

**UTAH SUPREME COURT ADVISORY COMMITTEE
ON RULES OF CIVIL PROCEDURE**

**Summary Minutes – December 18, 2024
via Webex**

THIS MEETING WAS CONDUCTED ELECTRONICALLY VIA WEBEX

Committee members	Present	Excused	Guests/Staff Present
Rod N. Andreason, Chair	X		Stacy Haacke, Staff
Justin T. Toth, Vice Chair	X		Keri Sargent
Ash McMurray	X		Crystal Powell, Recording Secretary
Michael Stahler	X		Judge Keith Kelly
Loni Page	X		Jacqueline Carlton
Bryan Pattison	X		
Trevor Lee	X		
Laurel Hanks	X		
Tonya Wright	X		
Judge Rita Cornish		X	
Commissioner Catherine Conklin	X		
Jonas Anderson		X	
Heather Lester		X	
Tyler Linley	X		
Judge Blaine Rawson		X	
Judge Ronald Russell		X	
Judge Patrick Corum	X		
Rachel Sykes	X		
Michael Young		X	
<i>Vacant</i> Self Represented Party Seat			
Judge Laura Scott, <i>Emeritus</i>	X		
James Hunnicutt, <i>Emeritus</i>	X		

(1) INTRODUCTIONS

The meeting began at 4:00 p.m. after forming a quorum. Mr. Rod Andreason welcomed the members.

(2) APPROVAL OF MINUTES

Mr. Rod Andreason asked for approval of the November 2024 Minutes subject to amendments noted by the Minutes subcommittee. Ms. Rachel Sykes moved to approve the Minutes. Mr. Michael Stahler seconded. The Minutes were unanimously approved.

(3) INTRODUCTIONS FROM MEMBERS

Judge Patrick Corum introduced himself giving a little background on other committee service he has participated in.

(4) RULE 107 AND 26.4. PETITION TO OPEN ADOPTION RECORDS AND DECREE OF ADOPTION

Ms. Stacy Haacke summarized the changes made to the statute concerning who could request adoption records; the time frame to request; and the previous amendment made by the Committee.

Judge Keith Kelly from the WINGS Committee (Working Interdisciplinary Committee of Guardianship Shareholders) commented on behalf of that committee and recommended some suggested changed to line (c)(3)(A)(2). The WINGS committee suggested amending the language from a list of restrictive alternatives to a description of less restrictive alternatives.

Mr. Andreason opened the meeting for discussion and questions. Mr. Jim Hunnicutt commended the effort put in by the WINGS Committee. Commissioner Conklin and Mr. Ash McMurray gave input on the punctuation for clarity. The Committee discussed the grammar. Mr. Michael Stahler moved to adopt the changes made to the Committee. Mr. McMurray seconded. The amendment passed unanimously.

The Committee discussed 76B-6-141 and 76B-6-144 in light of some of the public comment about limiting the adoptive parents' ability to obtain a copy of the decree of adoption. The Committee discussed the next steps and agreed that further action is needed to be taken and will submit the amendments to the Supreme Court.

(5) RULE 101. MOTION PRACTICE BEFORE COURT COMMISSIONERS.

Ms. Haacke clarified that she consolidated the amendments to be consistent with the format that goes out to public comment so that the current amendments are clear.

Mr. Hunnicutt noted that he is not sure a great deal of substantive changes had been made, and the majority of amendments were stylistic. Ms. Sykes questioned the interpretation of (b)(4) where the use of excusable neglect is used. After discussion, the Committee amended the Rule to exclude the language.

Commissioner Conklin moved to adopt the changes. Ms. Sykes seconded. The motion passed unanimously. Commissioner Conklin brought the Committee's attention to the total number of pages that may be submitted to make the language more active and definitive.

(6) RULE 62. STAY OF PROCEEDINGS

Commissioner Conklin explained the two main points governing how the court handles stays in domestic relations cases being appealed. First, both parties have an inequitable division pending the appeal. Second, child support and alimony cannot be stayed leaving the other party or children unsupported during the appeal. Mr. Hunnicutt raised the comment from the Court of Appeals. The Committee discussed various interpretations of the footnote in the Court of Appeals opinion in *Rothwell v. Rothwell*, 2023 UT App 51. Mr. Hunnicutt also discussed the carve out in newly added section (j). Judge Patrick Corum questioned whether the Rule was limiting judges' equitable powers to any degree, given there could be rare situations where a stay might be equitable.

Commissioner Conklin expressed wanting direction from the Committee on whether the language should be changed to say affirmatively there can be no stay. Mr. Hunnicutt noted that the subcommittee will continue working on this Rule.

(7) RULES 102 AND 106

The Committee discussed the changes made to these two Rules to reflect statutory changes. Mr. Stahler moved to adopt the changes. Ms. Sykes seconded. The amendments passed unanimously.

(8) RULES 56, 26, 26.2 AND 16. MOTIONS FOR SUMMARY JUDGMENT

Mr. Stahler summarized the history and aim of the amendments. He also summarized the new amendments. He explained that the biggest issue was providing clarity on what constitutes the end of discovery and a clear deadline.

Mr. Andreason opened the meeting up for discussions starting with easiest to most complex. Mr. Tyler Lindley noted that Rule 16 noted a missing amendment on this current version. Mr. Stahler clarified what was missing.

Mr. Trevor Lee noted that as a general matter expert discovery ends when the last expert deposition is taken. Ms. Tonya Wright questioned whether discovery closes on the date of Party One's report/deposition? or when Party Two's designation was due (but they failed to designate)? She noted that that's the issue that has come up in relation to when Rule 56 motions are due. Mr. Stahler noted that the subcommittee decided that the later date was more appropriate so that no time is lost; but there was also the thinking that where there was no expert disclosure by the party bearing the burden then no rebuttal expert would be necessary. Mr. Ash McMurray supported Mr. Lee's comments and noted that he would support taking a look at sub-section (a)(iv)(E). After a full discussion, the Subcommittee noted that they will reconvene to address the points raised. Mr. Andreason thanked them for their hard work on the Rules.

(9) ADJOURNMENT

Mr. Andreason thanked everyone for their work on the Committee. The meeting was adjourned at 5:56 p.m. The next meeting will be January 22, 2025, at 4:00 p.m.