

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

**Summary Minutes – January 22, 2025
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		Janine Liebert
Loni Page	X		
Bryan Pattison	X		
Trevor Lee	X		
Laurel Hanks	X		
Tonya Wright	X		
Judge Rita Cornish	X		
Judge Catherine Conklin	X		
Jonas Anderson		X	
Heather Lester		X	
Judge Blaine Rawson	X		
Judge Ronald Russell		X	
Judge Patrick Corum		X	
Rachel Sykes	X		
Michael Young	X		
Brett Chambers	X		
Tyler Lindley	X		
<i>Vacant</i> Commissioner seat			
<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 4:02 p.m. after forming a quorum. Mr. Rod Andreason welcomed the members.

(2) APPROVAL OF MINUTES

Mr. Andreason asked for approval of the December 2024 Minutes subject to amendments noted by the Minutes subcommittee. Mr. Brett Chambers motioned to approve the Minutes. Ms. Loni Page seconded. The Minutes were unanimously approved.

(3) RULE 26. NCSC STUDY OF THE 2011 AMENDMENTS TO THE URCP

Mr. Andreason informed the Committee that the (National Center for State Courts (NCSC) report on the 2011 amendments to the Rules was sent out to the Committee. He gave a history of the 2011 efforts to amend the Rules. He noted that generally it has been a great innovation and has been followed by other states. He summarized that the analysis of that has continued over the years and more recently on the long-term effect of the changes including the effect of the COVID 19 pandemic. He noted that they declined to compare post COVID but analyzed up to 2019. He noted that the NSCS was to meet to discuss the findings, but that meeting has been postponed. He invited the Committee to report the preliminary report and that he would report again after that meeting.

(4) PROCEDURAL RULES FOR CHILD PROTECTIVE ORDERS

Ms. Stacy Haacke summarized the work done on this matter. She noted that a request came to Committee out of the legislative session for statutory changes to the Rules as it related to child protective orders filed in juvenile court and then transferred to the district court. Instead of statutory amendment, the proposal was for a joint subcommittee between the juvenile rules committee and this Committee on the procedure related to transfer of such cases especially related to interviews of children or testimony to be taken from children. She noted that they have spoken to Juvenile Rules Committee and asked for volunteers from this Committee.

Ms. Crystal Powell, Commissioner Conklin, Ms. Laurel Hanks, and Mr. Jim Hunnicutt volunteered. Ms. Haacke will connect the groups.

(5) RULES 74 AND 76. ATTORNEY WITHDRAWALS AND CONTACT INFORMATION FOR PARTY

Mr. Michael Stahler summarized the work of the subcommittee on this Rule. He noted that the Rule as currently written requires the withdrawing counsel to motion to withdraw; but in many cases with junior attorneys as clerks, that motion is not filed as the case continues to have an attorney or the motion is opposed. He explained that the goals were to have a more streamlined and clear process to withdraw from a case when other representation remains for a party; and when counsel withdraws leaving the party unrepresented.

Mr. Stahler summarized the amendments made to the Rules. The Committee discussed Rule 76 amendments. Mr. Bryan Pattison questioned whether the use of the term safeguarded was a record classification. Ms. Haacke clarified that is it and that the Code of Judicial Administration is being updated to reflect that. After discussion, Mr. Pattison moved to adopt the changes. Mr. Michael Young seconded. The motion passed unanimously. The amendment will be published for public comment.

The Committee discussed Rule 74. Mr. Stahler noted that the inclusion of service under Rule 5 in 74(f) was from feedback from the Committee. Mr. Ash McMurray questioned whether the language suggested the court clerk must file the notice. The language was clarified to detail that the clerk removes the attorney after a notice is filed by the attorney. Under 74 (a) the language was amended to clarify that a notice of withdrawal could be filed if no motion, hearing, or trial is pending. Mr. Pattison suggested using the same language in all sections to refer to either the party or the attorney's client for consistency. The Committee agreed on using the language "the party." The Committee discussed other grammatical amendments and other possible contact information that might need to be included.

Under 74(b)(4), Commissioner Conklin and Judge Rawson questioned whether the sanctions were too harsh for a party failing to retain an attorney or file a notice of personal appearance. Mr. Stahler noted that the notice to appear or appoint is not meant to be dispositive of an issue and the failure could lead to sanctions; not that these would be the sanctions. The judges reiterated their concern that this could be misconstrued and wanted to clarify that the failure to have an attorney does not put a party in default but the failure to act after not having an attorney may put the individual in default. Mr. Andreason noted that perhaps subsection (4) should refer to only entities under subsection (3) and not individuals. The Committee discussed the language to ensure that the correct principles were reflected in the Rule. Judge Blaine Rawson cited the case law (2020 UT App 100, ¶ 17) for the Committee to refer to.

The Committee questioned whether "stayed" could be removed for a plainer word. Ms. Page suggested using the plain language used on the court website. Commissioner Conklin questioned whether a hearing could be scheduled for after the 21 days or whether the stay would foreclose that action as well. The Committee discussed that it could be so long as notice was provided to the party. The Committee concluded to publish the Rule for

public comments with the amended language. Commissioner Conklin motioned. Mr. McMurray seconded. The vote passed by majority.

(6) SUBCOMMITTEE ASSIGNMENTS

Mr. Andreason asked the Subcommittee Chairs to update him on when their matters can be calendared for discussion and voting. Ms. Haacke requested that if any Committee Member has experience in post-conviction to reach out to her to work on that Subcommittee.

(7) ADJOURNMENT

Mr. Andreason thanked everyone for their work on the Committee. The meeting was adjourned at 5:43 p.m. The next meeting will be February 26, 2025, at 4:00 p.m.