

**JUDICIAL COUNCIL MEETING
Minutes**

January 30, 2024

**Meeting held through Webex
and in person
Matheson Courthouse**

**450 S State Street
Salt Lake City, UT 84111**

12:00 p.m. – 1:00 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. David Mortensen, Vice Chair
Hon. Suchada Bazzelle
Hon. Brian Brower
Hon. Michael DiReda
Hon. Ryan Evershed
Hon. Paul Farr
Hon. James Gardner
Hon. Keith Barnes
Hon. Thomas Low
Justice Paige Petersen
Hon. Amber Mettler
Hon. Jon Carpenter
Margaret Plane, esq.
Hon. Elizabeth Lindsley

AOC Staff:

Ron Gordon
Shane Bahr
Jim Peters
Sonia Sweeney
Hilary Wood
Neira Siaperas
Keisa Williams
Nick Stiles
Stacy Haacke
Bryson King
Bart Olsen

Excused:

Hon. Samuel Chiara

Presenters:

Michael Drechsel

1. WELCOME: (Judge David Mortensent)

Judge David Mortensen welcomed everyone to the meeting, and then turned the time over to Michael Drechsel.

2. VIRTUAL HEARINGS: (Michael Drechsel)

In December, the Judicial Council discussed feedback that Mr. Drechsel had received from some of the legislators about virtual and in-person hearings. The concern was that there is a lack of uniformity across the state. With permission from the sponsor of the proposed joint resolution, Senator Stephanie Pitcher, Mr. Drechsel provided a copy of the document to the Council members, which is still in protected form. The joint resolution would amend court rules of procedure regarding in-person and remote proceedings. The proposed rules create a clear delineation about what would be considered remote-only hearings and what would be in-person-only hearings, and clear definitions for what types of hearings would be substantive or non-substantive. The Liaison Committee felt that the whole Judicial Council should be involved in the judiciary's response. Mr. Drechsel talked about a few of the ways the Judicial Council could respond to the proposal, and asked for the Council members' feedback.

Justice Paige Petersen shared some of the thoughts from the members of the Liaison Committee and revisited prior discussions and recommendations from the Green Phase working group. One of the discussion points included whether the manner of holding court hearings should be in administrative rules or rules of procedure.

Several of the Council members expressed how the joint resolution, as proposed, would not be workable in their area of the judiciary, and asked if the legislature would potentially give the judiciary more time to come up with a plan that would be more appropriate. Mr. Drechsel indicated that the time had likely passed for the judiciary to come up with a solution of its own. The legislature is looking for an immediate response at this point. Mr. Gordon reminded the Council about prior discussions about the real possibility of the legislature addressing virtual hearings in the courts if the judiciary did not set standards for in-person and virtual hearings.

Judge Mortensen, and several others, expressed the desire to take a collaborative approach with the legislature. Margaret Plane commented that the state bar also views itself as a stakeholder. They'd like to be involved and are ready to collaborate.

The Council discussed prior recommendations of the Green Phase Workgroup which did not establish a baseline for which hearings were presumptively virtual and which ones were presumptively in-person. Chief Justice Matthew B. Durrant suggested that the Council create a list of proceedings that could be presumptively virtual to take to the legislature. Stacy Haacke and Bryson King shared that the Rules of Civil Procedure Subcommittee members kept coming back to the idea that whether a hearing should be in-person or virtual should be based on party preference, but can use their next meeting to work on the recommended list. The subcommittee also discussed that a party should always have the option to attend a hearing in-person whether it is presumptively virtual, and vice versa.

Mr. Gordon added that the new Virtual Hearings Working Group's first meeting is scheduled for February 8th, but Mr. Drechsel was almost certain the draft resolution will be numbered this week, and that there isn't time to wait for the Working Group to meet.

Motion: Judge Farr made the motion that the Council take the position to collaborate with the legislature on the proposed joint resolution and to convene a meeting between the Management Committee and a representative of the Supreme Court to address jurisdictional issues. Justice Petersen seconded the motion, and the motion passed unanimously.

3. ADJOURN

The meeting adjourned.