

Radical Re-Engineering: Utah's Experience

e-Courts East 2010

Tampa, Florida

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Context

- 8% budget reduction FY 2009-2010
- 9% reduction in non judicial workforce
- Filing fees doubled, foreclosing a 20% reduction
- Hiring freeze on all employment, including judges
- 36% increase in filings in general jurisdiction court between FY 2008 and FY 2010

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Three ways to respond to budget reductions:

1. Reduce spending temporarily, then permanently
2. Raise revenue (and pray you'll get some of it)
3. Examine business practices for efficiencies

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Judicial Council examination of business practices

- Downsized AOC by 15% and reorganized services
- Jurisdictional change requiring all small claims cases to be filed in limited jurisdiction courts
- Combined district and juvenile court public counters and cross trained staff
- Employed court interpreters on contract and provided remote interpretation to rural courts
- Eliminated court reporters, relying exclusively on digital recording since July 1, 2009
- Automated transcript ordering, monitoring, and management process
- * New business model for case processing

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Business Goals

1. More effective case processing with a downsized workforce
2. Improved access to courts, case documents and information, and financial processing
3. Enhanced quality of litigation process
4. Reduced cost to litigants and court system

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Three components of re-engineering case processing:

- Human Resources - comprehensive reorganization of clerk of court operation
- Technology - accelerated implementation of the electronic record
- Rules - civil case discovery reform

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Comprehensive reorganization of clerk of court operation

Objectives:

1. Prepare organization for the advent of e-filing, e-documents, and e-payments in order to ensure that systems are effectively deployed, rather than being just added to the existing workflow
2. Adjust to rapidly changing workforce
3. Provide for a classification and compensation system that moves us from a clerical oriented workforce to one that is more professionally oriented and incorporates competency based advancement
4. Replace traditional hierarchical management structure with an organization built around team management
5. Replace specialists with generalists and provide increased emphasis on case management support for judges

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Comprehensive reorganization of clerk of court operation

Over the last two years:

- new organizational structure and workflow implemented state-wide; reduced the size of counter operation in favor of case management assistance
- new job titles, classifications, and salary structure implemented for the entire workforce; supervisors and managers had to compete for new positions
- team management has been instituted and training and coaching support provided; judicial team of a case manager and three judicial assistants for every two judges
- comprehensive competency driven training and advancement program implemented (126 separate interactive training units on every clerical desktop)
- advanced case management training component to be implemented this fall

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Utah Court Online Training Program Demo

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Electronic record

Objectives:

1. Establish an electronic record, including documents, that is available on demand to all parties
2. Improve communication between litigants and the courts through electronic noticing
3. Automating the workflow of courts to provide efficiencies and reduce reliance on paper records
4. Provide for electronic payment for public convenience and clerical efficiencies
5. Reduce the cost of litigation while improving case disposition times through active case management

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Electronic record

Status of conversion to electronic record

- e-payments implemented state-wide (30% of all receipts)
- e-filing available for civil cases state-wide. All cases not e-filed are being scanned. Anticipate 75% of all active civil cases will be electronic within a year
- Electronic record is allowing the role of court staff to change from data entry to quality control
- In chambers electronic case management tools for judges in development
- e-documents available to e-filers or through Exchange system
- e-warrants implemented state-wide
- electronic filing of criminal cases ready on courts end, in development on prosecutors end
- e-filing of tax, workforce services, and child support cases have been in place for years

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Discovery reform

Problem:

1. Utah rules of discovery modeled after federal discovery rules; federal rules are designed for complex cases which most state cases are not
2. Federal discovery rules predate the advent of technology
3. Discovery has become the most expensive part of civil litigation
4. Has led to a civil justice system too expensive for most people and too burdensome for most civil cases

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Discovery reform

Proposed reform advanced by Supreme Court Committee on the Rules of Civil Procedure

- Move away from a system in which discovery is the predominant aspect of litigation
 - where every party can get as much discovery as it can afford and must suffer whatever discovery the other party can afford
- Move toward a system in which discovery must be proportional
 - where the focus is on moving quickly and efficiently to disposition on the merits of the case

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Discovery reform

Proportionality

- The cost of discovery should be proportional to what is at stake in the litigation
- Past presumption: A party is entitled to discovery within the broad parameters of relevance

“You get discovery unless...”

- New standards: The party seeking discovery must demonstrate, in every case, that the requested discovery is proportional and relevant

“ You don't get discovery unless...”

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Discovery reform

Disclosures

- Rules will seek to reduce costs by requiring each party to provide, at a very early stage and without a discovery request, all documents and physical evidence the party may offer and the names of all witness the party may call with a description of expected testimony
- Disclosure is staggered
 - Plaintiff required to make disclosures within 14 days of service of first answer
 - Defendant required to make disclosures with 28 days of plaintiff's first disclosure or after defendants appearance, whichever is later

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Discovery reform

Standard discovery

- Each party automatically receives disclosures of what the opponent expects to use
- Up to 16 hours of depositions, interrogatories limited to 15, and requests for production and admissions limited to 25 each
- A presumptive time limit of 150 days is imposed, after which case is presumed ready for trial

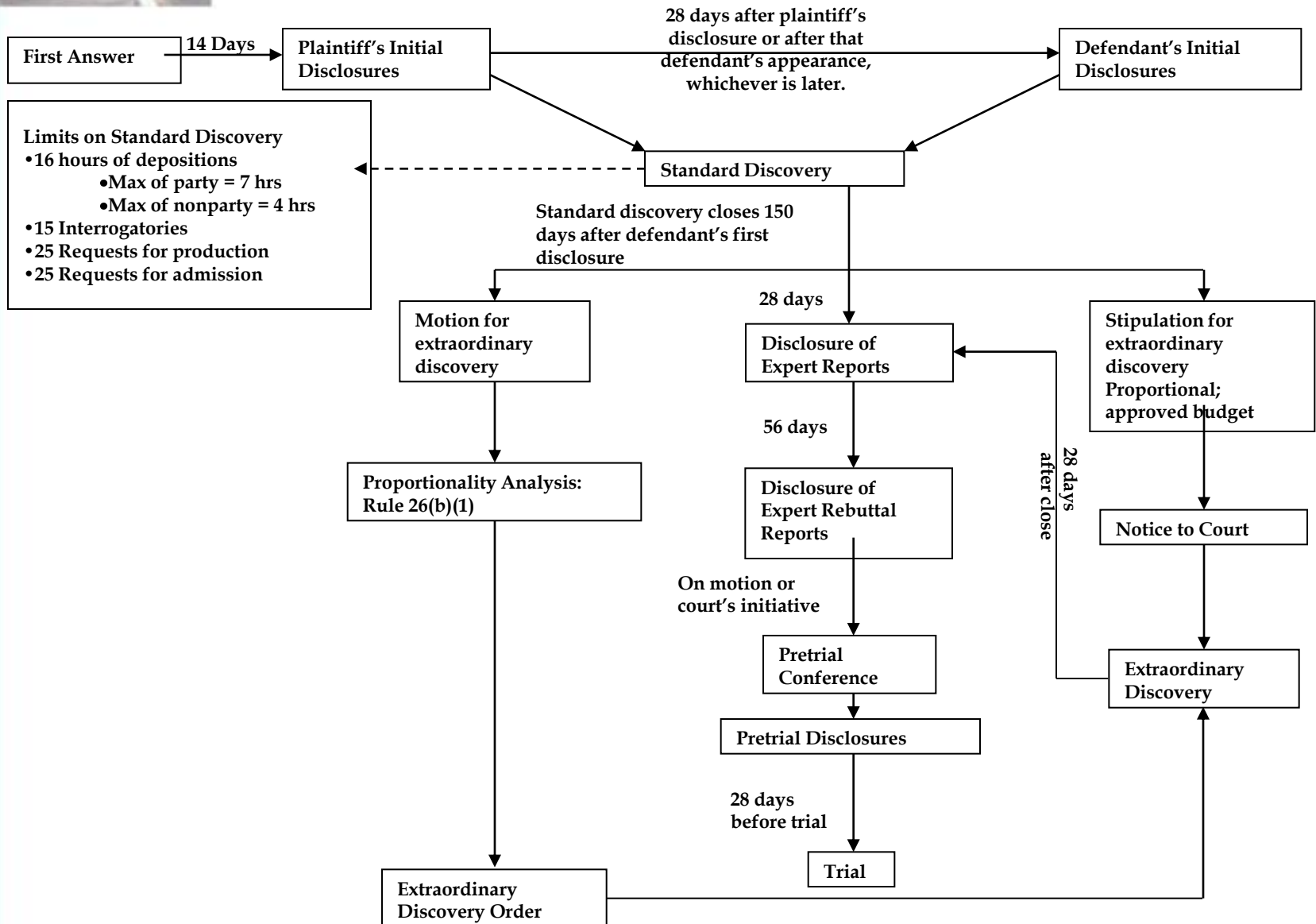
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Extraordinary discovery

- Parties may stipulate to additional discovery provided they stipulate that it is proportional to what is at stake in the litigation
- A party may file a motion for additional discovery and the moving party must demonstrate that additional discovery is proportional

Extraordinary discovery is conditioned on each client certifying that they have reviewed and approved a discovery budget.

Disclosure and Discovery Flow Sheet



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Three complimentary efforts are being coordinated to fundamentally change how we process court work

Challenges

- Comprehensive clerical reorganization will take another two years before all changes are fully engaged and a new HR culture has rooted.
- The real hard part of moving to an electronic record is not the technology, but the cultural change. Requires significant investment of resources and endless patience.
- Discovery reform will impact both the bench and the bar. Early indications are that both feel the time is right.

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Caveats

- This is not easy. We're pushing the limits of what can be absorbed at one time, but have little choice.
- Utah is a small state: population 2.8 million; 1200 court employees
- Constitutional Judicial Council: governance structure capable of making relatively quick decisions for the entire system
- Administrative structure: SCA appoints regional court executives who appoint clerks of court
- No employee unions
- Ability to move funds to priorities: two line items, 1) system salaries and operations, and 2) building leases and contracts

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More information:

Comprehensive clerical reorganization

<http://www.utcourts.gov/courts/training/ClericalComm/>

Electronic record

www.utcourts.gov/efiling

Discovery reform

<http://www.utcourts.gov/committees/civproc/>