Agenda

Advisory Committee on Rules of Civil Procedure

January 23, 2019

4:00 to 6:00 p.m.

Scott M. Matheson Courthouse

450 South State Street

Judicial Council Room

Administrative Office of the Courts, Suite N31

Welcome and approval of minutes	Tab 1	Jonathan Hafen, Chair
Advisory Committee Notes Project: Group A	Handout	Trevor Lee, Dawn Hautamaki, Lauren DiFrancesco, Larissa Lee, Susan Vogel
Rule 109 Revisited: Recommendation from Clerks of Court re clarifying language in (d)	Tab 2	Nancy Sylvester, Dawn Hautamaki
Rule 24: Report from Attorney General's Office on "timely"	Tab 3	Nancy Sylvester
Rule 26. General provisions governing disclosure and discovery (multiple requests for rule amendments).	Tab 4	Rod Andreason (subcommittee chair), Tim Pack, Trystan Smith, Leslie Slaugh
Civil Rule 58B and Juvenile Rule 58	Tab 5	Nancy Sylvester, Katie Gregory
Other business: Committee Notes	Tab 6	Jonathan Hafen

Committee Webpage: http://www.utcourts.gov/committees/civproc/

2019 Meeting Schedule:

February 27, 2019

March 27, 2019

April 24, 2019

May 22, 2019

June 26, 2019

September 25, 2019

October 30, 2019

November 20, 2019

Tab 1

UTAH SUPREME COURT ADVISORY COMMITTEE ON RULES OF CIVIL PROCEDURE

Meeting Minutes – November 28, 2018

PRESENT: Chair Jonathan Hafen, Heather Sneddon, Judge Laura Scott, Judge Andrew Stone, James Hunnicutt, Rod Andreason, Larissa Lee, Susan Vogel, Judge Clay Stucki, Leslie Slaugh, Trevor Lee, Justin Toth (phone), Judge James Blanch, Judge Amber Mettler, Timothy Pack, Judge Kent Holmberg, Katy Strand (Recorder), Lincoln Davies, Michael Petrogeorge, Byron Pattison (phone), Dawn Hautamaki

EXCUSED: Paul Stancil, Trystan Smith, Lauren DiFrancesco

STAFF: Nancy Sylvester

GUESTS: Judge Douglas Thomas

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(1) WELCOME AND APPROVAL OF MINUTES

Jonathan Hafen welcomed the committee and guest, Judge Douglas Thomas. Mr. Hafen asked for corrections or approval of the minutes. Susan Vogel requested to correct the minutes as to the Labor Commission hearing on pages 3, 4, and 5. With those changes, Jim Hunnicutt moved to approve the minutes and Rod Andreason seconded. The motion passed unanimously.

(2) UPDATES ON LABOR COMMISSION ISSUES AND FINALITY RULES (URCP RULES 73, 58A, URAP RULE 4).

Johnathan Hafen reported that following last month's meeting, the Labor Commission withdrew its proposed rule and plans to move forward with a new legislative solution.

(3) NEW RULE 7A. MOTION FOR ORDER TO SHOW CAUSE

Mr. Hunnicutt reported that a few years ago Rule 7A was proposed to standardize motions for orders to show cause. The rule would have been more rigid than current practice across the state; a single hearing could not result in a contempt of court finding. The rule came up again as the Forms Committee is preparing for the paralegals to practice law next year. The 5th and 6th districts currently prefer and use two hearings (the two step process), while the rest of the state permits a single hearing for contempt proceedings.

Judge Thomas said he feared that a rule mandating a two-step process would institutionalize inefficiency. The Judicial Council has made the policy decision to streamline the domestic case process, and the7th district is a pilot site. He opined that this proposal would be antithetical to that decision. He said most orders to show cause are in domestic relation cases or failure to appear to supplemental orders hearings. When the motion will be contested, the courts presume that the

parties will be ready to argue it, unless the parties request more time in advance. The one step process is particularly valuable in rural districts, where distance and travel are concerns. Judge Thomas noted that Rule 101 allows for significantly more time if you wish to have a commissioner hear the case (7 days for a judge versus 28 for a commissioner), which doesn't make much sense. The proposed change may overly complicate the process and could result in even more hearings. He added that not all orders to show cause proceedings involve contempt; contempt is often alleged but not often tried.

Ms. Vogel opined that the additional time and effort provided in the new proposal may be too cumbersome for pro se litigants. Judge Blanch said he believed this was really an issue of making sure all parties understand what the hearings are for. He said he often finds that a telephonic conference clears up this confusion. Either way, clarity is the most important thing. Mr. Hafen proposed making the time frame 28 days to have the time be acceptable and clear.

Judge Stucki questioned why the other districts preferred the two-step process. Bryan Pattison reported that the two-step process was created to help parties both to know what to expect and what is expected of them. He said parties and attorneys in St. George like the rule because it is clear. Judge Holmberg reported that in Summit County, the first hearing is by telephone. He said this has helped attorneys and made pro se litigants more comfortable because they know what will happen at the in-person hearing.

Leslie Slaugh said either way there should be a uniform rule. Judge Blanch reported that they could explicitly require a telephonic hearing if requested, which would avoid some costs. Mr. Hafen proposed replacing "first hearing" with "telephonic scheduling conference." He observed that court process are generally more efficient when there is early judicial intervention. And many issues could be resolved early by phone. Judge Stone said he opposed any rule that required a telephonic conference, but perhaps like in Rule 37, it could be recommended. Judge Scott said that telephonic conferences can be very difficult when a large number of parties and/or interpreters are involved. Judge Stone reported that he has not experienced confusion with the current process since Third District uses domestic commissioners. Mr. Hafen pointed out not half of the districts have no commissioners so the rule would need to be one size fits all.

Judge Scott questioned why there is a motion for order to show cause instead of for sanctions. Mr. Slaugh reported the statute for contempt mentions orders to show cause. Judge Thomas reported that ORS files the vast majority of orders to show cause, and that people often stipulate to the contempt and are given "purge conditions," with the hearing set out for reviews. All of this takes place at the first hearing, before the evidentiary hearing. Ms. Vogel questioned if the rule is contemplates a commissioner hearing the motion. Will parties now be presenting evidence and witnesses? And how will this impact the pro se calendars?

Timothy Pack asked if, under this rule, an opposition to the motion is contemplated or allowed. Judge Scott stated that in non-domestic cases these motions often have full briefing, but it is not in the rule. Mr. Pack said he would file the opposition no matter what the rule said. Ms. Vogel pointed out that the pro se forms include an opposition. Mr. Slaugh observed out that the current rules prohibit using the order to show cause process to obtain an injunction, which is different from historic methods and from other jurisdictions. He also questioned whether the contempt statute

could be amended to allow for normal motion practice. Mr. Hafen proposed approaching the legislature on this topic. Judge Holmberg mentioned that an order to show cause may be stronger than a motion, as people react more strongly to orders.

Judge Blanch questioned if the advisory note would be enough to keep this out of the criminal cases. Mr. Hafen and Ms. Sylvester said it would be best to be in the language of the rule, as it is substantive.

Ms. Vogel suggested that the forms be moved into one document with the motion and the statement supporting it. Ms. Sylvester pointed out that other rules require the memorandum and motion be in one document. Judge Blanch agreed that any motion and memorandum should be one document. Mr. Hafen clarified that a declaration may be a different document. Judge Blanch proposed incorporating rule 7 in the rule to avoid this problem.

Mr. Hunnicutt questioned if the local rules could be overridden by the Supreme Court's rules; Ms. Sylvester said they could.

Mr. Hafen asked how many of the committee members supported providing uniformity. Nearly the entire committee supported uniformity. Mr. Hafen proposed that the subcommittee work on this rule further.

(4) RULE 26. GENERAL PROVISIONS GOVERNING DISCLOSURE AND DISCOVERY (MULTIPLE REQUESTS FOR RULE AMENDMENTS).

Mr. Andreason reported that the subcommittee reviewed the comments from the practitioners and judges regarding Rule 26 and created a list of proposed changes. He did not believe any of these were major changes, but would make the documents more complaint with rule 34 and would reevaluate the timeframes.

In particular, the initial disclosures must be compliant with rule 34. Paragraph (a)(2)(A) would change to ensure that multiple plaintiffs joining at a later date would have timing based upon the date of their joining the case. Ms. Vogel proposed inserting the word "the" before "filing of the first answer" for clarity. Mr. Andreason agreed.

On lines 27 and 28 a similar clarification was proposed for defendants. Ms. Vogel proposed that it would be clearer if it said "by a defendant within 42 days of that defendant filing its first answer to the complaint." Mr. Pack proposed adding a "the" to make it parallel to the paragraph above. Judge Stucki did not see how it could be confusing to have a defendant followed by that defendant, he believed the language to be quite clear. Heather Sneddon agreed that adding "the" was sufficiently clear.

In paragraph (a)(4)(A) the word "retained" was added to clarify that it only applied to retained experts. Judge Stone reported that the requirements in line 49 are often highly problematic. A medical doctor may rely upon a huge amount of information they may not cite. Judge Holmberg reported that arguments have been made that an expert must provide the whole file of information they relied upon in reaching their conclusions. Mr. Slaugh proposed changing it to state "specific to the case." Larissa Lee proposed adding a materiality requirement. Judge Stone proposed that published materials should be excluded and he believed that "gathered or collected for the case"

would solve the problem. Mr. Petrogeorge said he believed that if they were relying upon something to form an opinion, it was relevant to the case, and was already limiting. Judge Scott proposed that some of this should be provided in the report or deposition, but that it was not relevant to the purpose of the disclosure. Judge Blanch pointed out that the committee must be realistic that lawyers will always find ridiculous arguments, although some can be avoided. Mr. Hunnicutt proposed copying the federal rule, which cuts the word "all." Trever Lee reported this was added to make clear that drafts were not required. Mr. Petrogeorge did not believe this would limit the requirements enough.

The discussion on this was tabled until the next meeting.

(5) RULE 4. STANDARDS FOR ELECTRONIC ACCEPTANCE OF SERVICE. SUBCOMMITTEE UPDATE AND REQUEST FOR FEEDBACK.

Judge Scott reported that the subcommittee looked into the issue of electronic acceptance of service. She said the committee did not believe that this could be used in lieu of personal service, but it could be used for acceptance of service. Ms. Vogel pointed out that under rule 4 alternative service was still an option, but a judge must make a determination to allow electronic personal service. She also stated that someone could challenge the particular instance.

Mr. Hafen questioned if the committee notes were the correct place to address these deceptive practices. Judge Holmberg believed that there was a statute that disallowed some of these practices. Mr. Hafen said the note could refer to the statute. Judge Blanch pointed out that there is a duty to accept service, the point of which is not to allow others to avoid service. All a person should be entitled to is a set aside of a default if service was not correct. Ms. Vogel pointed out that people should be able to see what they are accepting, to be sure it was the correct party. Mr. Slaugh added that accepting service without seeing the documents was problematic. Statements that a party must do something create problems; acceptance should be knowing and not intimidated. Mr. Slaugh proposed a note stating the committee relied upon judges to determine if the methods of service used were fair; the note could also include references to the statutes. Judge Stone reported that parties are not showing what processes were used to ensure that the correct party was served. Judge Stone stated particular language could be required in an acceptance of service. Mr. Slaugh said this would be too cumbersome if the person accepting service is an attorney. Mr. Hafen said he believed this would be a different situation from the one the committee was discussing.

Ms. Sylvester proposed referencing a form. Judge Stone questioned attorneys having separate requirements. He pointed out that sometimes obtaining jurisdiction is a part of service, and so the requirement to accept service, or the method of service, was about more than setting aside defaults. He was most concerned with the proof of acceptance of service, as usually it was not enough. Ms. Sylvester proposed that the rule include a requirement that the return of service demonstrate on its face that it conforms with the Electronic Signature Act.

Heather Sneddon proposed moving the language on the Electronic Signature Act to near the Acceptance of Service by a Party, to avoid requiring additional language from attorneys. Judge Stucki proposed placing the deceptive practices language in the portion of the rule stating who cannot be served. Judge Blanch continued to question how non-mandatory acceptance is; he said he did believe that it is deceptive to indicate that it is imperative to accept the service. Lincoln Davies

proposed separate language regarding allowing a party to see the documents, as well as language opposed to deception, as these are different issues. Judge Stone was most concerned that this not be confused with acceptance of service; he insisted that acceptance is voluntary. Ms. Sneddon proposed that a form for request of service could eliminate this problem. Mr. Hafen asked that the subcommittee look at all of these issues and come back at the committee's next meeting to discuss their proposal.

(6) RULE 24: INCORPORATING THE FEDERAL LANGUAGE.

Ms. Sylvester reported that proposed Rule 24 now incorporates the federal language. The federal amendments largely removed archaic language; Ms. Sylvester then replaced "shall" with "must." She queried whether the language regarding federal law or executive orders should still be included. Mr. Hunnicutt said he thought that the language about federal law was superfluous. He believed this would mirror the language for no reason aside from doing so. Mr. Davies pointed out that this language would allow for state cases, which could have been filed in federal court, to be adjudicated the same way it would be in federal court. Mr. Hunnicutt questioned if the structure of the rule would be better if the language of rule 4(d)(1)(F) for service of governmental agencies was used. Judge Stucki believed that the attorney general should be giving the agencies notice. Judge Holmberg reported that the attorney general's office is not set up or charged with providing notice to all of the agencies or subdivisions in the state. Ms. Vogel requested that the word "pleading" be more specific on line 27. She proposed that it say "memorandum." Mr. Slaugh said he believed it should be "complaint" or "petition." Ms. Lee questioned what a timely motion from the Attorney General's office was, and proposed that a specific time frame be included. Mr. Slaugh said the deadline could fit into line 33, but not 38. Ms. Lee proposed that the government be given a deadline for an intention to intervene, but allow a timely motion for the actual arguments. Judge Holmberg proposed asking the Attorneys General's office what the time frame should be. Ms. Sylvester agreed to reach out and determine what the time limit should be. Mr. Hafen proposed taking this to the Court and mentioning the timely motion issue to them for their opinion. Ms. Sylvester proposed adding a line regarding a requirement for a notice of intent to intervene. It was agreed that the committee would discuss this with the Attorney General's office before sending it to the Court.

(7) ADJOURNMENT

The remaining matters were deferred, and the committee adjourned at 6:06 pm. The next meeting will be held January 23, 2018 at 4:00 pm.

Tab 2

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Hon. Mary T. Noonan
Interim State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Civil Procedures Committee
From: Nancy Sylvester
Date: January 17, 2019
Re: Rule 109

Rule 109 provides that upon the filing of an initial petition, the rule would impose an automatic domestic injunction on the parties to various domestic actions. The Clerks of Court have been working through how to implement Rule 109 before it goes into effect May 1. They asked that some clarifying language regarding *who* serves the injunction be added to paragraph (d)(2). Their preference is that the petitioner be responsible for service. The amended rule is appended to this memo.

Rule 109. Injunction in certain domestic relations cases.

(a) **Actions in which a domestic injunction enters.** Unless the court orders otherwise, in an action for divorce, annulment, temporary separation, custody, parent time, support, or paternity, the court will enter an injunction when the initial petition is filed. Only the injunction's applicable provisions will govern the parties to the action.

(b) **General provisions.**

(b)(1) If the action concerns the division of property then neither party may transfer, encumber, conceal, or dispose of any property of either party without the written consent of the other party or an order of the court, except in the usual course of business or to provide for the necessities of life.

(b)(2) Neither party may, through electronic or other means, disturb the peace of, harass, or intimidate the other party.

(b)(3) Neither party may commit domestic violence or abuse against the other party or a child.

(b)(4) Neither party may use the other party's name, likeness, image, or identification to obtain credit, open an account for service, or obtain a service.

(b)(5) Neither party may cancel or interfere with telephone, utility, or other services used by the other party.

(b)(6) Neither party may cancel, modify, terminate, change the beneficiary, or allow to lapse for voluntary nonpayment of premiums, any policy of health insurance, homeowner's or renter's insurance, automobile insurance, or life insurance without the written consent of the other party or pursuant to further order of the court.

(c) **Provisions regarding a minor child.** The following provisions apply when a minor child is a subject of the petition.

(c)(1) Neither party may engage in non-routine travel with the child without the written consent of the other party or an order of the court unless the following information has been provided to the other party:

(c)(1)(A) an itinerary of travel dates and destinations;

(c)(1)(B) how to contact the child or traveling party; and

(c)(1)(C) the name and telephone number of an available third person who will know the child's location.

(c)(2) Neither party may do the following in the presence or hearing of the child:

(c)(2)(A) demean or disparage the other party;

(c)(2)(B) attempt to influence a child's preference regarding custody or parent time; or

(c)(2)(C) say or do anything that would tend to diminish the love and affection of the child for the other party, or involve the child in the issues of the petition.

(c)(3) Neither party may make parent time arrangements through the child.

(c)(4) When the child is under the party's care, the party has a duty to use best efforts to prevent third parties from doing what the parties are prohibited from doing under this order or the party must remove the child from those third parties.

(d) **When the injunction is binding.** The injunction is binding

(d)(1) on the petitioner upon filing the initial petition; and

(d)(2) on the respondent after petitioner files ~~filing of~~ the initial petition and provides to the respondent ~~upon receipt of~~ a copy of the injunction as entered by the court.

(e) **When the injunction terminates.** The injunction remains in effect until the final decree is entered, the petition is dismissed, the parties otherwise agree in a writing signed by all parties, or further order of the court.

(f) **Modifying or dissolving the injunction.** A party may move to modify or dissolve the injunction.

(f)(1) Prior to a responsive pleading being filed, the court shall determine a motion to modify or dissolve the injunction as expeditiously as possible. The moving party must serve the nonmoving party at least 48 hours before a hearing.

(f)(2) After a responsive pleading is filed, a motion to modify or to dissolve the injunction is governed by Rule 7 or Rule 101, as applicable.

(g) **Separate conflicting order.** Any separate order governing the parties or their minor children will control over conflicting provisions of this injunction.

(h) **Applicability.** This rule applies to all parties other than the Office of Recovery Services.

~~Effective May 1, 2019~~

Tab 3

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Hon. Mary T. Noonan
Interim State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Civil Rules Committee
From: Nancy Sylvester
Date: January 18, 2019
Re: Civil Rule 24

At our last meeting, the committee approved bringing Rule 24 in line with its federal counterpart, but raised some questions about the meaning of the term "timely" with respect to when the Attorney General's Office intervenes. I raised that question with the Attorney General's office and its attorneys are currently in discussions on that term. I expect to have a draft to share by Wednesday. Attached is the rule in the form the committee reviewed in November.

Rule 24. Intervention. (Paragraphs (a)-(c) include the federal language incorporated.)

(a) Intervention of right. ~~Upon.~~ On timely ~~application~~ motion, the court must permit anyone ~~shall be permitted~~ to intervene ~~in an action:~~ who:

(1) ~~when a statute confers~~ is given an unconditional right to intervene by a statute; or

(2) ~~when the applicant~~ claims an interest relating to the property or transaction ~~which~~that is the subject of the action, and ~~the applicant~~ is so situated that ~~the disposition~~disposing of the action may as a practical matter impair or impede the ~~applicant's~~movant's ability to protect ~~that~~its interest, unless ~~the applicant's interest is adequately represented by~~ existing parties adequately represent that interest.

(b) Permissive intervention. ~~Upon.~~

(1) In General. On timely ~~application~~ motion, the court may permit anyone ~~may be permitted~~ to intervene ~~in an action: (1) when a statute confers~~who:

(A) is given a conditional right to intervene by a statute; or ~~(2) when an applicant's~~

(B) has a claim or defense ~~and~~that shares with the main action ~~have~~ a common question of law or fact ~~in common. When a party to an action bases~~.

(2) By a Government Officer or Agency. On timely motion, the court may permit a federal or state governmental officer or agency to intervene if a party's claim or defense ~~upon any~~is based on:

(A) a statute or executive order administered by ~~a governmental~~the officer or agency; or ~~upon~~

(B) any regulation, order, requirement, or agreement issued or made ~~pursuant to~~under the statute or executive order~~, the officer or agency upon timely application may be permitted to intervene in the action.~~.

(3) Delay or Prejudice. In exercising its discretion, the court ~~shall~~must consider whether the intervention will unduly delay or prejudice the adjudication of the ~~rights of the~~ original ~~parties~~parties' rights.

(c) ~~Procedure.~~ Notice and Pleading Required. A ~~person desiring~~motion to intervene ~~shall serve a motion to intervene upon~~ must be served on the parties as provided in ~~Rule 5~~Rule 5. The ~~motions shall~~motion must state the grounds ~~therefor~~ for intervention and ~~shall~~ be accompanied by a pleading ~~setting forth~~that sets out the claim or defense for which intervention is sought.

(d) Constitutionality of Utah statutes and ordinances. [This paragraph is not in FRCP024.)

(d)(1) If a party challenges the constitutionality of a Utah statute in an action in which the Attorney General has not appeared, the party raising the question of constitutionality ~~shall~~ must notify the Attorney General of such fact as described in paragraphs (d)(1)(A), (d)(1)(B), and (d)(1)(C). The court ~~shall~~ must permit the state to be heard upon timely ~~application~~motion.

(d)(1)(A) **Form and Content**. The notice must (i) be in writing, (ii) be titled "Notice of Constitutional Challenge Under URCP 24(d)," (iii) concisely describe the nature of the challenge, and (iv) include, as an attachment, the pleading, motion, or other paper challenging the constitutionality of the statute.

(d)(1)(B) **Timing**. The party must serve the notice on the Attorney General on or before the date the party files the paper challenging the constitutionality of the statute.

(d)(1)(C) **Service**. The party must serve the notice on the Attorney General by email or, if circumstances prevent service by email, by mail at the addresses below, and file proof of service with the court.

Email: notices@agutah.gov

Mail:

Office of the Utah Attorney General

Attn: Utah Solicitor General

350 North State Street, Suite 230

P.O. Box 142320

Salt Lake City, Utah 84114-2320

(d)(2) If a party challenges the constitutionality of a county or municipal ordinance in an action in which the district attorney, county attorney, or municipal attorney has not appeared, the party raising the question of constitutionality ~~shall~~ must notify the district attorney, county attorney, or municipal attorney of such fact. The procedures will be as provided in paragraphs (d)(1)(A), (d)(1)(B), and (d)(1)(C) except that service must be on the individual county or municipality. The court ~~shall~~ must permit the county or municipality to be heard upon timely ~~application~~motion.

(d)(3) Failure of a party to provide notice as required by this rule is not a waiver of any constitutional challenge otherwise timely asserted. If a party does not serve a notice as required under paragraphs (d)(1) or (d)(2), the court may postpone the hearing until the party serves the notice. It is the party's responsibility to find and use the correct email address for the relevant district attorney and county attorney or municipal attorney, or if circumstances prevent service by email, it is the party's responsibility to find and use the correct mailing address.

Tab 4

Rule 26. General provisions governing disclosure and discovery.

(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)(ii) 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.

Rule 34 governs the form of producing all documents, data compilations, electronically stored information, tangible things, and evidentiary material pursuant to this Rule.

(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~~ a plaintiff within 14 days after the filing of the first answer to ~~the~~ that plaintiff's complaint; and

(a)(2)(B) by ~~the~~ a defendant within 42 days after the filing of ~~the~~ that defendant's 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 retained expert testimony. A party shall, without waiting for a discovery request, serve on the other parties the following information regarding any person who

Comment [RNA1]: Reason: ensure compliance with URCP 34 in initial disclosure document production.

Comment [RNA2]: Reason: There may be multiple plaintiffs, some of who may join the case at a later date.

Comment [RNA3]: Reason: There may be multiple defendants; some of them may seek to file a motion to dismiss or similar motion after appearance that is not an answer, and such should not have to provide initial disclosures before such motion is resolved.

Comment [RNA4]: Reason: Clarity; this paragraph only pertains to this type of expert witness.

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~~ the facts and data and other information specific to the case 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) Timing for expert discovery.

(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~~ 14 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~~ 42 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 14 ~~seven~~ days after the later of (A) the date on which the ~~election~~ disclosure 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~~ 42 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 14 ~~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~~ 42 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.

Comment [RNA5]: Reason: Practitioners reportedly need more time.

Comment [RNA6]: Reason: Practitioners reportedly need more time.

Comment [RNA7]: Reason: Practitioners reportedly need more time.

Comment [RNA8]: Reason: When the party bearing the burden fails to disclose an expert, the party who does not bear the burden currently has no triggering event for providing its expert disclosure.

Comment [RNA9]: Reason: Practitioners reportedly need more time.

Comment [RNA10]: Reason: Practitioners reportedly need more time.

Comment [RNA11]: Reason: Practitioners reportedly need more time.

(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). Such a witness cannot be required to provide a report pursuant to (a)(4)(B). A deposition of such a witness may not exceed four hours. No further discovery of such a witness is permitted.

(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)(A) shall be served on the other parties at least 28 days before trial. Disclosures required by paragraph (a)(5)(A)(i) and (a)(5)(A)(ii) shall also be filed. At least 14 days before trial, a party shall serve and file any counter designations of deposition testimony~~,~~ and any objections and grounds for the objections to the use of any deposition, witness, ~~and~~ or ~~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

Comment [RNA12]: Reason: Judges reportedly want to see these items, although not all of the proposed trial exhibits (need judges' input/confirmation).

Comment [RNA13]: Reason: Need parallel reference to objections to witnesses as well as other disclosures. Although many objections to witnesses, as well as exhibits, must be considered within the scope of their offering at trial, this funnels down the scope of such potential objections. (If this is too demanding as to witnesses, it is likely too demanding for exhibits as well, requiring both to be removed).

(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 recorded.

(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).

Tier	Amount of Damages	Total Fact Deposition Hours	Rule 33 Interrogatories including all discrete subparts	Rule 34 Requests for Production	Rule 36 Requests for Admission	Days to Complete Standard Fact Discovery
1	$50,000 or less	3	0	5	5	120

2	More than $50,000 and less than $300,000 or non-monetary relief	15	10	10	10	180
3	$300,00 or more	30	20	20	20	210

(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, for each party represented by an attorney, a statement that the attorney ~~that each party has reviewed and approved a discovery budget~~consulted with the client about the request for extraordinary discovery; 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).

Comment [RNA14]: Reason: The current requirement has been universally ignored and may be too onerous and expensive relative to its desired goal: ensuring that parties know that extraordinary discovery will result in additional expense.

(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

Tab 5

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Hon. Mary T. Noonan
Interim State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Utah Supreme Court
From: Nancy Sylvester
Date: January 18, 2019
Re: Civil Rule 58B and Juvenile Rule 58

2 years ago the Legislature passed a bill allowing the Juvenile Court to enter restitution orders on behalf of victims. But there is no enforcement mechanism in the Juvenile Courts for restitution orders. For example, a victim couldn't obtain supplemental or garnishment orders in that court. The Legislature intended to allow collection on these orders, so the attached proposals permit restitution orders to be abstracted to the district court where all of those remedies are available. The original judgment, though, is still technically in the Juvenile Court.

450 South State Street / P.O. Box 140241 / Salt Lake City, Utah 84114-0241 / Tel: 801-578-3808 / Fax: 801-578-3843 / email: nancyjs@utcourts.gov

Rule 58B. Satisfaction of judgment.

(a) Satisfaction by acknowledgment. Within 28 days after full satisfaction of the judgment, the owner or the owner's attorney must file an acknowledgment of satisfaction in the court in which the judgment was entered. If the judgment was entered in juvenile court and abstracted to the district court, the satisfaction of judgment must be filed in the district court. If the owner is not the original judgment creditor, the owner or owner's attorney must also file proof of ownership. If the satisfaction is for part of the judgment or for fewer than all of the judgment debtors, it must state the amount paid or name the debtors who are released.

(b) Satisfaction by order of court. The court in which the judgment was first entered may, upon motion and satisfactory proof, enter an order declaring the judgment satisfied.

(c) Effect of satisfaction. Satisfaction of a judgment, whether by acknowledgement or order, discharges the judgment, and the judgment ceases to be a lien as to the debtors named and to the extent of the amount paid. A writ of execution or a writ of garnishment issued after partial satisfaction must include the partial satisfaction and must direct the officer to collect only the balance of the judgment, or to collect only from the judgment debtors remaining liable.

(d) Filing certificate of satisfaction in other counties. After satisfaction of a judgment, whether by acknowledgement or order, has been entered in the court in which the judgment was first entered, a certificate by the clerk showing the satisfaction may be filed with the clerk of the district court in any other county where the judgment has been entered.

Rule 58. Victim rights.

(a) The court shall honor the rights and procedures accorded to victims pursuant to Title 77, Chapters 37 and 38, Victim Rights.

(b) Except as required by law in child welfare proceedings, prior to filing a document for review by the judge, the filing party or individual shall redact all safeguarded victim information. The party or individual must also certify that the safeguarded information has been redacted.

(c) If the juvenile court enters an unpaid restitution order as a civil judgment, the juvenile court will abstract the judgment to the district court. The victim is entitled to enforce the judgment in the district court and the judgment shall be treated in all respects as if the judgment was originally entered in the district court.

Tab 6

Advisory Committe Notes Project

Civil Rules	Committee Note?	Subcommittee
Part I Scope of Rules - One Form of Action		**A**
Rule 1 General provisions.	Yes	
Rule 1 General provisions. (superseded 11/1/2011)	n/a	
Rule 2 One form of action.	No	
Part II Commencement of Action; Service of Process, Pleadings, Motions and Orders		**A**
Rule 3 Commencement of action.	Yes	
Rule 4 Process.	Yes	
Rule 5 Service and filing of pleadings and other papers.	Yes	
Rule 6 Time.	No	
Part III Pleadings, Motions, and Orders		**B**
Rule 7 Pleadings allowed; motions, memoranda, hearings, orders.	Yes	
Rule 8 General rules of pleadings.	Yes	
Rule 8 General rules of pleadings. (superseded 11/1/2011)	n/a	
Rule 9 Pleading special matters.	Yes	
Rule 9 Pleading special matters. (superseded 11/1/2011)	n/a	
Rule 10 Form of pleadings and other papers.	Yes	
Rule 11 Signing of pleadings, motions, and other papers; representations to court; sanctions.	Yes	
Rule 12 Defenses and objections.	No	
Rule 13 Counterclaim and cross-claim.	No	
Rule 14 Third-party practice.	No	
Rule 15 Amended and supplemental pleadings.	Yes	
Rule 16 Pretrial conferences.	Yes	
Rule 16 Pretrial conferences. (superseded 11/1/2011)	n/a	
Part IV Parties		**A**
Rule 17 Parties plaintiff and defendant.	Yes	
Rule 18 Joinder of claims and remedies.	No	

A	B
Lauren DiFrancesco	Prof. Lincoln Davies
Larissa Lee	Prof. Paul Stancil
Trevor Lee	Michael Petrogeorge
Susan Vogel	Judge Kent Holmberg
Dawn Hautamaki	Jim Hunnicut
C	**D**
Rod N. Andreason	Judge Andrew Stone
Leslie Slaugh	Judge James Blanch
Trystan Smith	Bryan Pattison
Tim Pack	Judge Laura Scott
	E
	Judge Amber Mettler
	Judge Clay Stucki
	Justin Toth
	Heather Sneddon

Rule 19 Joinder of persons needed for just adjudication.	No	
Rule 20 Permissive joinder of parties.	No	
Rule 21 Misjoinder and non-joinder of parties.	No	
Rule 22 Interpleader.	No	
Rule 23 Class actions.	No	
Rule 23A Derivative actions by shareholders.	No	
Rule 24 Intervention.	No	
Rule 25 Substitution of parties.	No	
Part V Depositions and Discovery		**C**
Rule 26 General provisions governing disclosure and discovery.	Yes (long)	
Rule 26 General provisions governing disclosure and discovery. (superseded 11/1/2011)	n/a	
Rule 26.1 Disclosure in domestic relations actions.	Yes	
Rule 26.2. Disclosures in personal injury actions.	Yes	
Rule 26.3. Disclosure in unlawful detainer actions.	No	
Rule 27 Depositions before action or pending appeal.	Yes	
Rule 28 Persons before whom depositions may be taken.	Yes	
Rule 29 Stipulations regarding disclosure and discovery procedure.	No	
Rule 29 Stipulations regarding disclosure and discovery procedure. (superseded 11/1/2011)	n/a	
Rule 30 Depositions upon oral questions.	No	
Rule 30 Depositions upon oral questions. (superseded 11/1/2011)	n/a	
Rule 31 Depositions upon written questions.	No	
Rule 31 Depositions upon written questions. (superseded 11/1/2011)	n/a	
Rule 32 Use of depositions in court proceedings.	Yes	
Rule 33 Interrogatories to parties.	No	
Rule 33 Interrogatories to parties. (superseded 11/1/2011)	n/a	
Rule 34 Production of documents and things and entry upon land for inspection and other purposes.	Yes	
Rule 34 Production of documents and things and entry upon land for inspection and other purposes. (superseded 11/1/2011)	n/a	

Rule 35 Physical and mental examination of persons.	Yes	
Rule 35 Physical and mental examination of persons. (superseded 11/1/2011)	n/a	
Rule 36 Request for admission.	Yes	
Rule 36 Request for admission. (superseded 11/1/2011)	n/a	
Rule 37 Statement of discovery issues; Sanctions; Failure to admit, to attend deposition or to preserve evidence.	Yes	
Rule 37 Discovery and disclosure motions; Sanctions. (superseded 11/1/2011)	n/a	
Part VI Trials		**D**
Rule 38 Jury trial of right.	No	
Rule 39 Trial by jury or by the court.	No	
Rule 40 Assignment of cases for trial; continuance.	No	
Rule 41 Dismissal of actions.	Yes	
Rule 42 Consolidation; separate trials.	No	
Rule 43 Evidence.	Yes	
Rule 44 Proof of official record.	No	
Rule 45 Subpoena.	Yes	
Rule 46 Exceptions unnecessary.	No	
Rule 47 Jurors.	Yes (long)	
Rule 48 Juries of less than eight - Majority verdict.	No	
Rule 49 Special verdicts and interrogatories.	No	
Rule 50 Judgment as a matter of law in a jury trial; related motion for a new trial; conditional ruling.	Yes	
Rule 51 Instructions to jury; objections.	No	
Rule 52 Findings by the court; correction of the record.	Yes	
Rule 53 Masters.	No	
Part VII Judgment		**E**
Rule 54 Judgments; costs.	Yes	
Rule 54 Judgments; costs. (superseded 11/1/2011)	n/a	
Rule 55 Default.	No	
Rule 56 Summary judgment.	Yes	
Rule 57 Declaratory judgments.	No	
Rule 58A Entry of judgment; abstract of judgment.	Yes (long)	
Rule 58B Satisfaction of judgment.	No	
Rule 58C Motion to renew judgment.	Yes	

Rule 59 New trials; amendments of judgment.	No	
Rule 60 Relief from judgment or order.	Yes	
Rule 61 Harmless error.	No	
Rule 62 Stay of proceedings to enforce a judgment.	Yes	
Rule 63 Disability or disqualification of a judge.	No	
Rule 63A Change of judge as a matter of right.	No	
Part VIII Provisional and Final Remedies and Special Proceedings		**E**
Rule 64 Writs in general.	No	
Rule 64A Prejudgment writs in general.	No	
Rule 64B Writ of replevin.	No	
Rule 64C Writ of attachment.	No	
Rule 64D Writ of garnishment.	No	
Rule 64E Writ of execution.	No	
Rule 64F REPEALED.	n/a	
Rule 64G REPEALED.	n/a	
Rule 65A Injunctions.	Yes	
Rule 65B Extraordinary relief.	Yes	
Rule 65C Post-conviction relief.	Yes	
Rule 66 Receivers.	No	
Rule 67 Deposit in court.	No	
Rule 68 Settlement offers.	Yes	
Rule 69 REPEALED.	n/a	
Rule 69A Seizure of property.	No	
Rule 69B Sale of property; delivery of property.	No	
Rule 69C Redemption of real property after sale.	No	
Rule 70 Judgment for specific acts; vesting title.	No	
Rule 71 Process in behalf of and against persons not parties.	No	
Rule 71B REPEALED.	n/a	
Rule 72 Property bonds.	No	
Part IX Attorneys		**B**
Rule 73 Attorney fees.	Yes	
Rule 74 Withdrawal of counsel.	No	
Rule 75 Limited appearance.	No	
Rule 76 Notice of contact information change.	No	
Part X District courts and clerks		**A**
Rule 77 District courts and clerks.	Yes	
Rule 78 REPEALED.	n/a	
Rule 79 REPEALED.	n/a	

Rule 80 REPEALED.	n/a	
Part XI General Provisions		**None**
Rule 81 Applicability of rules in general.	No	
Rule 82 Jurisdiction and venue unaffected.	No	
Rule 83 Vexatious litigants.	No	
Rule 84 REPEALED.	n/a	
Rule 85 Title.	No	
Part XII Family Law		**None**
Rule 100 Coordination of cases pending in district court and juvenile court.	No	
Rule 101 Motion practice before court commissioners.	No	
Rule 102 Motion and order for payment of costs and fees.	No	
Rule 103 REPEALED.	n/a	
Rule 104 Divorce decree upon affidavit.	No	
Rule 105. Shortening 30 day waiting period in divorce actions.	No	
Rule 106 Modification of final domestic relations order.	No	
Rule 107 Decree of adoption; Petition to open adoption records.	No	
Rule 108 Objection to court commissioner's recommendation.	No	
FAQs About Disclosure and Discovery		
Appendix Of Forms		