosure required by paragraph (a)(5) shall be served on the other parties at least 28 days before trial. At least 14 days before trial, a party shall serve and file counter designations of deposition testimony, objections and grounds for the objections to the use of a deposition and to the admissibility of exhibits. Other than objections under Rules 402 and 403 of the Utah Rules of Evidence, objections not listed are waived unless excused by the court for good cause.

(b) Discovery scope.

(b)(1) In general. Parties may discover any matter, not privileged, which is relevant to the claim or defense of any party if the discovery satisfies the standards of proportionality set forth below. Privileged matters that are not discoverable or admissible in any proceeding of any kind or character include all information in any form provided during and created specifically as part of a request for an investigation, the investigation, findings, or conclusions of peer review, care review, or quality assurance processes of any organization of health care providers as defined in the Utah Health Care Malpractice Act for the purpose of evaluating care provided to reduce morbidity and mortality or to improve the quality of medical care, or for the purpose of peer review of the ethics, competence, or professional conduct of any health care provider.

(b)(2) Proportionality. Discovery and discovery requests are proportional if:

(b)(2)(A) the discovery is reasonable, considering the needs of the case, the amount in controversy, the complexity of the case, the parties' resources, the importance of the issues, and the importance of the discovery in resolving the issues;

(b)(2)(B) the likely benefits of the proposed discovery outweigh the burden or expense;

(b)(2)(C) the discovery is consistent with the overall case management and will further the just, speedy and inexpensive determination of the case;

(b)(2)(D) the discovery is not unreasonably cumulative or duplicative;

(b)(2)(E) the information cannot be obtained from another source that is more convenient, less burdensome or less expensive; and

(b)(2)(F) the party seeking discovery has not had sufficient opportunity to obtain the information by discovery or otherwise, taking into account the parties' relative access to the information.

(b)(3) Burden. The party seeking discovery always has the burden of showing proportionality and relevance. To ensure proportionality, the court may enter orders under Rule 37.

(b)(4) Electronically stored information. A party claiming that electronically stored information is not reasonably accessible because of undue burden or cost shall describe the source of the electronically stored information, the nature and extent of the burden, the nature of the information not provided, and any other information that will enable other parties to evaluate the claim.

(b)(5) Trial preparation materials. A party may obtain otherwise discoverable documents and tangible things prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials and that the party is unable without undue hardship to obtain substantially equivalent materials by other means. In ordering discovery of such materials, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party.

(b)(6) Statement previously made about the action. A party may obtain without the showing required in paragraph (b)(5) a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement about the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order under Rule 37. A statement previously made is (A) a written statement signed or approved by the person making it, or (B) a stenographic, mechanical, electronic, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(b)(7) Trial preparation; experts.

(b)(7)(A) Trial-preparation protection for draft reports or disclosures. Paragraph (b)(5) protects drafts of any report or disclosure required under paragraph (a)(4), regardless of the form in which the draft is
(b)(7)(B) **Trial-preparation protection for communications between a party’s attorney and expert witnesses.** Paragraph (b)(5) protects communications between the party’s attorney and any witness required to provide disclosures under paragraph (a)(4), regardless of the form of the communications, except to the extent that the communications:

(b)(7)(B)(i) relate to compensation for the expert’s study or testimony;

(b)(7)(B)(ii) identify facts or data that the party’s attorney provided and that the expert considered in forming the opinions to be expressed; or

(b)(7)(B)(iii) identify assumptions that the party’s attorney provided and that the expert relied on in forming the opinions to be expressed.

(b)(7)(C) **Expert employed only for trial preparation.** Ordinarily, a party may not, by interrogatories or otherwise, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. A party may do so only:

(b)(7)(C)(i) as provided in Rule 35(b); or

(b)(7)(C)(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(b)(8) **Claims of privilege or protection of trial preparation materials.**

(b)(8)(A) **Information withheld.** If a party withholds discoverable information by claiming that it is privileged or prepared in anticipation of litigation or for trial, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced in a manner that, without revealing the information itself, will enable other parties to evaluate the claim.

(b)(8)(B) **Information produced.** If a party produces information that the party claims is privileged or prepared in anticipation of litigation or for trial, the producing party may notify any receiving party of the claim and the basis for it. After being notified, a receiving party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The producing party must preserve the information until the claim is resolved.

(c) **Methods, sequence and timing of discovery; tiers; limits on standard discovery; extraordinary discovery.**

(c)(1) **Methods of discovery.** Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property for inspection and other purposes; physical and mental examinations; requests for admission; and subpoenas other than for a court hearing or trial.

(c)(2) **Sequence and timing of discovery.** Methods of discovery may be used in any sequence, and the fact that a party is conducting discovery shall not delay any other party’s discovery. Except for cases exempt under paragraph (a)(3), a party may not seek discovery from any source before that party’s initial disclosure obligations are satisfied.

(c)(3) **Definition of tiers for standard discovery.** Actions claiming $50,000 or less in damages are permitted standard discovery as described for Tier 1. Actions claiming more than $50,000 and less than $300,000 in damages are permitted standard discovery as described for Tier 2. Actions claiming $300,000 or more in damages are permitted standard discovery as described for Tier 3. Absent an accompanying damage claim for more than $300,000, actions claiming non-monetary relief are permitted standard discovery as described for Tier 2.

(c)(4) **Definition of damages.** For purposes of determining standard discovery, the amount of damages includes the total of all monetary damages sought (without duplication for alternative theories) by all parties in all claims for relief in the original pleadings.

(c)(5) **Limits on standard fact discovery.** Standard fact discovery per side (plaintiffs collectively,
defendants collectively, and third-party defendants collectively) in each tier is as follows. The days to complete standard fact discovery are calculated from the date the first defendant’s first disclosure is due and do not include expert discovery under paragraphs(a)(4)(C) and (D).

<table>
<thead>
<tr>
<th>Tier</th>
<th>Amount of Damages</th>
<th>Total Fact Deposition Hours</th>
<th>Rule 33 Interrogatories including all discrete subparts</th>
<th>Rule 34 Requests for Production</th>
<th>Rule 36 Requests for Admission</th>
<th>Days to Complete Standard Fact Discovery</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$50,000 or less</td>
<td>3</td>
<td>0</td>
<td>5</td>
<td>5</td>
<td>120</td>
</tr>
<tr>
<td>2</td>
<td>More than $50,000 and less than $300,000 or non-monetary relief</td>
<td>15</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>180</td>
</tr>
<tr>
<td>3</td>
<td>$300,000 or more</td>
<td>30</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>210</td>
</tr>
</tbody>
</table>

**(c)(6) Extraordinary discovery.** To obtain discovery beyond the limits established in paragraph (c)(5), a party shall file:

(c)(6)(A) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, a stipulated statement that extraordinary discovery is necessary and proportional under paragraph (b)(2) and that each party has reviewed and approved a discovery budget; or

(c)(6)(B) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, a request for extraordinary discovery under Rule 37(a).

**(d) Requirements for disclosure or response; disclosure or response by an organization; failure to disclose; initial and supplemental disclosures and responses.**

(d)(1) A party shall make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(d)(2) If the party providing disclosure or responding to discovery is a corporation, partnership, association, or governmental agency, the party shall act through one or more officers, directors, managing agents, or other persons, who shall make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(d)(3) A party is not excused from making disclosures or responses because the party has not completed investigating the case or because the party challenges the sufficiency of another party’s disclosures or responses or because another party has not made disclosures or responses.

(d)(4) If a party fails to disclose or to supplement timely a disclosure or response to discovery, that party may not use the undisclosed witness, document or material at any hearing or trial unless the failure is harmless or the party shows good cause for the failure.

(d)(5) If a party learns that a disclosure or response is incomplete or incorrect in some important way, the party must timely serve on the other parties the additional or correct information if it has not been made known to the other parties. The supplemental disclosure or response must state why the additional or correct information was not previously provided.

**(e) Signing discovery requests, responses, and objections.** Every disclosure, request for discovery, response to a request for discovery and objection to a request for discovery shall be in writing and signed by at least one attorney of record or by the party if the party is not represented. The signature of the attorney or party is a certification under Rule 11. If a request or response is not signed, the receiving party does not need to take any action with respect to it. If a certification is made in violation of the rule, the court, upon motion or upon its own initiative, may take any action authorized by Rule 11 or Rule 37(b).

**(f) Filing.** Except as required by these rules or ordered by the court, a party shall not file with the court a
disclosure, a request for discovery or a response to a request for discovery, but shall file only the certificate of
service stating that the disclosure, request for discovery or response has been served on the other parties and the
date of service.

Advisory Committee Notes

Legislative Note
Rule 37. Statement of discovery issues; Sanctions; Failure to admit, to attend deposition or to preserve evidence.

(a) Statement of discovery issues.

(a)(1) A party or the person from whom discovery is sought may request that the judge enter an order regarding any discovery issue, including:

(a)(1)(A) failure to disclose under Rule 26;
(a)(1)(B) extraordinary discovery under Rule 26;
(a)(1)(C) a subpoena under Rule 45;
(a)(1)(D) protection from discovery; or
(a)(1)(E) compelling discovery from a party who fails to make full and complete discovery.

(a)(2) Statement of discovery issues length and content. The statement of discovery issues must be no more than 4 pages, not including permitted attachments, and must include in the following order:

(a)(2)(A) the relief sought and the grounds for the relief sought stated succinctly and with particularity;
(a)(2)(B) a certification that the requesting party has in good faith conferred or attempted to confer with the other affected parties in person or by telephone in an effort to resolve the dispute without court action;
(a)(2)(C) a statement regarding proportionality under Rule 26(b)(2); and
(a)(2)(D) if the statement requests extraordinary discovery, a statement certifying that the party has reviewed and approved a discovery budget.

(a)(3) Objection length and content. No more than 7 days after the statement is filed, any other party may file an objection to the statement of discovery issues. The objection must be no more than 4 pages, not including permitted attachments, and must address the issues raised in the statement.

(a)(4) Permitted attachments. The party filing the statement must attach to the statement only a copy of the disclosure, request for discovery or the response at issue.

(a)(5) Proposed order. Each party must file a proposed order concurrently with its statement or objection.

(a)(6) Decision. Upon filing of the objection or expiration of the time to do so, either party may and the party filing the statement must file a Request to Submit for Decision under Rule 7(g). The court will promptly:

(a)(6)(A) decide the issues on the pleadings and papers;
(a)(6)(B) conduct a hearing by telephone conference or other electronic communication; or
(a)(6)(C) order additional briefing and establish a briefing schedule.

(a)(7) Orders. The court may enter orders regarding disclosure or discovery or to protect a party or person from discovery being conducted in bad faith or from annoyance, embarrassment, oppression, or undue burden or expense, or to achieve proportionality under Rule 26(b)(2), including one or more of the following:

(a)(7)(A) that the discovery not be had or that additional discovery be had;
(a)(7)(B) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;
(a)(7)(C) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;
(a)(7)(D) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;
(a)(7)(E) that discovery be conducted with no one present except persons designated by the court;
(a)(7)(F) that a deposition after being sealed be opened only by order of the court;
(a)(7)(G) that a trade secret or other confidential information not be disclosed or be disclosed only in a designated way;
(a)(7)(H) that the parties simultaneously deliver specified documents or information enclosed in sealed envelopes to be opened as directed by the court;

(a)(7)(I) that a question about a statement or opinion of fact or the application of law to fact not be answered until after designated discovery has been completed or until a pretrial conference or other later time;

(a)(7)(J) that the costs, expenses and attorney fees of discovery be allocated among the parties as justice requires; or

(a)(7)(K) that a party pay the reasonable costs, expenses and attorney fees incurred on account of the statement of discovery issues if the relief requested is granted or denied, or if a party provides discovery or withdraws a discovery request after a statement of discovery issues is filed and if the court finds that the party, witness, or attorney did not act in good faith or asserted a position that was not substantially justified.

(a)(8) Request for sanctions prohibited. A statement of discovery issues or an objection may include a request for costs, expenses and attorney fees but not a request for sanctions.

(a)(9) Statement of discovery issues does not toll discovery time. A statement of discovery issues does not suspend or toll the time to complete standard discovery.

(b) Motion for sanctions. Unless the court finds that the failure was substantially justified, the court, upon motion, may impose appropriate sanctions for the failure to follow its orders, including the following:

(b)(1) deem the matter or any other designated facts to be established in accordance with the claim or defense of the party obtaining the order;

(b)(2) prohibit the disobedient party from supporting or opposing designated claims or defenses or from introducing designated matters into evidence;

(b)(3) stay further proceedings until the order is obeyed;

(b)(4) dismiss all or part of the action, strike all or part of the pleadings, or render judgment by default on all or part of the action;

(b)(5) order the party or the attorney to pay the reasonable costs, expenses, and attorney fees, caused by the failure;

(b)(6) treat the failure to obey an order, other than an order to submit to a physical or mental examination, as contempt of court; and

(b)(7) instruct the jury regarding an adverse inference.

(c) Motion for costs, expenses and attorney fees on failure to admit. If a party fails to admit the genuineness of a document or the truth of a matter as requested under Rule 36, and if the party requesting the admissions proves the genuineness of the document or the truth of the matter, the party requesting the admissions may file a motion for an order requiring the other party to pay the reasonable costs, expenses and attorney fees incurred in making that proof. The court must enter the order unless it finds that:

(c)(1) the request was held objectionable pursuant to Rule 36(a);

(c)(2) the admission sought was of no substantial importance;

(c)(3) there were reasonable grounds to believe that the party failing to admit might prevail on the matter;

(c)(4) that the request was not proportional under Rule 26(b)(2); or

(c)(5) there were other good reasons for the failure to admit.

(d) Motion for sanctions for failure of party to attend deposition. If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) to testify on behalf of a party fails to appear before the officer taking the deposition after service of the notice, any other party may file a motion for sanctions under paragraph (b). The failure to appear may not be excused on the ground that the discovery sought is objectionable unless the party failing to appear has filed a statement of discovery issues under paragraph (a).

(e) Failure to preserve evidence. Nothing in this rule limits the inherent power of the court to take any action authorized by paragraph (b) if a party destroys, conceals, alters, tampers with or fails to preserve a document,
tangible item, electronic data or other evidence in violation of a duty. Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.

Advisory Committee Notes
ALBERTA - SALT LAKE
SALT LAKE COUNTY, STATE OF UTAH

___________________________ ,
Plaintiff

v.

___________________________ ,
Defendant

* NOTICE OF REQUIRED
* DISCOVERY COMPLETION DATES
* IN ACCORDANCE WITH UTAH RULES
* OF CIVIL PROCEDURE
* (URCP RULE 26)
* *

Based on filing of defendant’s answer, the following dates must be met in this case:

Answer filed: <Answer file date>
- Plaintiff initial disclosures completed: <Calculated date>
- Defendant’s initial disclosures completed: <Calculated date>
- Fact Discovery completed: <Calculated date>
- Expert Discovery completed: <Calculated date>
- Mediation or ADR completed (unless exempt under CJA 4-510.06): <Calculated date>
- Certificate of Readiness for Trial filed: <Calculated date>

In domestic cases, the parties’ initial disclosures shall also meet the requirements of URCP 26.1.

Any deviations from these dates must be approved by the Court. The parties shall promptly notify the Court of any settlements or stipulations. Stipulations for extraordinary discovery under URCP 26(c)(6)(A), including those that extend the above dates, shall be submitted on a fully completed court-approved form, available at http://www.utcourts.gov.

Date: _________________________________ _________________________________

Clerk of Court