

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

**Summary Minutes – June 25, 2025  
via Webex**

**THIS MEETING WAS CONDUCTED ELECTRONICALLY VIA WEBEX**

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<b>Committee members</b>	<b>Present</b>	<b>Excused</b>	<b>Guests/Staff Present</b>
Rod N. Andreason, Chair		<b>X</b>	Stacy Haacke, Staff
Justin T. Toth, Vice Chair	<b>X</b>		Keri Sargent
Ash McMurray	<b>X</b>		
Michael Stahler	<b>X</b>		
Loni Page	<b>X</b>		
Bryan Pattison	<b>X</b>		
Trevor Lee	<b>X</b>		
Laurel Hanks	<b>X</b>		
Tonya Wright	<b>X</b>		
Judge Rita Cornish	<b>X</b>		
Judge Catherine Conklin	<b>X</b>		
Jonas Anderson	<b>X</b>		
Heather Lester		<b>X</b>	
Brett Chambers	<b>X</b>		
Judge Blaine Rawson		<b>X</b>	
Judge Ronald Russell	<b>X</b>		
Judge Patrick Corum		<b>X</b>	
Rachel Sykes	<b>X</b>		
Michael Young		<b>X</b>	
Tyler Lindley	<b>X</b>		
Judge Laura Scott, <i>Emeritus</i>	<b>X</b>		
James Hunnicutt, <i>Emeritus</i>	<b>X</b>		

**(1) INTRODUCTIONS**

The meeting began at 4:03 p.m. after forming a quorum. Mr. Justin Toth welcomed the Committee Members and guests.

**(2) APPROVAL OF MINUTES**

Mr. Justin Toth acknowledged proposed edits to the minutes by Jim Hunnicutt that had been circulated via email. Judge Rita M. Cornish moved to approve the minutes subject to Jim Hunnicutt's proposed revisions. Mr. Trevor Lee seconded the motion. The motion to approve the minutes passed unanimously with all members voting in favor.

**(3) RULES 56, 26, AND 26.2 - CLOSE OF DISCOVERY AND MOTIONS FOR SUMMARY JUDGEMENT**

Michael Stahler presented the proposed changes to Rules 56, 26, and 26.2, which had been previously discussed by the subcommittee and the full committee. He explained that the primary goal of these amendments was to provide clarity on the deadline for filing a motion for summary judgment (MSJ) by precisely defining "the close of all discovery" within Rule 26. He noted that the committee had settled on having this definition in one specific spot within Rule 26, rather than the previous three, to resolve ambiguities that had led to disputes over MSJ deadlines, especially when a party did not designate an expert in a subsequent phase of discovery. Michael Stahler also highlighted that stylistic changes and updated statutory references were made in Rules 26 and 26.2.

Judge Ronald Russell moved to send the proposed revisions for Rules 56, 26, and 26.2 as drafted to the Supreme Court with a request for these rules to go out for public comment. Judge Rita M. Cornish seconded the motion. The motion passed unanimously. The proposed revisions for Rules 56, 26, and 26.2 will be sent to the Supreme Court for review and public comment.

**(4) RULE 26.4 – PROVISIONS GOVERNING DISCLOSURE AND DISCOVERY IN CONTESTED PROCEEDINGS UNDER TITLE 75 OF THE UTAH CODE**

This Rule had been out for public comment along with Rule 101. Regarding Rule 26.4, Mr. Toth raised a concern about a comment from Tracy Olsen, which suggested that the initial disclosures requirement in guardianship and conservatorship matters should only apply where capacity is an issue. Mr. Toth viewed this as potentially a wholesale change to the scope of that rule and not what was initially intended. Keri Sargent provided an update from the WINGS Committee, stating that their consensus was that limiting disclosures only when capacity is in question did not make a lot of sense, and they would not propose any additional changes.

Along with Rule 101, Mr. Stahler moved to send the proposed amendments to Rule 26.4 to the Supreme Court for finalization as they had already gone out for public comment and no further amendments were made. Ms. Tonya Wright seconded the motion. The motion passed unanimously. The proposed amendments to Rule 26.4 will be sent to the Supreme Court with a request that they be finalized.

**(5) RULE 101 – MOTION PRACTICE BEFORE COURT COMMISSIONERS**

Mr. Jim Hunnicutt led the discussion on the public comments received for Rule 101. Mr. Hunnicutt explained that it addresses motion practice in family law cases, and is frequently used by pro se litigants. The current amendments aim to clean up formatting and clarify which motions can be handled ex parte without a hearing. Several public comments were addressed:

One of the comments suggested unlimited exhibits, with which Mr. Hunnicutt disagreed. He stated that allowing unlimited exhibits would be completely unmanageable for commissioners given their heavy caseload, reiterating the existing rule of 25 pages per side per hearing (including briefing and exhibits, with exceptions for financial records). Mr. Toth supported this, questioning the reliance on summarized sworn testimony.

Another comment suggested allowing affidavits and declarations to be summarized under Utah Rules of Evidence 1006. Mr. Hunnicutt disagreed, clarifying that Rule 1006 is intended for voluminous documents like text messages or credit card statements, and that commissioners prefer to read full, concise affidavits.

The next comment suggested more specificity on providing voluminous exhibits for Webex hearings, such as in binders. Mr. Hunnicutt emphasized the need for flexibility, as commissioners have varying preferences and technological capabilities. Judge Catherine Conklin added that it would not make sense to put too many restrictions in a rule that would burden or bind everyone statewide.

One individual provided extensive comments advocating for a massive overhaul of Rule 101. Mr. Hunnicutt acknowledged the thoroughness of these comments but noted that they largely proposed a complete reanalysis of the rule rather than addressing the specific proposed amendments. He, supported by Judge Catherine Conklin, stated that while some ideas might be revisited in the future, the Committee would proceed with the current amendments, finding it wiser to work within the established structure.

Along with Rule 26.4, Mr. Stahler moved to send the proposed amendments to Rule 101 to the Supreme Court for finalization as they had already gone out for public comment and no further amendments were made. Ms. Tonya Wright seconded the motion. The motion

passed unanimously. The proposed amendments to Rule 101 will be sent to the Supreme Court with a request that they be finalized.

**(6) RULE 5 – REGARDING SERVICE TO PARTIES IN DEFAULT**

Ms. Laurel Hanks led the discussion on proposed changes to Rule 5, specifically Rule 5(a)(2) and (b)(3), which address service on parties in default. She explained that the revisions were initiated by a request from the Supreme Court to align the rule with Rule 16 of the Utah Standards of Professionalism and current Utah case law (e.g., *Abrogast Family Trust ex rel. Abrogast v. River Crossings, LLC*, 2010 UT 40). The primary intent is to ensure that a party seeking a default judgment, or any subsequent claims for relief or motions to modify, must serve the defaulting party (or their known counsel) even if a default certificate has been entered, unless a default judgment has already been entered. Judge Laura Scott elaborated that the goal is to prevent situations where proposed default judgments seek significantly higher damages than originally alleged without proper notice to the defaulting party. An amendment suggested by Ash McMurray to change "and" to "or" in a specific part of the rule was accepted for grammatical clarity.

Judge Catherine Conklin moved to send the modifications reflected in Rule 5 to the Supreme Court to go out for public comment. Ash McMurray seconded the motion. The motion passed unanimously. The proposed modifications for Rule 5 will be sent to the Supreme Court for review.

**(7) RULE 7B – MOTIONS TO ENFORCE ORDER AND FOR ACTIONS IN DOMESTIC LAW MATTERS**

The discussion on Rule 7B was initiated by Mr. Toth in the absence of Mr. Eric Johnson, who had proposed the amendments. Mr. Johnson's proposed amendment to add a subparagraph (k) sought to address frustrations in the Third District related to the Expedited Parent-time Enforcement Program (Utah Code section 81-9-102). Mr. Hunnicutt explained that despite the statute's intent for expedited resolution, clerks in the Third District typically delay scheduling hearings on parent-time violations until after mediation has occurred, causing some delays. Mr. Johnson's amendment aimed to prevent this by explicitly stating that setting the hearing should not be conditioned on mediation.

Mr. Toth, Ms. Loni Page, and Judge Laura Scott raised concerns about the appropriateness of incorporating a district-specific provision into the statewide Utah Rules of Civil Procedure, noting that the pilot program was only funded for the Third District. Judge Catherine Conklin explained that the Third District's practice of delaying hearings until after mediation is a conscious choice by Court Commissioners to manage crowded calendars, as many cases settle in mediation, preventing unnecessary allocation of court

hearing time. Judge Laura Scott agreed that districts should retain flexibility in managing such programs.

The Committee decided not to move forward with the proposed amendment to Rule 7B, concluding that adding a rule specific to a single judicial district within the statewide Rules of Civil Procedure was not procedurally appropriate. Ms. Stacy Haacke will contact Eric Johnson to inform him of the Committee's decision.

**(8) ADJOURNMENT**

The meeting was adjourned at 5:06 p.m. The next meeting will be September 24, 2025, at 4:00 p.m.