

# UTAH LEGAL SERVICES, INC.

## Core Case Service Priorities

November 2011

ULS uses three basic criteria to determine whether a prospective client will receive assistance: the prospective client must be financially eligible for help<sup>1</sup>, the type of case presented must be within the office's case service priorities, and the matter must be legally meritorious. This document addresses the second criterion. It is a statement of case services that ULS believes are most important, moderately significant, and least critical to provide to our clients.<sup>2</sup> Unless good cause exists, each office provides every eligible client who presents a meritorious claim with assistance in the cases handled within the first category of cases. However where other resources exist clients will be referred to other providers for service. No assistance beyond “advice only”, “brief service” or a referral to a volunteer attorney, a mediation program or a self-help clinic is generally provided in the latter two categories, though those limited services are considered to be “priority” service in all categories.

A prospective client's financial eligibility and the merit of the legal matter presented must be determined independently. Regarding the first criterion, ULS relies on the honesty of its prospective clients to report their income and assets; we do not ask for verification unless, in a particular matter, some discrepancy appears. Determinations of legal merit are made during case acceptance meetings. At these meetings, the legal problems of those financially eligible Utahns who present matters within our case service priorities are discussed. Such discussions focus on the likelihood of success or failure to achieve the prospective client's requested relief.

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<sup>1</sup> Financial eligibility must be met by clients whose services will be provided through Legal Services Corporation (LSC) funds. While under some circumstances services may be provided to clients up to 200% of the federal poverty guidelines, ULS has determined to only serve clients below 125%, except in rare “impact” cases. Different financial eligibility guidelines may be mandated by other sources of ULS funding, such as Title XX, Violence Against Women Act or Victims of Crime Act funding. Some sources require that no means test be employed, as is the case with our senior citizen contracts.

<sup>2</sup> ULS only accepts fee-generating cases if they have previously been rejected in writing by two private attorneys. .

***First Priority:***  
***MOST IMPORTANT CASE SERVICES***

Principal considerations: Meeting the prospective client's immediate need for food, shelter, health care, protection from consumer fraud, ability to be and stay employed and freedom from physical harm. Unless good cause exists, each office provides every eligible client who presents a meritorious claim with assistance in this first category of cases. Consideration should be given to impact work (litigation seeking systemic change, or establishing case law that will affect a large number of low income persons and/or administrative advocacy) that may reduce the need for individual advocacy in this area.

**MEETING A CLIENT'S NEED FOR FOOD/INCOME MAINTENANCE**

- 1.1.1 : Food Stamp program [73], including expedited food stamps; Women, Infants and Children (WIC) program; federal commodities distributions
- 1.1.2 : Access to food pantries and publicly-funded feeding programs [89]
- 1.1.3 : Eligibility for income maintenance programs: TANF/GA [71]; Social Security [74]; Supplemental Security Income (SSI) [75]; Veterans' benefits [77] [These public benefits are important insofar as each enables its recipients to meet their immediate need for food, shelter and health care<sup>3</sup>.]
- 1.1.4 : Defense against overpayment and/or fraud allegations in public benefits programs [various]
- 1.1.5 : Unemployment Compensation [76]

**SHELTER**

- 1.2.1 : Prevention of homelessness through eviction defense and/or enforcement of warranty of habitability [61][63]; defense of foreclosure actions [62]
- 1.2.2 : Access to publicly-funded shelters [64]; entitlement to public housing [61]
- 1.2.3 : Utility shut-offs [07]

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<sup>3</sup> Many of these cases involve large enough retroactive lump sum payments to be fee-generating, leading to private attorney availability. We do not handle such cases.

## **HEALTH CARE**

- 1.3.1 : Eligibility for Medicaid [51], Medicare [52], UMAP [59]; patient anti-dumping laws [59]
- 1.3.2 : Veterans' health benefits [59]

## **PHYSICAL SAFETY**

- 1.4.1 : Protective Orders and Protective Orders on behalf of children under the Cohabitant Abuse Act filed in District Court; (substantiation of child abuse/neglect is required) [37]; stalking injunctions [39]
- 1.4.2 : Filing divorce petitions [32] (or in the case of unmarried parents, parentage petitions [31]) on behalf of battered spouses/abused children; obtaining or modifying custody or visitation when child abuse/neglect is substantiated against the opposing parent [31]
- 1.4.3 : Other legal matters arising from domestic violence.

## **CONSUMER PROBLEMS**

- 1.5.1 : Collection abuse and defenses and unlawful garnishment or attachment [02]; credit discrimination [04]; faulty goods and services [09]; violations of Fair Debt Collections Practices Act [08]

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### ***Second Priority:***

#### ***MODERATELY SIGNIFICANT CASE SERVICES***

Principal considerations: To prevent further degradation or seek long-term improvement of prospective clients' standards of living where immediate legal intervention is less decisive. Consideration should be given to impact work (litigation seeking systemic change, or establishing case law that will affect a large number of low income persons and/or administrative advocacy) that may reduce the need for individual advocacy in this area. While important legal concerns are listed here, ULS generally lacks the staff to handle them. Wherever volunteer attorneys have agreed to take such cases, ULS will refer prospective clients who have already been screened for financial eligibility. ULS will when practicable provide advice and occasional brief service in these areas. Eligible clients may be referred to pro bono attorneys for representation or to pro se clinics for assistance.

## **EDUCATION**

2.2.1 : Access to education; fee waivers [11]

## **EMPLOYMENT**

2.3.1 : Job discrimination [21]; wage claims [22]; and workers compensation [78]

## **FAMILY LAW**

2.4.1 : Divorce petitions on behalf of parents seeking custody, no domestic violence [32]

2.4.2 : Defense of proposed wards in guardianship proceedings [33]

2.4.3 : Defending custodial parent in petitions for modification of custody, no domestic violence [32]

## **HOUSING**

2.5.1 : Defense against collection of rent, damage claims, or attorneys fees [61] [62][63]

## **INDIVIDUAL RIGHTS**

2.6.1 : Immigration assistance, where prospective client meets federal eligibility guidelines [81]

## **MISCELLANEOUS**

2.7.1 : Tort defense (e.g., auto accident) [94]

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*Third Priority:*  
**LEAST CRITICAL CASE SERVICES**

Principal considerations: While important legal concerns are listed here, ULS generally lacks the staff to handle them. Advice may be provided through the intake process only. Wherever volunteer attorneys have agreed to take such cases, ULS will refer prospective clients who have already been screened for financial eligibility. Clients may be referred to pro se clinics for assistance.

**CONSUMER PROBLEMS**

3.1.1 : Bankruptcy, where client has massive unpaid medical bills [01]

**FAMILY LAW**

3.2.1 : Adoption [30]; name changes [34]; child/spousal support [38]; paternity [36]

3.2.2 : Visitation [31], including grandparents' visitation rights

3.2.3 : Divorce [32] (for either party) where child custody is not at issue and there are no credible allegations of abuse or violence

**INDIVIDUAL RIGHTS**

3.3.1 : Rights of mentally [82] and physically impaired [84] persons

## **Migrant Farm Worker Program Case Service Priorities**

Following the same general logic as the priorities established by ULS' general programs, the Migrant Farm worker program divides cases into two priority levels. Outreach and legal education to this community will be stressed. To increase our contact with the community, advice and brief service through outreach and clinics are a high priority in all the areas of both tiers. Cases of primary importance to the Migrant unit are cases related to a client's status as a farm worker. This is the primary consideration that may result in second tier cases receiving full representation.

### **First Tier Priorities**

Most Important Case Service Priorities

**Employment:** Wage Claims; Unemployment Compensation; Workers compensation; Discrimination.

**Conditions:** Pesticides; Working Environment; OSHA violations.

**Immigration:** Relative Petitions; Naturalizations; Adjustment of status.

**Education:** Access to/Discrimination in schools; fee waivers.

### **Second Tier Priorities**

Service will be provided in these areas only as available resources permit.  
Cases may be referred to pro bono counsel.

**Consumer:** Debt Collection Abuse; Consumer Fraud; Unfair sales practices.

**Housing:** Employment related housing issues; Eviction Defense; Uninhabitable Housing; Foreclosure; Subsidized Housing.

**Public Benefits:** Social Security/SSI; Medicare; Medicaid; Food Stamps; County Assistance.

**Family Law:** Divorce and Parentage cases.

**Tax Disputes:** IRS conflict cases; Social Security number reconciliations; EITC

## **Native American Program Case Service Priorities**

Following the same general logic as the priorities established by ULS' general programs, the Native American program divides cases into two priority levels. Outreach and legal education to this community will be stressed. To increase our contact with the community, advice and brief service through outreach and clinics are a high priority in all the areas of both tiers. ULS staff will not represent an individual one tribal member against another or against a tribe unless 1) both parties agree to ULS mediation in the dispute or 2) the opposing tribal member has private counsel, and 3) ULS' Director has reviewed the case and permits a special waiver stating the reasons which make such representation necessary and appropriate.

### **First Tier Priorities**

Most Important Case Service Priorities

**Tribal Rights:** Assist tribes, groups or Individuals in asserting and defending sovereign rights and other legal rights specific to their status as Native Americans

**Tribal Courts and Government:** Assist tribal courts and tribal governments in development that will advance or preserve Native American legal interests

**Tribal Housing**

**Juvenile Representation:** Juvenile Offenders; Juvenile Dependency and neglect.

**Indian Rights Issues in Federal/State programs**

**Indian Child Welfare Act cases**

**Indian Health Services; Health Issues**

**Benefits:** Social Security/SSI, General Assistance; Food Stamps; Individual Indian Monies (IIM)

**Education:** Access to/Discrimination in schools; fee waivers

**Domestic Violence:** Protective Orders, Stalking Injunctions, Divorce and parentage cases for victims. (UTCAP)

### **Second Tier Priorities**

Service will be provided in these areas only as available resources permit.

Cases may be referred to pro bon counsel.

**Family Law:** Divorce and Parentage cases

**Tax Disputes:** IRS conflict cases; Social Security number reconciliations; EITC

## Seniors/ Elder Law Case Service Priorities

Clients must be residents of the State of Utah and age 60 or older.

To the extent practical, priority will be given to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, and neglect to individuals to whom representation is not otherwise available. Particular attention shall be given to the needs of low income minority individuals, and individuals with “social or economic needs” (as defined in the Older American Act).

Case service priorities shall be targeted within the following legal categories:

- Consumer: Collections, repossessions, garnishments, credit access, contracts, warranties, unfair sale loans, installments and bankruptcy.
- Family: Guardianship, conservatorship, custody, visitation rights, power of attorneys, divorce, separation, and spouse abuse.
- Health: Medicare and Medicaid benefits, rights and payments, physical disability.
- Housing: Subsidized housing, real property, landlord-tenant issues, tax abatement, and other public housing issues.
- Income maintenance: Social security, SSI, unemployment, veterans benefits, foods stamps, workers compensation, AFDC and other welfare.
- Miscellaneous: Wills, estates, and mental health.

## **ULS Pro Bono Program Case Service Priorities**

Following the same general logic as the priorities established by ULS' general programs, the Pro Bono program divides cases into three priority levels. Where appropriate, we ask volunteer attorneys to take a case for a number of reasons including but not limited to:

- Staff Shortage
- Conflict Cases
- Location of Case in rural area
- No expertise in area of law
- Language barrier
- Domestic Violence
- Disabled or Cannot Self Represent
- Attorney Fee Cases

The list below reflects where within our set of priorities, pro bono attorneys have been referred cases.

### **First Tier Priorities**

#### Most Important Case Service Priorities

#### **SHELTER**

- 1.2.1 : Prevention of homelessness through eviction defense and/or enforcement of warranty of habitability [61][63]; defense of foreclosure actions [62]
- 1.2.2 : Entitlement to public housing [61]

#### **PHYSICAL SAFETY**

- 1.4.1 : Protective Orders and Protective Orders on behalf of children under the Cohabitant Abuse Act filed in District Court; (substantiation of child abuse/neglect is required) [37]; stalking injunctions [39]
- 1.4.2 : Filing divorce petitions [32] (or in the case of unmarried parents, parentage petitions [31]) on behalf of battered spouses/abused children; obtaining or modifying custody or visitation when child abuse/neglect is substantiated against the opposing parent [31]
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#### **CONSUMER PROBLEMS**

- 1.5.1 : Collection abuse and defenses and unlawful garnishment or attachment [02]; credit discrimination [04]; faulty goods and services [09]; violations of Fair Debt Collections Practices Act [08]

**Second Priority:**  
**MODERATELY SIGNIFICANT CASE SERVICES**

**FAMILY LAW**

- 2.4.1 : Divorce petitions on behalf of parents seeking custody, no domestic violence [32]
- 2.4.2 : Defense of proposed wards in guardianship proceedings [33]
- 2.4.3 : Defending custodial parent in petitions for modification of custody, no domestic violence [32]

**HOUSING**

- 2.5.1 : Defense against collection of rent, damage claims, or attorneys fees [61] [62][63]

**INDIVIDUAL RIGHTS**

- 2.6.1 : Immigration assistance, where prospective client meets federal eligibility guidelines [81]

**MISCELLANEOUS**

- 2.7.1 : Tort defense (e.g., auto accident) [94]

**Third Priority:**  
**LEAST CRITICAL CASE SERVICES**

**CONSUMER PROBLEMS**

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**FAMILY LAW**

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**INDIVIDUAL RIGHTS**

- 3.3.1 : Rights of mentally [82] and physically impaired [84] persons