Utah Supreme Court
Advisory Committee on the Utah Rules of Civil Procedure
Meeting Agenda
Rod Andreason, Chair

Location: WebEx Webinar: Link

Date: February 25, 2026

Time: 4:00 – 6:00 p.m.

Welcome and approval of minutes	Tab 1	Rod Andreason
Rule 7 – Responding to objections to proposed orders	Tab 2	Stephen Whiting
Rule 64(c)(2) - Supplemental hearings being conducted out of the presence of the court	Tab 3	Stephen Whiting
Rule 45 – Subpoenas subject to discovery limitations	Tab 4	Stephen Whiting
New Rule 103 – Child Protective Orders transferred to District Court	Tab 5	Stacy Haacke
Rule 65A – Temporary restraining orders that allow use of force by law enforcement	Tab 6	Laurel Hanks
Rule 105 – Request to repeal	Tab 7	Laurel Hanks
Rules 7 and 37 – Word and page limits	Tab 8	Tonya Wright
SJR05 – Amendments to Rules 1, 42, 63, and 63A finalized by constitutional two-thirds vote	Tab 9	Rod Andreason

Reminder: Check style guide for conformity before rules are sent to the Supreme Court.

Upcoming Items:
- Subcommittees!

URCP Committee Website: Link

2026 Meeting Schedule:

Jan 28 • Feb 25 • Mar 25 • April 22 • May 27 • June 24 • Sep 23 • Oct 28 • Nov 18 • Dec 16

Tab 1

UTAH SUPREME COURT ADVISORY COMMITTEE
ON RULES OF CIVIL PROCEDURE

Summary Minutes – Jan. 28, 2026
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		Sonia Sweeney
Ash McMurray	X		Keri Sargent
Michael Stahler	X		
Loni Page	X		
Joshua Jewkes	X		
Meagan Rudd	X		
Laurel Hanks	X		
Tonya Wright	X		
Judge Rita Cornish	X		
Judge Catherine Conklin	X		
Jonas Anderson	X		
Heather Lester	X		
J. Brett Chambers	X		
Judge Blaine Rawson		X	
Judge Ronald Russell	X		
Judge Patrick Corum	X		
Rachel Sykes	X		
Michael Young	X		
Tyler Lindley		X	
Commissioner Marian Ito	X		
Judge Laura Scott, *Emeritus*	X		
James Hunnicutt, *Emeritus*	X		

(1) INTRODUCTIONS

The meeting began at 4:05 p.m. after forming a quorum. Mr. Rod Andreason welcomed the Committee Members.

(2) APPROVAL OF MINUTES

Mr. Andreason acknowledged proposed edits to the November 19, 2025 meeting minutes by Mr. Jim Hunnicutt that had been circulated via email. Judge Catherine Conklin moved to approve the minutes subject to Mr. Hunnicutt's proposed revisions. Commissioner Marian Ito seconded the motion. The motion to approve the minutes passed unanimously with all members voting in favor.

(3) LEGISLATIVE SESSION AND RAPID RESPONSE REQUESTS

Mr. Andreason provided an informational update regarding the current legislative session, noting that the "Rapid Response" team has been active. He highlighted three specific items: SJR005, SJR006, and HJR015. Regarding SJR005, which proposes amending Rule 42 to facilitate transfers to the Business and Chancery Court, Mr. Andreason noted the Committee's position is that such transfers should be governed by statute rather than procedural rule. Ms. Stacy Haacke clarified that the Supreme Court made the Committee's previously recommended amendments to Rule 42 effective as of January 28, 2026, ensuring the Legislature has the current rule text.

Regarding SJR006, Ms. Rachel Sykes explained that the bill aims to bifurcate medical malpractice trials into separate liability and damages proceedings, likely involving two juries. Ms. Sykes noted the consensus of the rapid response group was that this proposal is inefficient and expensive.

Finally, Mr. Andreason briefly addressed HJR015, a resolution proposing a constitutional amendment allowing the legislature to revive expired civil causes of action by a two-thirds vote.

(4) RULES BACK FROM PUBLIC COMMENT – RULES 10, 26.1, 73, 106, 108, 109

Mr. Andreason led the discussion on rules returned from the public comment period. Mr. Andreason noted that comments submitted by Mr. Leslie Slaugh regarding Rules 7, 30, and 37 related to rules already finalized and could not be considered in this cycle.

Rule 73 (Attorney Fees): A comment was submitted by Mr. Slaugh suggesting that Rule 73(d) be amended to state the court “may” enter an order for claimed fees rather than “will,” preserving judicial discretion. Judge Conklin and Judge Ronald Russell agreed. Judge Russell moved to recommend the amendment to Rule 73(d) changing “will” to “may” regarding the entry of attorney fee orders. Mr. Joshua Jewkes seconded the motion. The motion passed unanimously.

Mr. Andreason requested a motion to submit the amended Rule 73 for an expedited public comment period due to the substantive change. The Committee voted by show of hands. The motion passed unanimously. Ms. Haacke will prepare Rule 73 for an expedited public comment period in time to potentially meet a May 1st effective date.

Rules 10, 26.1, 106, 108, 109: The Committee addressed a comment on Rule 108 regarding commissioners, which Mr. James Hunnicutt and Ms. Meagan Rudd advised against adopting, as it would fundamentally alter the authority of court commissioners. The Committee agreed to take no action on the comment.

Judge Conklin moved to recommend that Rules 10, 26.1, 106, 108, and 109 be finalized and sent to the Supreme Court with an effective date of May 1. Judge Rita M. Cornish seconded the motion. The motion passed unanimously.

(5) RULE 5 - AMENDMENTS REGARDING SERVING PARTIES IN DEFAULT

Judge Laura Scott presented on behalf of the subcommittee regarding Rule 5 amendments. She reported that the subcommittee met recently and expressed confusion regarding the redlines and changes made by Justice Jill Pohlman. Judge Scott noted that there appeared to be some disconnect in communication, indicating that the subcommittee's legislative intent may not have been fully conveyed to the Court.

Judge Scott proposed tabling the discussion to allow for a direct meeting with Justice Pohlman to clarify the objectives of the rule changes regarding service on defaulting parties. The Committee was supportive of this proposal and tabled the discussion.

(6) JUDICIAL INTERVIEWS WITH CHILDREN – NEW RULE UPDATE

Judge Conklin provided an update on the proposed rule for judicial interviews of children. The subcommittee met in early January and decided to pause on selecting between "Alternative A" and "Alternative B" until they could gather more information. Judge Conklin indicated the subcommittee intends to add a section to the rule providing guidance on *when* a child should be interviewed to ensure the rule does not inadvertently pressure judges to conduct interviews that may not be in a child's best interest. The subcommittee is currently consulting with therapists and custody evaluators and plans to meet again on February 18, with the goal of presenting a final recommendation at the District Court Conference in Moab in March.

(7) RULE 65C – POSTCONVICTION RELIEF WORKGROUP UPDATE

Ms. Keri Sargent provided an update on the Rule 65C Workgroup. She noted that the group currently includes Mr. Joshua Jewkes and Ms. Loni Page but requires additional judicial perspective given the changes being proposed. She requested volunteers from the Committee. Mr. Andreason solicited volunteers, and Judge Patrick Corum and Mr. Ash McMurray agreed to join the workgroup. Ms. Sargent also confirmed that the Attorney

General's office had requested representation on the group and that she would ensure they, along with defense counsel and other stakeholders, are included to ensure all sides are heard. Ms. Sargent will send invitations and materials for the February workgroup meeting to the new members.

(8) RULE 86 – LICENSED PARALEGAL PRACTITIONERS AND COURT FORMS

Ms. Tonya Wright presented a proposal to amend Rule 86 to align it with recent changes to Utah Code of Judicial Administration Rule 14-802. The amendment addresses the issue of Licensed Paralegal Practitioners (LPPs) needing to prepare documents when specific court-approved forms, such as those previously on OCAP, are unavailable or insufficient. Ms. Wright proposed adding language allowing LPPs to prepare documents if they are consistent with judicial council-approved forms. Ms. Rudd suggested refining the language to read: "or the document is prepared consistent with the relevant portions of the judicial council approved forms." Ms. Wright agreed that this phrasing accurately reflected the intent to avoid the term "drafting" while ensuring necessary information is provided to the court.

Mr. J. Brett Chambers moved to adopt the amendment to Rule 86, incorporating the language: "or the document is prepared consistent with the relevant portions of the judicial council approved forms." Mr. Jonas Anderson seconded the motion. The motion passed unanimously.

(9) SUBCOMMITTEES

Mr. Andreason invited updates from other subcommittees. Ms. Heather Lester requested a status update regarding the Eviction Expungements request, noting she wanted to ensure the request was clearly defined. Ms. Haacke agreed to review her emails and forward the relevant information to Ms. Lester.

Mr. Andreason concluded the meeting by proposing that the Committee attempt to hold a hybrid in-person meeting in the coming months to facilitate better connection among members.

(10) ADJOURNMENT

The meeting was adjourned at 5:02 p.m. The next meeting will be February 25, 2026, at 4:00 p.m.

Tab 2

Rule 7. Pleadings allowed; motions, memoranda, hearings, orders.
Request from Stephen Whiting

Rule 7 describes the process to file and object to orders. My reading of Rule 7 is that when an objection is filed, the order-drafting party does not get to respond to the objection, other than by filing the order. The court considers the objection and the order and adjusts the order as the court sees fit. In practice, I have found that these rules are rarely followed. Parties regularly respond to the objection (and, sometimes, there are replies to the response), and I recently had a court perplexed that the order was filed without a response to the objection. I would appreciate if Rule 7 clarified the procedure. In my mind, considering that attorneys are already filing the response, it would make sense if a seven-day deadline were placed to file a response to the objection along with the proposed order and further permit the attorney to amend the order filed from how it was served to reflect any agreement that he has with the objection.

Rule 7. Pleadings allowed; motions, memoranda, hearings, orders.

(a) Pleadings. Only these pleadings are allowed:

(1) a complaint;

(2) an answer to a complaint;

(3) an answer to a counterclaim designated as a counterclaim;

(4) an answer to a crossclaim;

(5) a third-party complaint;

(6) an answer to a third-party complaint; and

(7) a reply to an answer if ordered by the court.

(b) Motions. A request for an order must be made by motion. The motion must be in writing unless made during a hearing or trial, must state the relief requested, and must state the grounds for the relief requested. Except for the following, a motion must be made in accordance with this rule.

(1) A motion, other than a motion described in paragraphs (b)(2), (b)(3), or (b)(4), made in proceedings before a court commissioner must follow Rule 101.

(2) A request under Rule 26 for extraordinary discovery must follow Rule 37(a).

(3) A request under Rule 37 for a protective order or for an order compelling disclosure or discovery—but not a motion for sanctions—must follow Rule 37(a).

(4) A request for an order related to a subpoena under Rule 45 must follow Rule 37(a).

(5) A motion for summary judgment must follow the procedures of this rule as supplemented by the requirements of Rule 56.

(c) Name and content of motion.

(1) The rules governing captions and other matters of form in pleadings apply to motions and other papers.

(2) **Caution language.** For all dispositive motions, the motion must include the following caution language at the top right corner of the first page, in bold type: **This motion requires you to respond. Please see the Notice to Responding Party.**

(3) **Bilingual notice.** All motions must include or attach the bilingual Notice to Responding Party approved by the Judicial Council.

(4) **Failure to include caution language and notice**. Failure to include the caution language in paragraph (c)(2) or the bilingual notice in paragraph (c)(3) may be grounds to continue the hearing on the motion, or may provide the non-moving party with a basis under Rule 60(b) for excusable neglect to set aside the order resulting from the motion. Parties may opt out of receiving the notices set forth in paragraphs (c)(2) and (c)(3) while represented by counsel.

(5) **Title of motion.** The moving party must title the motion substantially as: "Motion [short phrase describing the relief requested]."

(6) **Contents of motion.** The motion must include the supporting memorandum. The motion must include under appropriate headings and in the following order:

(A) a concise statement of the relief requested and the grounds for the relief requested; and

(B) one or more sections that include a concise statement of the relevant facts claimed by the moving party and argument citing authority for the relief requested.

(7) If the moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the motion.

(d) Name and content of memorandum opposing the motion.

(1) A nonmoving party may file a memorandum opposing the motion within 14 days after the motion is filed. The nonmoving party must title the memorandum

substantially as: "Memorandum opposing motion [short phrase describing the relief requested]." The memorandum must include under appropriate headings and in the following order:

(A) a concise statement of the party's preferred disposition of the motion and the grounds supporting that disposition;

(B) one or more sections that include a concise statement of the relevant facts claimed by the nonmoving party and argument citing authority for that disposition; and

(C) objections to evidence in the motion, citing authority for the objection.

(2) If the non-moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the memorandum.

(e) Name and content of reply memorandum.

(1) Within seven days after the memorandum opposing the motion is filed, the moving party may file a reply memorandum, which must be limited to rebuttal of new matters raised in the memorandum opposing the motion. The moving party must title the memorandum substantially as "Reply memorandum supporting motion [short phrase describing the relief requested]." The memorandum must include under appropriate headings and in the following order:

(A) a concise statement of the new matter raised in the memorandum opposing the motion;

(B) one or more sections that include a concise statement of the relevant facts claimed by the moving party not previously set forth that respond to the opposing party's statement of facts and argument citing authority rebutting the new matter;

(C) objections to evidence in the memorandum opposing the motion, citing authority for the objection; and

(D) response to objections made in the memorandum opposing the motion, citing authority for the response.

(2) If the moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the memorandum.

(f) Objection to evidence in the reply memorandum; response. If the reply memorandum includes an objection to evidence, the nonmoving party may file a response to the objection no later than seven days after the reply memorandum is filed. If the reply memorandum includes evidence not previously set forth, the nonmoving party may file an objection to the evidence no later than seven days after the reply memorandum is filed, and the moving party may file a response to the objection no later than seven days after the objection is filed.

(g) Request to submit for decision. When briefing is complete or the time for briefing has expired, either party may file a "Request to Submit for Decision," but, if no party files a request, the motion will not be submitted for decision. The request to submit for decision must state whether a hearing has been requested and the dates on which the following documents were filed:

(1) the motion;

(2) the memorandum opposing the motion, if any;

(3) the reply memorandum, if any; and

(g)(4) the response to objections in the reply memorandum, if any.

(h) Hearings. The court may hold a hearing on any motion. A party may request a hearing in the motion, in a memorandum or in the request to submit for decision. A request for hearing must be separately identified in the caption of the document containing the request. The court must grant a request for a hearing on a motion under Rule 56 or a motion that would dispose of the action or any claim or defense in the action unless the court finds that the motion or opposition to the motion is frivolous or

the issue has been authoritatively decided. A motion hearing may be held remotely, consistent with the safeguards in Rule 43(b).

(i) Notice of supplemental authority. A party may file notice of citation to significant authority that comes to the party's attention after the party's motion or memorandum has been filed or after oral argument but before decision. The notice must state the citation to the authority, the page of the motion or memorandum or the point orally argued to which the authority applies, and the reason the authority is relevant. Any other party may promptly file a response, but the court may act on the motion without waiting for a response.

(j) Orders.

(1) Decision complete when signed; entered when recorded. However designated, the court's decision on a motion is complete when signed by the judge. The decision is entered when recorded in the docket.

(2) Preparing and serving a proposed order. Within 14 days of being directed by the court to prepare a proposed order confirming the court's decision, a party must serve the proposed order on the other parties for review and approval as to form. If the party directed to prepare a proposed order fails to timely serve the order, any other party may prepare a proposed order confirming the court's decision and serve the proposed order on the other parties for review and approval as to form.

(3) Effect of approval as to form. A party's approval as to form of a proposed order certifies that the proposed order accurately reflects the court's decision. Approval as to form does not waive objections to the substance of the order.

(4) Objecting to a proposed order. A party may object to the form of the proposed order by filing an objection within seven days after the order is served.

(5) Filing proposed order. The party preparing a proposed order must file it:

(A) after all other parties have approved the form of the order (The party preparing the proposed order must indicate the means by which approval was received: in person; by telephone; by signature; by email; etc.);

(B) after the time to object to the form of the order has expired (The party preparing the proposed order must also file a certificate of service of the proposed order.); or

(C) within seven days after a party has objected to the form of the order (The party preparing the proposed order may also file a response to the objection.).

(6) Proposed order before decision prohibited; exceptions. A party may not file a proposed order concurrently with a motion or a memorandum or a request to submit for decision, but a proposed order must be filed with:

(A) a stipulated motion;

(B) a motion that can be acted on without waiting for a response;

(C) an ex parte motion;

(D) a statement of discovery issues under Rule 37(a); and

(E) the request to submit for decision a motion in which a memorandum opposing the motion has not been filed.

(7) Orders entered without a response; ex parte orders. An order entered on a motion under paragraph (l) or (m) can be vacated or modified by the judge who made it with or without notice.

(8) Order to pay money. An order to pay money can be enforced in the same manner as if it were a judgment.

(k) Stipulated motions. A party seeking relief that has been agreed to by the other parties may file a stipulated motion which must:

(1) be titled substantially as: "Stipulated motion [short phrase describing the relief requested]";

(2) include a concise statement of the relief requested and the grounds for the relief requested;

(3) include a signed stipulation in or attached to the motion; and

(4) be accompanied by a request to submit for decision and a proposed order that has been approved by the other parties.

(l) Motions that may be acted on without waiting for a response.

(1) The court may act on the following motions without waiting for a response:

(A) motion to permit an over-length motion or memorandum;

(B) motion for an extension of time if filed before the expiration of time;

(C) motion to appear pro hac vice;

(D) motion for Rule 16 conference;

(E) motion to strike a document filed by a vexatious litigant in violation of Rule 83(d);

(F) motion to appear remotely; and

(G) other similar motions.

(2) A motion that can be acted on without waiting for a response must:

(A) be titled as a regular motion;

(B) include a concise statement of the relief requested and the grounds for the relief requested;

(C) cite the statute or rule authorizing the motion to be acted on without waiting for a response; and

(D) be accompanied by a request to submit for decision and a proposed order.

(m) Ex parte motions. If a statute or rule permits a motion to be filed without serving the motion on the other parties, the party seeking relief may file an ex parte motion which must:

(1) be titled substantially as: "Ex parte motion [short phrase describing the relief requested]";

(2) include a concise statement of the relief requested and the grounds for the relief requested;

(3) cite the statute or rule authorizing the ex parte motion; and

(4) be accompanied by a request to submit for decision and a proposed order.

(n) Motion in opposing memorandum or reply memorandum prohibited. A party may not make a motion in a memorandum opposing a motion or in a reply memorandum. A party who objects to evidence in another party's motion or memorandum may not move to strike that evidence. Instead, the party must include in the subsequent memorandum an objection to the evidence.

(o) Overlength motion or memorandum. The court may permit a party to file an overlength motion or memorandum upon a showing of good cause. An overlength motion or memorandum must include a table of contents and a table of authorities with page references.

(p) Limited statement of facts and authority. No statement of facts and legal authorities beyond the concise statement of the relief requested and the grounds for the relief requested required in paragraph (c) is required for the following motions:

(1) motion to allow an over-length motion or memorandum;

(2) motion to extend the time to perform an act, if the motion is filed before the time to perform the act has expired;

(3) motion to continue a hearing;

(4) motion to appoint a guardian ad litem;

(5) motion to substitute parties;

(6) motion to refer the action to or withdraw it from alternative dispute resolution under Rule 4-510.05 of the Code of Judicial Administration;

(7) motion for a conference under Rule 16; and

(8) motion to approve a stipulation of the parties.

(q) Length of Filings.

(1) Unless one of the following filings complies with the page limits set forth below, it must comply with the corresponding word limits:

Type of Filing	**Page Limit**	**Word Limit**
Motion for Relief Authorized by Rule 12(b), 12(c), 56, or 65A	25	9,000
All Other Motions	15	5,400
Memorandum Opposing Motion Authorized by Rule 12(b), 12(c), 56, or 65A	25	9,000
Memorandum Opposing All Other Motions	15	5,400
Reply Memorandum Supporting Motion for Relief Authorized by Rule 12(b), 12(c), 56, or 65A	15	5,400
Reply Memorandum Supporting All Other Motions	10	3,600
Objection and Response under Rule 7(f)	3	1,100
Notice of Supplemental Authority and Response under Rule 7(i)	2	700
Statement of Discovery Issues and Objection under Rule 37(a)(2) and 37(a)(3)	4	1,500

(2) The word and page limits in this rule exclude the following: caption, table of contents, table of authorities, signature block, certificate of service, certification, exhibits, and attachments.

(3) Any filer relying on the word limits in this rule must include a certification that the document complies with the applicable word limit and must state the number of words in the document.

Effective: November 1, 2025

Tab 3

Rule 64. Writs in general.
Request from Stephen Whiting

For supplemental hearings, some attorneys have taken to having the court order that these hearings take place out of the presence of the court, either via a video link or at counsel's office. I objected to an out-of-court supplemental hearing, arguing that a "hearing" by definition had to take place in front of the court and provided a necessary protection to for the debtor against overreaching questions. The court disagreed with me and was grateful for a procedure that took hearing off of its calendar. I am wondering whether 64(c)(2) could be clarified to address this issue. In my humble opinion, allowing video supplemental proceedings would make a great deal of sense to get item off of the court's calendars provided that the supplemental order is served along with the proposed asset questionnaire at least seven days prior to the hearing (giving the debtor the opportunity to raise any objections he has to the questions).

Rule 64. Writs in general.

(a) Definitions. As used in Rules 64, 64A, 64B, 64C, 64D, 64E, 69A, 69B and 69C:

(1) "Claim" means a claim, counterclaim, cross claim, third party claim or any other claim.

(2) "Defendant" means the party against whom a claim is filed or against whom judgment has been entered.

(3) "Deliver" means actual delivery or to make the property available for pick up and give to the person entitled to delivery written notice of availability.

(4) "Disposable earnings" means that part of earnings for a pay period remaining after the deduction of all amounts required by law to be withheld.

(5) "Earnings" means compensation, however denominated, paid or payable to an individual for personal services, including periodic payments pursuant to a pension or retirement program. Earnings accrue on the last day of the period in which they were earned.

(6) "Notice of exemptions" means a form that advises the defendant or a third person that certain property is or may be exempt from seizure under state or federal law. The notice shall list examples of exempt property and indicate that other exemptions may be available. The notice shall instruct the defendant of the deadline for filing a reply and request for hearing.

(7) "Officer" means any person designated by the court to whom the writ is issued, including a sheriff, constable, deputy thereof, or any person appointed by the officer to hold the property.

(8) "Plaintiff" means the party filing a claim or in whose favor judgment has been entered.

(9) "Property" means the defendant's property of any type not exempt from seizure. Property includes but is not limited to real and personal property, tangible and

intangible property, the right to property whether due or to become due, and an obligation of a third person to perform for the defendant.

(10) "Serve" with respect to parties means any method of service authorized by Rule 5 and with respect to non-parties means any manner of service authorized by Rule 4.

(b) Security.

(1) Amount. When security is required of a party, the party shall provide security in the sum and form the court deems adequate. For security by the plaintiff the amount should be sufficient to reimburse other parties for damages, costs, and attorney fees incurred as a result of a writ wrongfully obtained. For security by the defendant, the amount should be equivalent to the amount of the claim or judgment or the value of the defendant's interest in the property. In fixing the amount, the court may consider any relevant factor. The court may relieve a party from the necessity of providing security if it appears that none of the parties will incur damages, costs or attorney fees as a result of a writ wrongfully obtained or if there exists some other substantial reason for dispensing with security. The amount of security does not establish or limit the amount of damages, costs, or attorney fees recoverable if the writ is wrongfully obtained.

(2) Jurisdiction over surety. A surety submits to the jurisdiction of the court and irrevocably appoints the court clerk as agent upon whom papers affecting the surety's liability may be served. The surety must file with the court clerk the address to which the clerk may mail papers. The surety's liability may be enforced on motion without the necessity of an independent action. If the opposing party recovers judgment or if the writ is wrongfully obtained, the surety must pay the judgment, damages, costs, and attorney fees not to exceed the sum specified in the contract. The surety is responsible for return of property ordered returned.

(3) Objection. The court may issue additional writs upon the original security subject to the objection of the opposing party. The opposing party may object to the sufficiency of the security or the sufficiency of the sureties within five days after service of the writ. The burden to show the sufficiency of the security and the sufficiency of the sureties is on the proponent of the security.

(4) Security of governmental entity. No security is required of the United States, the State of Utah, or an officer, agency, or subdivision of either, nor when prohibited by law.

(c) Procedures in aid of writs.

(1) Referee. The court may appoint a referee to monitor hearings under this subsection.

(2) Hearing; witnesses; discovery. The court may conduct hearings as necessary to identify property and to apply the property toward the satisfaction of the judgment or order. Witnesses may be subpoenaed to appear, testify, and produce records. The court may permit discovery.

(3) Restraint. The court may forbid any person from transferring, disposing, or interfering with the property.

(d) Issuance of writ; service

(1) Clerk to issue writs. The court clerk will issue writs. A court in which a transcript or abstract of a judgment or order has been filed has the same authority to issue a writ as the court that entered the judgment or order. If the writ directs the seizure of real property, the court clerk will issue the writ to the sheriff of the county in which the real property is located. If the writ directs the seizure of personal property, the court clerk may issue the writ to an officer of any county.

(2) Content. The writ may direct the officer to seize the property, to keep the property safe, to deliver the property to the plaintiff, to sell the property, or to take other

specified actions. If the writ is to enforce a judgment or order for the payment of money, the writ will specify the amount ordered to be paid and the amount due.

(A) If the writ is issued ex parte before judgment, the clerk will attach to the writ plaintiff's affidavit, detailed description of the property, notice of hearing, order authorizing the writ, notice of exemptions, and reply form.

(B) If the writ is issued before judgment but after a hearing, the clerk shall attach to the writ plaintiff's affidavit and detailed description of the property.

(C) If the writ is issued after judgment, the clerk will attach to the writ plaintiff's application, detailed description of the property, the judgment, notice of exemptions, and reply form.

(3) Service.

(A) Upon whom; effective date. The officer must serve the writ and accompanying papers on the defendant, and, as applicable, the garnishee and any person named by the plaintiff as claiming an interest in the property. The officer may simultaneously serve notice of the date, time, and place of sale. A writ is effective upon service.

(B) Limits on writs of garnishment.

(i) A writ of garnishment served while a previous writ of garnishment is in effect is effective upon expiration of the previous writ; otherwise, a writ of garnishment is effective upon service.

(ii) Only one writ of garnishment of earnings may be in effect at one time. One additional writ of garnishment of earnings for a subsequent pay period may be served on the garnishee while an earlier writ of continuing garnishment is in effect.

(C) Return; inventory. Within 14 days after service, the officer must return the writ to the court with proof of service. If property has been seized, the officer shall

include an inventory of the property and whether the property is held by the officer or the officer's designee. If a person refuses to give the officer an affidavit describing the property, the officer must indicate the fact of refusal on the return, and the court may require that person to pay the costs of any proceeding taken for the purpose of obtaining such information.

(D) Service of writ by publication. The court may order service of a writ by publication upon a person entitled to notice in circumstances in which service by publication of a summons and complaint would be appropriate under Rule 4.

(i) If service of a writ is by publication, substantially the following must be published under the caption of the case:

To _____, [Defendant/Garnishee/Claimant]:

A writ of _____ has been issued in the above-captioned case commanding the officer of _____ County as follows:

[Quoting body of writ]

Your rights may be adversely affected by these proceedings. Property in which you have an interest may be seized to pay a judgment or order. You have the right to claim property exempt from seizure under statutes of the United States or this state, including Utah Code, Title 78B, Chapter 5, Part 5.

(ii) The notice must be published in a newspaper of general circulation in each county in which the property is located at least 14 days prior to the due date for the reply or at least 14 days prior to the date of any sale, or as the court orders. The date of publication is the date of service.

(e) Claim to property by third person.

(1) Claimant's rights. Any person claiming an interest in the property has the same rights and obligations as the defendant with respect to the writ and with respect to providing and objecting to security. Any claimant named by the plaintiff and served

with the writ and accompanying papers must exercise those rights and obligations within the same time allowed the defendant. Any claimant not named by the plaintiff and not served with the writ and accompanying papers may exercise those rights and obligations at any time before the property is sold or delivered to the plaintiff.

(2) Join claimant as defendant. The court may order any named claimant joined as a defendant in interpleader. The plaintiff must serve the order on the claimant. The claimant is thereafter a defendant to the action and must answer within 14 days, setting forth any claim or defense. The court may enter judgment for or against the claimant to the limit of the claimant's interest in the property.

(3) Plaintiff's security. If the plaintiff requests that an officer seize or sell property claimed by a person other than the defendant, the officer may request that the court require the plaintiff to file security.

(f) Discharge of writ; release of property.

)(1) **By defendant.** At any time before notice of sale of the property or before the property is delivered to the plaintiff, the defendant may file security and a motion to discharge the writ. The plaintiff may object to the sufficiency of the security or the sufficiency of the sureties within seven days after service of the motion. At any time before notice of sale of the property or before the property is delivered to the plaintiff, the defendant may file a motion to discharge the writ on the ground that the writ was wrongfully obtained. The court will give the plaintiff reasonable opportunity to correct a defect. The defendant must serve the order to discharge the writ upon the officer, plaintiff, garnishee, and any third person claiming an interest in the property.

(2) By plaintiff. The plaintiff may discharge the writ by filing a release and serving it upon the officer, defendant, garnishee, and any third person claiming an interest in the property.

(3) Disposition of property. If the writ is discharged, the court will order any remaining property and proceeds of sales delivered to the defendant.

(4) Copy recorded with county recorder. If an order discharges a writ upon property seized by recording with the county recorder, the officer or a party must record a certified copy of the order with the county recorder.

(5) Service on officer; disposition of property. If the order discharging the writ is served on the officer:

(A) before the writ is served, the officer must return the writ to the court;

(B) while the property is in the officer's custody, the officer must return the property to the defendant; or

(C) after the property is sold, the officer must deliver any remaining sale proceeds to the defendant.

Effective date: May 1, 2024

Tab 4

Rule 45. Subpoena.
Request from Stephen Whiting

I have had a few cases where we have argued about whether subpoenas are part of discovery and subject to discovery limitations (I have always resolved this issue out of court) As I read the rules, subpoenas are not part of discovery because they are outside the section of the rules on discovery, they do not ask information from another party, the small claims rules state that there is no discovery in small claims but allow for subpoenas, and subpoenas are obviously allowed to have witnesses appear at trial, well outside the discovery limits. That being said, a court ruled in a friend's case that subpoenas can't be used to uncover documentation and schedule depositions after discovery is up because these types of subpoenas would be discovery. I would appreciate clarity under Rule 45 whether subpoenas are subject to discovery limitation. I believe that subpoenas were not intended to be considered a part of discovery and should be expressly excluded from discovery limitations. An exception could be carved out for principals of entity parties, given that subpoenas would have the same effect as discovery if these persons were allowed to be subpoenaed to appear at depositions or produce documents.

Rule 45. Subpoena.

(a) Form; issuance.

(1) Every subpoena must:

(A) issue from the court in which the action is pending;

(B) state the title and case number of the action, the name of the court from which it is issued, and the name and address of the party or attorney responsible for issuing the subpoena;

(C) command each person to whom it is directed

(i) to appear and give testimony at a trial, hearing, or deposition, or

(ii) to appear and produce for inspection, copying, testing, or sampling documents, electronically stored information, or tangible things in the possession, custody, or control of that person, or

(iii) to copy documents or electronically stored information in the possession, custody, or control of that person and mail or deliver the copies to the party or attorney responsible for issuing the subpoena before a date certain, or

(iv) to appear and to permit inspection of premises;

(D) if an appearance is required, give notice of the date, time, and place for the appearance and, if remote transmission is requested, instructions for participation and whom to contact if there are technical difficulties; and

(E) include a notice to persons served with a subpoena in a form substantially similar to the approved subpoena form. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(2) The clerk must issue a subpoena, signed but otherwise in blank, to a party requesting it, who must complete it before service. An attorney admitted to practice in Utah may issue and sign a subpoena as an officer of the court.

(b) Service; fees; prior notice.

(1) A subpoena may be served by any person who is at least 18 years of age and not a party to the case. Service of a subpoena upon the person to whom it is directed must be made as provided in Rule 4(d).

(2) If the subpoena commands a person's appearance, the party or attorney responsible for issuing the subpoena must tender with the subpoena the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States, or this state, or any officer or agency of either, fees and mileage need not be tendered.

(3) If the subpoena commands a person to copy and mail or deliver documents, or electronically stored information, to produce documents, electronically stored information, or tangible things for inspection, copying, testing, or sampling, or to permit inspection of premises, the party or attorney responsible for issuing the subpoena must serve each party with the subpoena by delivery or other method of actual notice before serving the subpoena.

(c) Appearance; resident; non-resident.

(1) A person who resides in this state may be required to appear:

(A) at a trial or hearing in the county in which the case is pending; and

(B) at a deposition, or to produce documents, electronically stored information, or tangible things, or to permit inspection of premises only in the county in which the person resides, is employed, or transacts business in person, or at such other place as the court may order.

(2) A person who does not reside in this state but who is served within this state may be required to appear:

(A) at a trial or hearing in the county in which the case is pending; and

(B) at a deposition, or to produce documents, electronically stored information, or

tangible things, or to permit inspection of premises only in the county in which the person is served or at such other place as the court may order.

(d) Payment of production or copying costs. The party or attorney responsible for issuing the subpoena must pay the reasonable cost of producing or copying documents, electronically stored information, or tangible things. Upon the request of any other party and the payment of reasonable costs, the party or attorney responsible for issuing the subpoena must provide to the requesting party copies of all documents, electronically stored information, or tangible things obtained in response to the subpoena or must make the tangible things available for inspection.

(e) Protection of persons subject to subpoenas; objection.

(1) The party or attorney responsible for issuing a subpoena must take reasonable steps to avoid imposing an undue burden or expense on the person subject to the subpoena. The court will enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney fee.

(2) A subpoena to copy and mail or deliver documents, or electronically stored information, to produce documents, electronically stored information, or tangible things, or to permit inspection of premises must comply with Rule 34(a) and (b)(1), except that the person subject to the subpoena must be allowed at least 14 days after service to comply.

(3) The person subject to the subpoena or a non-party affected by the subpoena may object if the subpoena:

(A) fails to allow reasonable time for compliance;

(B) requires a resident of this state to appear at other than a trial or hearing in a county in which the person does not reside, is not employed, or does not transact business in person;

(C) requires a non-resident of this state to appear at other than a trial or hearing in

a county other than the county in which the person was served;

(D) requires the person to disclose privileged or other protected matter and no exception or waiver applies;

(E) requires the person to disclose a trade secret or other confidential research, development, or commercial information;

(F) subjects the person to an undue burden or cost;

(G) requires the person to produce electronically stored information in a form or forms to which the person objects;

(H) requires the person to provide electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost; or

(I) requires the person to disclose an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study that was not made at the request of a party.

(4) **Timing and form of objections.**

(A) If the person subject to the subpoena or a non-party affected by the subpoena objects, the objection must be in writing and made before the date for compliance.

(B) The objection must be stated in a concise, non-conclusory manner.

(C) If the objection is that the information commanded by the subpoena is privileged or protected and no exception or waiver applies, or requires the person to disclose a trade secret or other confidential research, development, or commercial information, the objection must sufficiently describe the nature of the documents, communications, or things not produced to enable the party or attorney responsible for issuing the subpoena to contest the objection.

(D) If the objection is that the electronically stored information is from sources that are not reasonably accessible because of undue burden or cost, the person from

whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost.

(E) The objection must be served on the party or attorney responsible for issuing the subpoena. The party or attorney responsible for issuing the subpoena must promptly serve a copy of the objection on the other parties.

(5) **Response to objections and compliance.**

(A) If an objection is made under this rule, or if a party requests a protective order, the party issuing the subpoena is not entitled to compliance on any topic for which an objection has been made but may request an order to compel compliance under Rule 37(a).

(B) ~~The objection or request~~ If a party requests a protective order, the party must serve the request for a protective order on the other parties and on the person subject to the subpoena.

(C) If the party issuing the subpoena seeks to obtain compliance with the subpoena through Rule 37(a), the person subject to the subpoena or a non-party affected by the subpoena may respond as provided by Rule 37(a)(3).

(D) An order compelling compliance must protect the person subject to or affected by the subpoena from significant expense or harm. The court may quash or modify the subpoena. If the party shows a substantial need for the information sought by the subpoena that cannot be met without undue hardship, the court may order compliance upon specified conditions.

(f) **Duties in responding to subpoena.**

(1) A person commanded to copy and mail or deliver documents, or electronically stored information, or to produce documents, electronically stored information, or tangible things must serve on the party or attorney responsible for issuing the subpoena a declaration under penalty of law stating in substance:

(A) that the declarant has knowledge of the facts contained in the declaration;

(B) that the documents, electronically stored information, or tangible things copied or produced are a full and complete response to the subpoena;

(C) that the documents, electronically stored information, or tangible things are the originals or that a copy is a true copy of the original; and

(D) the reasonable cost of copying or producing the documents, electronically stored information or tangible things.

(2) A person commanded to copy and mail or deliver documents or electronically stored information or to produce documents, electronically stored information, or tangible things must copy or produce them as they are kept in the usual course of business, or must organize and label them to correspond with the categories in the subpoena.

(3) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in the form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(4) If the information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party who received the information of the claim and the basis for it. After being notified, the party must promptly return, sequester, or destroy the specified information and any copies of it 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 the information. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt. Failure by any person without adequate excuse to obey a subpoena served

upon that person is punishable as contempt of court.

(h) Procedure when witness evades service or fails to attend. If a witness evades service of a subpoena or fails to attend after service of a subpoena, the court may issue a warrant to the sheriff of the county to arrest the witness and bring the witness before the court.

(i) Procedure when witness is an inmate. If the witness is an inmate as defined in Rule 6(e)(1), a party may move for an order to examine the witness in the institution or to produce the witness before the court or officer for the purpose of being orally examined.

(j) Subpoena unnecessary. A person present in court or before a judicial officer may be required to testify in the same manner as if the person were in attendance upon a subpoena.

Effective: November 1, 2025

Tab 5

Child protective orders
URCP and URJP Procedural Rules
New Proposed URCP Rule 103
Update

A request came to the URCP and URJP Committees to clarify the procedure for child protective orders when they are transferred from juvenile court to district court under UC 78A-6-104(5). A subcommittee with members from both Committees met and proposed a new URCP Rule 103. This new rule mirrored the language found in URJP Rule 37A which has been in the juvenile procedural rules for years and was recently amended with no public comments submitted.

The new URCP Rule 103 went out for public comment and a lot of public comments were received, many of which were from directors of the Children's Justice Center (CJC). Upon receiving these public comments, this Committee did not think it could answer the questions or proceed with recommendations for the Justices without hearing more from these stakeholders and the URJP Committee. A few meetings were held and after review, the subcommittee and URJP Committee would not recommend any further amendments to the rule. The concerns, meetings, and those consulted are outlined below.

The concerns from the public comments can be summarized as centering around the following:

- How this will impact forensic interview services provided by CJCs?
- How entering recordings of interviews in civil cases may impact criminal cases or investigations.?
- Who can conduct these interviews of children that are recorded and submitted? The scope, qualifications and standards for these interviews and interviewers?
- Parties receiving copies or viewing the interview.
- The recording equipment and the operator of the equipment having to testify.
- Input and review of the rule by all stakeholders to these cases.

A meeting was held on January 7, 2026 to review these concerns. The following individuals were present for this discussion, Tracey Tabet, CJC Director; Heather Stewart, CJC Deputy Director and forensic interview expert; Kristy Pike, Washington County CJC Director; Heather Williams-Young, Juab/Millard County CJC Director and Advisory Board Vice-Chair; Matt Jansen, Davis County Attorney's Office; Kristin Zimmerman, Office of Attorney General, Section Director, CJC Program's legal advisor; Carl Hollan, Statewide Association of Prosecutors director and the prosecutor representative for the Utah Victim Services Commission Child Abuse Subcommittee; David Fureigh, Office of Attorney General, Deputy Director for AG Child Protection Division, and URJP Committee Member.

The group was able to ask and answer questions, with a big thank you to David Fureigh, and were able to narrow down the concerns to the following paragraphs in the rule.

(d)(1)(C) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent, and the recording is accurate and has not been altered

- Concerned with first part of this paragraph that the person hitting the play button on the recording device will be called to testify. Attorneys have not encountered this historically and perhaps this is a misunderstanding in some areas. Believe this can be worked out.

(d)(1)(E) the person conducting the interview of the child in the recording is present at the proceeding and is available to testify and be cross-examined by either party

- The CJC understands that this is in every rule and attorneys usually try to get stipulations about them needing to appear. This is not as great of a concern in all areas but wanted to note it.

(d)(1)(F) the parties and the parties' attorneys are provided an opportunity to view the recording before it is shown to the court

- This is also in every rule and records are accessible via Utah Code 77-37-4. The greatest concern is with cases where there are all private counsel and no state agency to hold the record that is being "viewed" by parties or attorneys. Believe this can be worked out with a greater understanding.

(d)(1)(G) - the court views the recording and determines that it is sufficiently reliable and trustworthy and that the interest of justice will best be served by admission of the statement into evidence

- The CJC wanted to know if there was criteria for the interviewer and if they are forensically trained. There was discussion that this cannot really be provided for in the rule. This rule was meant to encompass more than just the CJC interview. Believe this has been explained and they understand it is not what the rule is aimed at addressing.

At the URJP Committee meeting held on January 9, 2026, Stacy Haacke submitted the rule and public comments as materials for review and requested any feedback the Committee may have in regards to the concerns. Stacy attended the meeting and relayed the conversations from the previous meeting. The Committee did not have any suggestions for amendments, but a few members agreed to meet to discuss in more depth with URCP members and an attorney Guardian ad Litem who is appointed on these child protective order cases.

On February 5, 2026 a meeting was held with David Fureigh (URJP), Juvenile Judge Debra Jensen (URJP), Juvenile Judge David Johnson (URJP), Attorney Guardian ad Litem Jennifer Spangenberg, Jim Hunnicutt (URCP), Laurel Hanks (URCP), District Court Judge Catherine Conklin (URCP). The juvenile court judges indicated this rule has not been an issue in juvenile court. All believed this new rule is addressing an ad hoc process that was already in place and needed a rule, and that no amendments are necessary.

Upon satisfaction of the Committee, this rule is ready for a motion for it to be sent to the Supreme Court to be approved as final with an effective date of May 1, 2026.

UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

To submit a comment or view the comments of others, click on "Continue Reading." To submit a comment, scroll down to the "Leave a Reply" section, and type your comment in the "Comment" field. Type your name and email address in the designated fields and click "Post Comment."

Comments cannot be acknowledged, but all will be considered. Comments are saved to a buffer for review before publication.

Posted: September 3, 2025

Utah Courts

Rules of Civil Procedure – Comment Period Closed October 20, 2025

URCP005. Service and filing of pleadings and other papers.
AMEND. The proposed amendments to this rule are primarily to address when service is required on parties in default, to clarify when a party in default must be served. There is also a new subparagraph (a)(2)(D) after review of the Standards of Professionalism and Civility, particularly Standard 16, and Utah Supreme Court case, *Arbogast Family Trust ex rel. Arbogast v. River Crossings, LLC*, 2010 UT 40. There is also a proposed amendment to (b)(3)(C) regarding a mailing address.

URCP042. Consolidation; separate trials; venue transfer.
AMEND. The proposed amendments to this rule clarify the filings to be made in each action and by the parties when there are requests to consolidate cases. This includes clarification on motions to intervene, notices, orders, the assigned judge, and the use of a single case number. There is also new proposed language regarding severance of matters, and reassignment of cases where the cases to be consolidated may not be of the same case type.

To view all comments submitted during a particular comment period, click on the comment deadline date. To view all comments to an amendment, click on the rule number.

CATEGORIES

- -Alternate Dispute Resolution
- -Code of Judicial Administration
- -Code of Judicial Conduct
- -Fourth District Court Local Rules
- -Licensed Paralegal Practitioners Rules of Professional Conduct
- -Rules Governing Licensed Paralegal Practitioner
- -Rules Governing the State Bar

URCP103. Child protective orders. NEW. This new proposed rule will apply when child protective order cases are transferred from the juvenile court to the district court under Utah Code section 78A-6-104(5). This rule covers procedures for live child testimony, recorded statements, and recorded testimony, and follows generally the substance of Utah Rules of Juvenile Procedure Rule 37A.

This entry was posted in **Uncategorized**, **URCP005**, **URCP042**.

« Rules of Appellate Procedure – Comment Period Closes November 10, 2025

Mandatory Continuing Legal Education Rule Changes – Comment Period Closed October 20, 2025 »

UTAH COURTS

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11 thoughts on "Rules of Civil Procedure – Comment Period Closed October 20, 2025"

Clancey Henderson
September 3, 2025 at 1:43 pm

Proposed Rule change 5(a)(2)(D) ("if represented by an attorney, with notice to the attorney, even if that attorney has not formally appeared in the action.") needs to make clear that service is required only when an attorney's representation of the party in default is known to the serving attorney. See Standards of Professionalism and Civility, ¶ 16 ("whose identity is known"); Arbogast Fam. Tr. v. River Crossings, LLC, 2010 UT 40, ¶ 41, 238 P.3d 1035 (emphasizing "known parties").

Jeremy Shorts

- -Rules of Appellate Procedure
- -Rules of Civil Procedure
- -Rules of Criminal Procedure
- -Rules of Evidence
- -Rules of Juvenile Procedure
- -Rules of Professional Conduct
- -Rules of Professional Practice
- -Rules of Small Claims Procedure
- ADR101
- ADR103
- Appendix A
- Appendix B
- Appendix F
- CJA 1-101
- CJA Appendix F
- CJA01-0201
- CJA01-0204
- CJA01-0205
- CJA01-0205
- CJA01-0302
- CJA01-0303
- CJA01-0304
- CJA01-0305
- CJA010-01-0404
- CJA010-1-020
- CJA014-0701
- CJA014-0704
- CJA014-0705
- CJA014-0719
- CJA02-0101
- CJA02-0102
- CJA02-0103
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- CJA02-0106.01
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- CJA02-0212
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- CJA03-0103
- CJA03-0104
- CJA03-0105

September 25, 2025 at 11:30 am

Proposed Rule 5(a)(2)(c) would require Rule 4 service for a motion to augment:

Rule 76 already requires parties to maintain updated contact information in a lawsuit. In certain cases (at least those involving unlawful detainer), this change would conflict with Utah Code 78B-6-811(6)(a) and (b). Is there any exception if the Motion to Augment occurs within a short period of time (i.e. within 180 days under 78B-6-811(5)(b))?Requiring a second round of Rule 4 service would also increase work load on the courts because motions for alternate service would increase under Rule 4(d)(5)(A).

As an alternate option, would it be possible to effectuate Rule 5 service via at least two separate methods (emailing a second copy on top ofmailing, or mailing to two potential addresses, etc.)?

See also: Bodell Constr. Co. v. Robbins, 2014 UT App 203, ¶ 13, 334 P.3d 1004, 1009-1010 (2014 Utah Ct. App.) stating:

…we note that the Utah Rules of Civil Procedure mandate that personal service of process occur only once, at the beginning of a case. Utah R. Civ. P. 4(d)(1). Once a defendant appears before the court, it is that defendant's responsibility to maintain contact with the court. Id. R. 76 ("An attorney and unrepresented party must promptly notify the court in writing of any change in that person's address, e-mail address, phone number or fax number."); Volostnykh v. Duncan, 2001 UT App 26, para. 4 (per curiam) (recognizing the parties' duties to inform the court of any address changes and to "keep themselves apprised of ongoing court proceedings"). We agree with the district court that Robbins's attempt to excuse his lack of diligence with his reliance on an adverse party for notice "plac[es] on Bodell and its counsel a duty not recognized in Utah law."

Heather Williams-Young

October 14, 2025 at 9:58 am

Proposed Rule 103

I appreciate that the proposed rule change reflects a thoughtful effort to address the real and lasting trauma that testifying in court can have on children. Prioritizing trauma-informed practices in civil proceedings, especially those involving child protective orders, is an important step forward. However, I have significant concerns regarding the potential unintended consequences of this rule, particularly for the Children's Justice Centers (CJCs) across the state and our multidisciplinary team (MDT) partners.

- CJA03-0106
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- CJA04-0101
- CJA04-0103
- CJA04-0106

One major concern involves the potential impact on forensic interview (FI) services provided by CJCs. If the rule change results in an increased demand for forensic interviews, or leads to more subpoenas for FI staff to testify, this could stretch our already limited resources. Forensic interviewers may be pulled away from their primary role of service provision at the CJC to attend civil court proceedings. In many cases, CJCs may need to hire additional interviewers to meet demand—without any corresponding increase in funding. Additionally, there is a risk that forensic interviews could be submitted as evidence in civil proceedings while parallel criminal investigations or prosecutions are still ongoing, potentially compromising those criminal cases.

An equally pressing concern lies in how the rule might be interpreted regarding who is permitted to conduct interviews with children. If the rule is read to allow individuals who are not trained forensic interviewers—such as attorneys, custody evaluators, or even parents—to conduct and record interviews with children for submission in court, this could have serious consequences. Interviews conducted without adherence to evidence-based, trauma-informed protocols risk re-traumatizing children, introducing suggestibility, and jeopardizing the integrity of ongoing criminal investigations. The proposed rule lacks clear guidance on the scope, qualifications, and standards for such interviews, which leaves room for practices that may ultimately harm the very children the rule aims to protect.

While I strongly support efforts to make civil court proceedings more trauma-informed for children, I respectfully urge that this proposed rule change be returned to the committee for further consideration. It is essential that all relevant stakeholders—including CJCs, MDT partners, prosecutors, victim advocates, and child welfare professionals—are included in these discussions to ensure a comprehensive understanding of the broader implications.

Thank you for your commitment to protecting children and for considering this feedback.

Julie Knaphus
October 20, 2025 at 3:10 pm

I also would like to see this proposed rule change be returned to the committee for further consideration.

Tracey Tabet, Utah CJC Program
October 15, 2025 at 12:22 pm

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- CJA04-0201
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- CJA04-0613
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- CJA04-0702
- CJA04-0704
- CJA04-0801
- CJA04-0901
- CJA04-0902

At the State Advisory Board on Children's Justice meeting held on October 10, 2025, concerns were raised regarding the proposed Civil Procedure Rule 103 Child Protective Orders. Given these concerns, the Children's Justice Center/CJC Program requests that the proposed rule be returned to the Civil Rule Committee so that these concerns may be addressed.
The overarching concern is that the rule will have unintended negative consequences for children. First, the proposed civil rule does not require that the interviewer in subsection (1) Recorded Statements, or in subsection (2) Recorded Testimony be a trained forensic interviewer. In criminal investigations of sexual and physical abuse of children, trained forensic interviewers interview the child regarding the abuse. There are no such protections in the proposed rule for civil protective orders. The concern is even more acute under subsection (2) Recorded Testimony, where attorneys are permitted to question the child outside the protections of judicial watch or the neutral environment of a professional forensic interview. This could result in a deposition of the child by divorce attorneys that is not trauma-informed and would not provide reliable information.
In addition to the training or identity of the interviewer, there were concerns on the scope of the interview. There is nothing in either subsection Recorded Statements or Recorded Testimony that would limit the scope of the interview. Within the context of divorce actions, untrained interviewers with no limits provided by the civil rule could go far afield, resulting in interviews that are not trauma-informed and that provide unreliable information. Further, neither subsection would prevent an interviewer from asking questions drafted by one party's attorney, and could interfere with criminal and neglect investigations.
In addition to the above concerns regarding interviews conducted for the purpose of a child protective order, there are concerns about the use of existing Children Justice Center (CJC) or Department of Child and Family Services (DCFS) interviews conducted as part of criminal and neglect investigations. Under the proposed rule, targets of investigations could receive a copy of the child's CJC or DCFS interview as part of their divorce action discovery before police have completed their investigation. This could result in the target obstructing the investigation, destroying evidence, and increased danger of harm to the child.
Utah law acknowledges the importance of protecting the child and their recorded interviews in the Victim's Bill of Rights. Utah Code § 77-37-4 (5)(a) states
Child victims have the right, once an investigation has been initiated by law enforcement or the Division of Child and Family Services, to keep confidential their interviews that are conducted at a Children's Justice Center, including video and audio recordings, and transcripts of those recordings. Except as provided in Subsection (6), recordings and transcripts of interviews may not be distributed, released, or displayed to anyone without a court order.
This proposed rule could be used to obtain a court order to provide a CJC or DCFS recorded interview to the target parent as part of a protective order hearing.
Finally, a concern was raised was that the proposed rule adds

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- CJA06-0102
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- CJA10-1-602
- CJA11-0101
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another witness to the Court process not formerly required under criminal or juvenile court rules. The proposed rule requires an additional foundational showing that the recording equipment is "capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered". Unlike Utah Rule of Criminal Procedure 15.5, which permits the interviewer to testify that the recording is accurate and not altered, the civil rule will require testimony or perhaps an affidavit from the person who pressed "play" on the recording device. If the interview is conducted at a Children's Justice Center, this requirement could increase the resource drain from the center because two employees would be waiting to testify in the civil child protection order process rather than one.
For the reasons discussed above, the Children's Justice Center/CJC Program respectfully requests that proposed Civil Rule 103 return to its committee so that these issues may be addressed.

Julie Knaphus
October 20, 2025 at 3:09 pm

I agree with this comment.

Karen Oldroyd, Director, Sevier County Children's Justice Center
October 15, 2025 at 3:00 pm

Formal Comment – Proposed Rule 103

I appreciate the thoughtful intent behind the proposed rule, particularly its aim to mitigate the
emotional trauma children experience when participating in court proceedings. The
commitment to trauma-informed practices in civil matters, especially those involving child
protective orders, represents meaningful progress toward more child-centered judicial
processes. However, I have significant concerns regarding the potential unintended
consequences this rule may have for Children's Justice Centers (CJCs) statewide and for the
multidisciplinary team (MDT) professionals who collaborate to ensure the safety and
well-being of children. Impact on Forensic Interview Services
If the proposed rule results in an increased demand for forensic interviews (FIs), or leads to
additional subpoenas requiring FI staff to testify in court, it could place an undue burden on
CJC resources. Forensic interviewers may be diverted from their primary duties at the CJC,

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- CJA11-0520
- CJA11-0521
- CJA11-0591
- CJA14-0515
- CJA14-0721
- CJA_Appx_F
- CJA_Appx_I
- CJA_Appx_J
- CJC Terminology
- CJC01
- CJC02
- CJC02.11
- CJC02.12
- CJC02.3
- CJC03
- CJC03.7
- CJC04
- CJC04.1
- CJC05
- CJCApplicability
- CR1008
- CR1101
- CR430
- CR432
- Fourth District Local Rule 10-1-407
- LPP1.00
- LPP1.01
- LPP1.010
- LPP1.011
- LPP1.012
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- LPP15-0706
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limiting service availability and delaying response times for other children in need. To meet increased demands, centers may be forced to hire additional interviewers without a corresponding increase in funding. ***Moreover, there is substantial concern that forensic interviews could be introduced as evidence in civil proceedings while related criminal investigations or prosecutions are still ongoing. Doing so risks compromising active criminal cases and the integrity of the investigative process. In addition, if individuals involved in civil proceedings—such as a parent or party to the case—are permitted to view a forensic interview while a related criminal matter remains pending, this may have unintended procedural consequences. Specifically, such individuals could be classified as witnesses in the criminal case, thereby rendering them ineligible to be present in the courtroom as support persons for their child during trial. This outcome would not only diminish the child's access to emotional support but also run counter to the trauma-informed intent of the proposed rule.***

Concerns Regarding Interview Protocol and Qualifications– There is also ambiguity in the proposed rule regarding who may conduct interviews with children. If the rule is interpreted to allow individuals who are not trained forensic interviewers—such as attorneys, custody evaluators, or parents—to conduct or record interviews for court submission, this poses significant risks. Interviews conducted outside of established, evidence-based, trauma-informed protocols may inadvertently re-traumatize children, introduce suggestibility, and jeopardize ongoing investigations. Recommendation

While I support the overarching goal of making civil court processes more trauma-informed for children, I respectfully urge that this proposed rule be remanded to the committee for further consideration. It is critical that all relevant stakeholders—including CJCs, MDT partners, prosecutors, victim advocates, and child welfare professionals—be consulted to ensure a full understanding of the potential legal and practical implications. Thank you for your continued commitment to child protection and for your consideration of this feedback.

Kristy Pike, Director, Washington County CJC
October 20, 2025 at 2:17 pm

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Thank you for your work on including children's voices in child protective orders. This has long been an area of concern for caregivers and the professionals tasked with keeping children safe. There are no easy answers; while to a lay person Rule 103 as proposed may sound reasonable, there are numerous issues with it that are alarming to those who work in this realm. I respectfully suggest that a group of those professionals, including but not limited to a Children's Justice Center Forensic Interviewer, a criminal prosecutor, a GAL, a CJC MDT specialist, a mental health professional trained in treating childhood trauma, a representative from Child Protective Services, a representative from the Attorney General's office, an attorney specializing in family law, and, perhaps most importantly, an individual with lived experience be convened to work through standardized ways of including children's input in CPO and high-conflict custody situations. Guiding principles of any solutions should:
• Put the well-being of the child first
• Be trauma informed
• Minimize the number of times a child is interviewed
• Ensure the integrity of a child's interview/testimony
• Not overburden current systems
• Not undermine criminal investigations/prosecutions
While the solution will doubtless be nuanced and require considerable good-faith efforts on the part of numerous experts, I am confident that in a state that values children, we can come to a reasonable conclusion.

Nik Hulet, Director, Iron County CJC
October 20, 2025 at 3:39 pm

I echo the concerns of other CJC Directors in regard to URCP103. While I understand and appreciate the intent of the Rule to protect children from having to testify in another court proceeding by mirroring existing rules, the rule, as it is written, creates more, potentially damaging concerns. Should URCP103 move forward without further consideration, the timing of the hearings affected by this rule may have an adverse effect on ongoing investigations, create undue burden on Forensic Interviewers requiring more time away from interviews to testify in cases, place an undue burden on children who might be asked questions outside the scope of the testimony, open the possibility for untrained interviewers to interrogate children, and create an undue burden requiring other CJC staff to testify regarding their involvement in recordings. I believe my colleagues have articulated clearly, and specifically the concerns listed above in detail. I add this to their statements in requesting that this Rule be returned to committee to address these concerns.

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Robert Nieman San Juan CJC
October 20, 2025 at 3:56 pm

My comments pertain to the proposed rule change for the Civil Procedure Rule 103, and understand and appreciate the intent for its construction, However, this proposal is lacking critical information, which could create unintentional consequences and likely additional harm to a child when a case falls within this rule. There are three points to this proposal that are concerning The first point is the option to have a child interviewed by an untrained interviewer. Having a child interviewed by an untrained and uniformed of trauma-informed techniques could cause additional harm to a child. Having an interview conducted without appropriate forensic training leads to unreliability, and possibly one sided testimony. An untrained interviewer who is not trauma-informed, can easily lead to revictimization, victim blaming and coercion concerns. Untrained interviews typically guide a child to say what a child believes the interviewer would like to hear. As the courts require authentic, truthful, and reliable information, this proposal is lacking structure and clarification in how that may be accomplished.
The second point is the requirement is having the forensic interviewer (FI) testify but also have the person who oversaw, started or was in charge of the recording be present for the hearing. This creates a financial obligation that would burden the local CJC, not just by one person, but two. There must be better ways to verify this information without requiring the FI and the record button pusher to be present which would require taking those employees away from their assigned job duties.
The third concern surrounds the use of Children's Justice Center's (CJC) recorded forensic interviews. This could affect the overall purpose of the interview and the investigative process. As these interviews are protected information, the role of the investigative team is to complete the investigation prior to this information being shared. The use of these interviews prior to an investigation being complete, could jeopardize an investigation, allowing for evidence to become accessible to those being investigated. This process could allow the loss of evidence and jeopardizing a criminal case. This is one more way it could increase the possibility of harm and revictimization of the child.
These concerns highlight the issues as our CJC staff, forensic interviews, law enforcement, DCFS and others work to help protect and work to begin the healing process for children. Along with others who have commented, I also respectfully urge that the proposed rule be returned to the committee. Also, I respectfully recommend that all essential stakeholders be included in these discussions to help fully support the safety, healing and support the children of our state. I propose inviting those who would support further discussion, including the Children's Justice Center and MDT partners or investigative teams, prosecutors, victim advocates and DCFS. Please let me know if you have questions.

- LPP8.04
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- LSI11.0701
- LSI11.0702
- LSI11.0703
- LSI11.0704
- LSI11.0705
- LSI11.0706
- Office of Professional Conduct
- Petition to Increase Bar Admission Fees
- Petition to Increase Licensing Fees.
- Regulatory Reform
- RGLPP15-0401
- RGLPP15-0402
- RGLPP15-0403
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- RGLPP15-0701
- RGLPP15-0703
- RGLPP15-0705
- RGLPP15-0707
- RGLPP15-0714
- RGLPP15-0908
- RPC Preamble
- RPC Terminology
- RPC01.00
- RPC01.01
- RPC01.02
- RPC01.03
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- RPC01.15

Thank you for the work you do and for taking the time to review my comments.

Eric K. Johnson
October 20, 2025 at 4:15 pm

This rule appears to be one of those solutions to a problem that does not exist.

One problems with the comments critical of child testimony in protective order matters is that they presume the child is abused and then assert that presumption as the reason to be so careful in questioning a trial that the child ends up never being questioned, out of an abundance of caution. This presumption of abuse is causing many innocent parents and children to be harmed unduly. The idea that we go soft on investigating and getting to the bottom of factual disputes for the sake of protecting children does far more harm than good.

The current draft of rule 103 is drafted in such a way that a court could site and construe it to justify or reject questioning a child witness.

One good thing about the discussion around this new proposed rule. 103, however, is that at least the courts are finally moving off. Off this idea that child testimony is anathema.

Family courts are far too differential to the mental health profession, which is already a highly subjective, soft, and frequently pseudoscientific field. New idea that competent judges and attorneys cannot question a child without a therapist standing by is embarrassing.

Making it harder to get reliable evidence from child witnesses, particularly when the children are the most recipient witnesses and have the greatest stake in the outcome of the action, is the antithesis of acting in the best interest of the child.

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- RPC08.01
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Rule 103. Child protective orders.

Effective: mm/dd/yyyy

(a) **Scope.** This rule applies when a juvenile court transfers a petition for a child protective order to the district court pursuant to statute.

(b) **Definition.** As used in this rule, "child" means an individual who is under 18 years old.

(c) **Hearing.** If the juvenile court issued an ex parte child protective order before transferring the petition, the district court will hold a hearing within 21 days of that protective order's issuance.

(d) **Child's Testimony**. No party may compel a child to testify unless the court finds that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony. A child's testimony may be presented in one or more of the following ways:

(1) **Recorded Statements.** A child's oral statement may be recorded and, upon motion and for good cause shown, a child's recorded statement is admissible as evidence in any court proceeding regarding the child protective order if the following conditions are met:

(A) no attorney for any party is in the child's presence when the statement is recorded;

(B) the recording is visual and aural and is recorded on film or videotape or by other electronic means;

(C) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent, and the recording is accurate and has not been altered;

(D) each voice in the recording is identified;

(E) the person conducting the interview of the child in the recording is present at the proceeding and is available to testify and be cross-examined by either party;

(F) the parties and the parties' attorneys are provided an opportunity to view the recording before it is shown to the court;

(G) the court views the recording and determines that it is sufficiently reliable and trustworthy and that the interest of justice will best be served by admission of the statement into evidence; and

(H) the child is available to testify and to be cross-examined at trial, either in person or as provided in paragraph (d)(2) or (d)(3), or the court determines that the child is unavailable as a witness to testify at trial under the Utah Rules of Evidence. For purposes of this paragraph, "unavailable" includes a determination, based on medical or psychological evidence or expert testimony, that the child would suffer serious emotional or mental strain if required to testify at trial.

(2) **Recorded Testimony.** The court may order that a child's testimony be taken outside the courtroom and be recorded. That testimony is admissible as evidence, for viewing in any court proceeding regarding the allegations relating to the protective order, if the provisions of this paragraph and paragraph (d)(3) are observed:

(A) the recording is both visual and aural and recorded on film or videotape or by other electronic means;

(B) the recording equipment is capable of making an accurate recording, the operator is competent, and the recording is accurate and is not altered;

(C) each voice on the recording is identified; and

(D) each party is given an opportunity to view the recording before it is shown in the courtroom.

(3) **Live Testimony.** The court may order that a child's testimony may be taken in a room other than the courtroom if the following conditions are observed:

(A) Only the judge, domestic commissioner, attorneys for each party, persons necessary to operate equipment, and a counselor or therapist whose presence contributes to the child's welfare and emotional well-being may be with the child during the testimony. The parties may also be present during the child's testimony unless a party consents to be hidden from the child's view, or the court determines that the child will suffer serious emotional or mental strain if required to testify in the party's presence, or that the child's testimony will be unreliable if required to testify in the party's presence. If the court makes that determination, or if the party consents:

(i) the party may not be present during the child's testimony;

(ii) the court will ensure that the child cannot hear or see the party;

(iii) the court will advise the child prior to testifying that the party is present at the trial and may listen to the child's testimony;

(iv) the party must be permitted to observe and hear the child's testimony, and the court will ensure that the party has a means of two-way telephonic communication with counsel during the child's testimony;

(v) normal court procedures must be approximated as nearly as possible;

(B) Only the judge, domestic commissioner, and attorneys may question the child unless the court otherwise orders; and

(C) As much as possible, persons operating equipment must be confined to an adjacent room or behind a screen or mirror so the child cannot see or hear them.

(4) **Combining recorded and live testimony prohibited.** If the court orders that the testimony of a child be taken under paragraph (d)(2), the child may not be required to testify in court at any proceeding where the recorded testimony is used.

Tab 6

Rule 65A. Injunctions.
Request from Laurel Hanks and Self Help Center

There has been some confusion about how Temporary Restraining Orders are served in family law cases (and possibly other cases) because the Rule doesn't follow UCA 78B-8-302(5), which requires service by a law enforcement officer or a special function officer if the document allows use of force.

Requesting additional subparagraph (5) to Rule 65A(b) to address service when use of force is authorized in the order.

Rule 65A. Injunctions.

Effective: 3/7/2025

(a) **Preliminary injunctions.**

(1) **Notice.** No preliminary injunction shall be issued without notice to the adverse party.

(2) **Consolidation of hearing**. Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible at the trial on the merits becomes part of the trial record and need not be repeated at the trial. This paragraph (a)(2) shall be so construed and applied as to save to the parties any rights they may have to trial by jury.

(b) **Temporary restraining orders.**

(1) **Notice.** No temporary restraining order shall be granted without notice to the adverse party or that party's attorney unless (A) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (B) the applicant or the applicant's attorney certifies to the court in writing as to the efforts, if any, that have been made to give notice and the reasons supporting the claim that notice should not be required.

(2) **Form of order**. Every temporary restraining order shall be endorsed with the date and hour of issuance and shall be filed forthwith in the clerk's office and entered of record. The order shall define the injury and state why it is irreparable. The order shall expire by its terms within such time after entry, not to exceed 14 days, as the court fixes, unless within the time so fixed the order, for good cause

shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record.

(3) **Priority of hearing**. If a temporary restraining order is granted, the motion for a preliminary injunction shall be scheduled for hearing at the earliest possible time and takes precedence over all other civil matters except older matters of the same character. When the motion comes on for hearing, the party who obtained the temporary restraining order shall have the burden to show entitlement to a preliminary injunction; if the party does not do so, the court shall dissolve the temporary restraining order.

(4) **Dissolution or modification.** On 48 hours' notice to the party who obtained the temporary restraining order without notice, or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification. In that event the court shall proceed to hear and determine the motion as expeditiously as the ends of justice require.

(5) Service of Order. The order may be served as allowed by Rule 5(b), unless otherwise ordered by the court. If a temporary restraining order allows the use of force, it must be served by a law enforcement officer, constable, or special function officer as defined by UCA 78B-8-302(5).

(c) **Filing requirements for a temporary restraining order or preliminary injunction of a state law.**

(1) **Definition.** As used in this paragraph (c), "state law" means a state statute, a proposed amendment to the Utah Constitution, or any other legislation passed by the Legislature.

(2) **Temporary restraining order for a state law with delayed implementation.**

(A) An applicant must file a motion for a temporary restraining order at least 45 days before a state law takes effect if:

(i) the state law takes effect more than 60 days after the day on which the Legislature adjourns sine die from the general or special session in which the Legislature passed the state law;

(ii) the applicant is challenging the constitutionality of the state law; and

(iii) the applicant seeks to enjoin the execution or enforcement of the state law before the state law becomes effective.

(B) If an applicant fails to bring a motion for a temporary restraining order under paragraph (c)(3)(A) before the 45-day requirement, the applicant may not bring a motion for a temporary restraining order to enjoin the execution or enforcement of the state law until the state law has been in effect for at least 90 days.

(C) This paragraph (c)(2) does not preclude an applicant from bringing a motion for a preliminary injunction to enjoin the execution or enforcement of a state law that takes effect more than 60 days after the day on which the Legislature adjourns sine die from the general or special session in which the Legislature passed the state law.

(3) **Response to motion for temporary restraining order or preliminary injunction.** Notwithstanding the filing deadline for a response to a motion under Rule 7 of the Utah Rules of Civil Procedure, an adverse party must file a response to a motion for a temporary restraining order or preliminary injunction within 28 days after a motion is filed if:

(A) the applicant is challenging the constitutionality of the state law; and

(B) the applicant seeks to enjoin the execution or enforcement of the state law before the state law becomes effective.

(d) **Security.**

(1) **Requirement.** The court shall condition issuance of the order or injunction on the giving of security by the applicant, in such sum and form as the court deems proper,

unless it appears that none of the parties will incur or suffer costs, attorney fees or damage as the result of any wrongful order or injunction, or unless there exists some other substantial reason for dispensing with the requirement of security. No such security shall be required of the United States, the State of Utah, or of an officer, agency, or subdivision of either; nor shall it be required when it is prohibited by law.

(2) **Amount not a limitation.** The amount of security shall not establish or limit the amount of costs, including reasonable attorney fees incurred in connection with the restraining order or preliminary injunction, or damages that may be awarded to a party who is found to have been wrongfully restrained or enjoined.

(3) **Jurisdiction over surety.** A surety upon a bond or undertaking under this rule submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall forthwith mail copies to the persons giving the security if their addresses are known.

(e) **Form and scope**. Every restraining order and order granting an injunction shall set forth the reasons for its issuance. It shall be specific in terms and shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained. It shall be binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive notice, in person or through counsel, or otherwise, of the order. If a restraining order is granted without notice to the party restrained, it shall state the reasons justifying the court's decision to proceed without notice.

(f) **Grounds.** A restraining order or preliminary injunction may issue only upon a showing by the applicant that:

(1) there is a substantial likelihood that the applicant will prevail on the merits of the underlying claim:

(2) the applicant will suffer irreparable harm unless the order or injunction issues;

(3) the threatened injury to the applicant outweighs whatever damage the proposed order or injunction may cause the party restrained or enjoined; and

(4) the order or injunction, if issued, would not be adverse to the public interest.

(g) **Motion for reconsideration.**

(1) A party enjoined or restrained by a restraining order or a preliminary injunction on February 14, 2023, may move the court to reconsider whether the order or injunction should remain in effect if the order or injunction:

(A) is in writing;

(B) is restraining or enjoining the enforcement of a law; and

(C) explicitly states that the court granted the order or injunction on the ground that the case presented serious issues on the merits which should be the subject of further litigation.

(2) A motion for reconsideration under this paragraph (g) may be filed at any time before the final determination of the case.

(3) Upon a motion for reconsideration, the court must determine whether the issuance of the restraining order or preliminary injunction meets the requirements in paragraph (e) regardless of the requirements for the issuance of the order or injunction on the day on which the order or injunction was issued.

(4) If thNe court determines that the issuance of the restraining order or preliminary injunction does not meet the requirements of paragraph (f), the court must terminate the order or injunction.

(h) **Domestic relations cases.** Nothing in this rule shall be construed to limit the equitable powers of the courts in domestic relations cases.

As provided in Utah Constitution, Article VII, Section 4, this rule takes effect upon a two-thirds vote of all members elected to each house.

Effective 5/7/2025

78B-8-302 Process servers.

(1) A complaint, a summons, or a subpoena may be served by an individual who is:
  (a) 18 years old or older at the time of service; and
  (b) not a party to the action or a party's attorney.
(2) Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:
  (a) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;
  (b) a sheriff or appointed deputy sheriff employed by a county of the state;
  (c) a constable, or the constable's deputy, serving in compliance with applicable law;
  (d) an investigator employed by the state and authorized by law to serve civil process; or
  (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.
(3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.
(4) While serving process, a private investigator shall:
  (a) have on the investigator's body a visible form of credentials and identification identifying:
    (i) the investigator's name;
    (ii) that the investigator is a licensed private investigator; and
    (iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;
  (b) verbally communicate to the person being served that the investigator is acting as a process server; and
  (c) print on the first page of each document served:
    (i) the investigator's name and identification number as a private investigator; and
    (ii) the address and phone number for the investigator's place of business.
(5) The following may only serve process under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances:
  (a) a law enforcement officer, as defined in Section 53-13-103; or
  (b) a special function officer, as defined in Section 53-13-105, who is:
    (i) employed as an appointed deputy sheriff by a county of the state; or
    (ii) a constable.
(6) The following may not serve process issued by a court:
  (a) an individual convicted of a felony violation of an offense that would result in the individual being a sex offender under Subsection 53-29-202(2)(b); or
  (b) an individual who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a protective order.
(7) An individual serving process shall:
  (a) legibly document the date and time of service on the front page of the document being served;
  (b) legibly print the process server's name, address, and telephone number on the return of service;
  (c) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;

(d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and
(e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

Amended by Chapter 291, 2025 General Session

Tab 7

Rule 105. Shortening 30 day waiting period in divorce actions.
Request from Laurel Hanks and Self Help Center

Utah Code section 30-3-18 was repealed and replaced by section 81-4-402. URCP Rule 105 is a relic of 30-3-18 and should be repealed.

Rule 105. Shortening 30 day waiting period in divorce actions.

Effective: 5/8/2018

A motion for a hearing less than 30 days from the date the petition was filed shall be accompanied by an affidavit setting forth the date on which the petition for divorce was filed and the facts constituting extraordinary circumstances.

Effective May 8, 2018 pursuant to CJA Rule 11-105(5)

Effective 9/1/2024

81-4-402 Petition for divorce -- Divorce proceedings -- Temporary orders.

(1) An individual may bring a petition for divorce if:

(a) the individual or the individual's spouse is an actual and bona fide resident of the county where the petition is filed for at least 90 days before the day on which the petition is filed;

(b) the individual is a member of the armed forces of the United States and the individual is stationed under military orders in this state for at least 90 days before the day on which the petition is filed; or

(c) both parties to the marriage have consented to personal jurisdiction for divorce or annulment under Subsection 81-2-303(5)(a)(ii).

(2) A divorce action shall be commenced and conducted in accordance with this chapter and the Utah Rules of Civil Procedure.

(3)

(a) The court may not enter a decree of divorce until 30 days after the day on which the petition is filed, unless the court finds that extraordinary circumstances exist.

(b) The court may make interim orders as the court considers just and equitable before the expiration of the 30-day period described in Subsection (3)(a).

(4)

(a) If the parties to the divorce action have a minor child, the parties shall attend the mandatory courses:

(i) for the petitioner, within 60 days after the day on which the petition is filed; and

(ii) for the respondent, within 30 days after the day on which the respondent is served.

(b) If the parties to a divorce action do not have a minor child, the parties may choose to attend the mandatory divorce orientation course described in Section 81-4-105.

(c) The clerk of the court shall provide notice to a petitioner of the requirement for the mandatory courses.

(d) A petition shall include information regarding the mandatory courses when the petition is served on the respondent.

(5) For a party that is unable to pay the costs of the mandatory courses, and before the court enters a decree of divorce in the action, the court shall:

(a) make a final determination of indigency; and

(b) order the party to pay the costs of the mandatory courses if the court determines the party is not indigent.

(6)

(a) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory courses.

(b) It is an affirmative defense in a divorce action that a party has not completed the mandatory courses and the action may not continue until a party has complied with the mandatory courses.

(7)

(a) Notwithstanding Subsections (4) and (6)(b), the court may waive the requirement that the parties attend the mandatory courses, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, or feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may permit the divorce action to proceed.

(8) The use of counseling, mediation, and education services provided under this part may not be construed as condoning or promoting divorce.

Enacted by Chapter 366, 2024 General Session

Tab 8

Rules 7 and 37 – Word and page limits
Request from Tonya Wright

I noticed that Rule 7(q) allows for 4 pages OR 1500 words for a Statement of Discovery Issues, scroll down to the table.

However, 37(a)(2) says : "The statement of discovery issues **must be no more than four pages**, not including permitted attachments, and must include in the following order:…"

I am wondering if 37 needs to be amended to match 7 (allowing for 1500 words in the alternative).

Rule 7. Pleadings allowed; motions, memoranda, hearings, orders.

(a) Pleadings. Only these pleadings are allowed:

(1) a complaint;

(2) an answer to a complaint;

(3) an answer to a counterclaim designated as a counterclaim;

(4) an answer to a crossclaim;

(5) a third-party complaint;

(6) an answer to a third-party complaint; and

(7) a reply to an answer if ordered by the court.

(b) Motions. A request for an order must be made by motion. The motion must be in writing unless made during a hearing or trial, must state the relief requested, and must state the grounds for the relief requested. Except for the following, a motion must be made in accordance with this rule.

(1) A motion, other than a motion described in paragraphs (b)(2), (b)(3), or (b)(4), made in proceedings before a court commissioner must follow Rule 101.

(2) A request under Rule 26 for extraordinary discovery must follow Rule 37(a).

(3) A request under Rule 37 for a protective order or for an order compelling disclosure or discovery—but not a motion for sanctions—must follow Rule 37(a).

(4) A request for an order related to a subpoena under Rule 45 must follow Rule 37(a).

(5) A motion for summary judgment must follow the procedures of this rule as supplemented by the requirements of Rule 56.

(c) Name and content of motion.

(1) The rules governing captions and other matters of form in pleadings apply to motions and other papers.

(2) **Caution language.** For all dispositive motions, the motion must include the following caution language at the top right corner of the first page, in bold type: **This motion requires you to respond. Please see the Notice to Responding Party.**

(3) **Bilingual notice.** All motions must include or attach the bilingual Notice to Responding Party approved by the Judicial Council.

(4) **Failure to include caution language and notice**. Failure to include the caution language in paragraph (c)(2) or the bilingual notice in paragraph (c)(3) may be grounds to continue the hearing on the motion, or may provide the non-moving party with a basis under Rule 60(b) for excusable neglect to set aside the order resulting from the motion. Parties may opt out of receiving the notices set forth in paragraphs (c)(2) and (c)(3) while represented by counsel.

(5) **Title of motion.** The moving party must title the motion substantially as: "Motion [short phrase describing the relief requested]."

(6) **Contents of motion.** The motion must include the supporting memorandum. The motion must include under appropriate headings and in the following order:

(A) a concise statement of the relief requested and the grounds for the relief requested; and

(B) one or more sections that include a concise statement of the relevant facts claimed by the moving party and argument citing authority for the relief requested.

(7) If the moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the motion.

(d) Name and content of memorandum opposing the motion.

(1) A nonmoving party may file a memorandum opposing the motion within 14 days after the motion is filed. The nonmoving party must title the memorandum

substantially as: "Memorandum opposing motion [short phrase describing the relief requested]." The memorandum must include under appropriate headings and in the following order:

(A) a concise statement of the party's preferred disposition of the motion and the grounds supporting that disposition;

(B) one or more sections that include a concise statement of the relevant facts claimed by the nonmoving party and argument citing authority for that disposition; and

(C) objections to evidence in the motion, citing authority for the objection.

(2) If the non-moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the memorandum.

(e) Name and content of reply memorandum.

(1) Within seven days after the memorandum opposing the motion is filed, the moving party may file a reply memorandum, which must be limited to rebuttal of new matters raised in the memorandum opposing the motion. The moving party must title the memorandum substantially as "Reply memorandum supporting motion [short phrase describing the relief requested]." The memorandum must include under appropriate headings and in the following order:

(A) a concise statement of the new matter raised in the memorandum opposing the motion;

(B) one or more sections that include a concise statement of the relevant facts claimed by the moving party not previously set forth that respond to the opposing party's statement of facts and argument citing authority rebutting the new matter;

(C) objections to evidence in the memorandum opposing the motion, citing authority for the objection; and

(D) response to objections made in the memorandum opposing the motion, citing authority for the response.

(2) If the moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the memorandum.

(f) Objection to evidence in the reply memorandum; response. If the reply memorandum includes an objection to evidence, the nonmoving party may file a response to the objection no later than seven days after the reply memorandum is filed. If the reply memorandum includes evidence not previously set forth, the nonmoving party may file an objection to the evidence no later than seven days after the reply memorandum is filed, and the moving party may file a response to the objection no later than seven days after the objection is filed.

(g) Request to submit for decision. When briefing is complete or the time for briefing has expired, either party may file a "Request to Submit for Decision," but, if no party files a request, the motion will not be submitted for decision. The request to submit for decision must state whether a hearing has been requested and the dates on which the following documents were filed:

(1) the motion;

(2) the memorandum opposing the motion, if any;

(3) the reply memorandum, if any; and

(g)(4) the response to objections in the reply memorandum, if any.

(h) Hearings. The court may hold a hearing on any motion. A party may request a hearing in the motion, in a memorandum or in the request to submit for decision. A request for hearing must be separately identified in the caption of the document containing the request. The court must grant a request for a hearing on a motion under Rule 56 or a motion that would dispose of the action or any claim or defense in the action unless the court finds that the motion or opposition to the motion is frivolous or

the issue has been authoritatively decided. A motion hearing may be held remotely, consistent with the safeguards in Rule 43(b).

(i) Notice of supplemental authority. A party may file notice of citation to significant authority that comes to the party's attention after the party's motion or memorandum has been filed or after oral argument but before decision. The notice must state the citation to the authority, the page of the motion or memorandum or the point orally argued to which the authority applies, and the reason the authority is relevant. Any other party may promptly file a response, but the court may act on the motion without waiting for a response.

(j) Orders.

(1) Decision complete when signed; entered when recorded. However designated, the court's decision on a motion is complete when signed by the judge. The decision is entered when recorded in the docket.

(2) Preparing and serving a proposed order. Within 14 days of being directed by the court to prepare a proposed order confirming the court's decision, a party must serve the proposed order on the other parties for review and approval as to form. If the party directed to prepare a proposed order fails to timely serve the order, any other party may prepare a proposed order confirming the court's decision and serve the proposed order on the other parties for review and approval as to form.

(3) Effect of approval as to form. A party's approval as to form of a proposed order certifies that the proposed order accurately reflects the court's decision. Approval as to form does not waive objections to the substance of the order.

(4) Objecting to a proposed order. A party may object to the form of the proposed order by filing an objection within seven days after the order is served.

(5) Filing proposed order. The party preparing a proposed order must file it:

(A) after all other parties have approved the form of the order (The party preparing the proposed order must indicate the means by which approval was received: in person; by telephone; by signature; by email; etc.);

(B) after the time to object to the form of the order has expired (The party preparing the proposed order must also file a certificate of service of the proposed order.); or

(C) within seven days after a party has objected to the form of the order (The party preparing the proposed order may also file a response to the objection.).

(6) Proposed order before decision prohibited; exceptions. A party may not file a proposed order concurrently with a motion or a memorandum or a request to submit for decision, but a proposed order must be filed with:

(A) a stipulated motion;

(B) a motion that can be acted on without waiting for a response;

(C) an ex parte motion;

(D) a statement of discovery issues under Rule 37(a); and

(E) the request to submit for decision a motion in which a memorandum opposing the motion has not been filed.

(7) Orders entered without a response; ex parte orders. An order entered on a motion under paragraph (l) or (m) can be vacated or modified by the judge who made it with or without notice.

(8) Order to pay money. An order to pay money can be enforced in the same manner as if it were a judgment.

(k) Stipulated motions. A party seeking relief that has been agreed to by the other parties may file a stipulated motion which must:

(1) be titled substantially as: "Stipulated motion [short phrase describing the relief requested]";

(2) include a concise statement of the relief requested and the grounds for the relief requested;

(3) include a signed stipulation in or attached to the motion; and

(4) be accompanied by a request to submit for decision and a proposed order that has been approved by the other parties.

(l) Motions that may be acted on without waiting for a response.

(1) The court may act on the following motions without waiting for a response:

(A) motion to permit an over-length motion or memorandum;

(B) motion for an extension of time if filed before the expiration of time;

(C) motion to appear pro hac vice;

(D) motion for Rule 16 conference;

(E) motion to strike a document filed by a vexatious litigant in violation of Rule 83(d);

(F) motion to appear remotely; and

(G) other similar motions.

(2) A motion that can be acted on without waiting for a response must:

(A) be titled as a regular motion;

(B) include a concise statement of the relief requested and the grounds for the relief requested;

(C) cite the statute or rule authorizing the motion to be acted on without waiting for a response; and

(D) be accompanied by a request to submit for decision and a proposed order.

(m) Ex parte motions. If a statute or rule permits a motion to be filed without serving the motion on the other parties, the party seeking relief may file an ex parte motion which must:

(1) be titled substantially as: "Ex parte motion [short phrase describing the relief requested]";

(2) include a concise statement of the relief requested and the grounds for the relief requested;

(3) cite the statute or rule authorizing the ex parte motion; and

(4) be accompanied by a request to submit for decision and a proposed order.

(n) Motion in opposing memorandum or reply memorandum prohibited. A party may not make a motion in a memorandum opposing a motion or in a reply memorandum. A party who objects to evidence in another party's motion or memorandum may not move to strike that evidence. Instead, the party must include in the subsequent memorandum an objection to the evidence.

(o) Overlength motion or memorandum. The court may permit a party to file an overlength motion or memorandum upon a showing of good cause. An overlength motion or memorandum must include a table of contents and a table of authorities with page references.

(p) Limited statement of facts and authority. No statement of facts and legal authorities beyond the concise statement of the relief requested and the grounds for the relief requested required in paragraph (c) is required for the following motions:

(1) motion to allow an over-length motion or memorandum;

(2) motion to extend the time to perform an act, if the motion is filed before the time to perform the act has expired;

(3) motion to continue a hearing;

(4) motion to appoint a guardian ad litem;

(5) motion to substitute parties;

(6) motion to refer the action to or withdraw it from alternative dispute resolution under Rule 4-510.05 of the Code of Judicial Administration;

(7) motion for a conference under Rule 16; and

(8) motion to approve a stipulation of the parties.

(q) Length of Filings.

(1) Unless one of the following filings complies with the page limits set forth below, it must comply with the corresponding word limits:

Type of Filing	**Page Limit**	**Word Limit**
Motion for Relief Authorized by Rule 12(b), 12(c), 56, or 65A	25	9,000
All Other Motions	15	5,400
Memorandum Opposing Motion Authorized by Rule 12(b), 12(c), 56, or 65A	25	9,000
Memorandum Opposing All Other Motions	15	5,400
Reply Memorandum Supporting Motion for Relief Authorized by Rule 12(b), 12(c), 56, or 65A	15	5,400
Reply Memorandum Supporting All Other Motions	10	3,600
Objection and Response under Rule 7(f)	3	1,100
Notice of Supplemental Authority and Response under Rule 7(i)	2	700
Statement of Discovery Issues and Objection under Rule 37(a)(2) and 37(a)(3)	4	1,500

(2) The word and page limits in this rule exclude the following: caption, table of contents, table of authorities, signature block, certificate of service, certification, exhibits, and attachments.

(3) Any filer relying on the word limits in this rule must include a certification that the document complies with the applicable word limit and must state the number of words in the document.

Effective: November 1, 2025

Tab 9

Enrolled Copy **S.J.R. 5**

Joint Resolution Amending the Utah Rules of Civil Procedure

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This resolution amends the Utah Rules of Civil Procedure.

Highlighted Provisions:

This resolution:

- amends Utah Rules of Civil Procedure, Rule 1, to add a definition;
- amends Utah Rules of Civil Procedure, Rule 42, to address the transfer of an action;
- amends Utah Rules of Civil Procedure, Rule 63, to address the disqualification of a judge on a three-judge panel in the district court;
- amends Utah Rules of Civil Procedure, Rule 63A, to address the change of judge as a matter of right with regard to a three-judge panel in the district court;
- makes technical and conforming changes; and
- includes a coordination clause to ensure that the changes for Rule 42 in this resolution merge with the changes for Rule 42 in S.J.R. 6, Joint Resolution Amending Court Rules Regarding Medical Malpractice.

Money Appropriated in this Bill:

None

Other Special Clauses:

This resolution provides a special effective date.

This resolution provides a coordination clause.

This resolution provides revisor instructions.

Utah Rules of Civil Procedure Affected:

AMENDS:

Rule 1, Utah Rules of Civil Procedure

Rule 42, Utah Rules of Civil Procedure

Rule 63, Utah Rules of Civil Procedure

Rule 63A, Utah Rules of Civil Procedure

Utah Code Sections affected by Coordination Clause:

Rule 42, as Utah Rules of Civil Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. **Rule 1,** Utah Rules of Civil Procedure is amended to read:

Rule 1 . General provisions; definition.

(a) Scope of rules. These rules govern the procedure in the courts of the state of Utah in all actions of a civil nature, whether cognizable at law or in equity, and in all statutory proceedings, except as governed by other rules promulgated by this court or statutes enacted by the Legislature, and except as stated in Rule 81. They must be liberally construed and applied to achieve the just, speedy, and inexpensive determination of every action. These rules govern all actions brought after they take effect and all further proceedings in actions then pending. If, in the opinion of the court, applying a rule in an action pending when the rule takes effect would not be feasible or would be unjust, the former procedure applies.

(b) Definition. As used in these rules, "district court panel" means a panel of three district court judges that is convened to hear and decide an action.

The following section is affected by a cooordination clause at the end of this bill.

Section 2. **Rule 42,** Utah Rules of Civil Procedure is amended to read:

Rule 42 . Consolidation; separate trials; venue transfer.

(a) Consolidation.

(1) When actions involving a common question of law or fact or arising from the same transaction or occurrence are pending before the court in one or more judicial districts, the court may, on motion of any party or on the court's own initiative:

(A) order that the actions are consolidated in whole or in part for any purpose, including for discovery, other pretrial matters, or a joint hearing or trial;

(B) stay any or all of the proceedings in any action subject to the order;

(C) transfer any or all further proceedings in the actions to a location in which any of the actions is pending after consulting with the presiding judge of the receiving court; and

(D) make other such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

[~~(1)~~] (2) In determining whether to order consolidation and the appropriate location for the consolidated proceedings, the court may consider, among other factors:

(A) the complexity of the actions;

(B) the importance of any common question of fact or law to the determination of the actions;

(C) the risk of duplicative or inconsistent rulings, orders, or judgments;

(D) the case and records classification of each case as described in Rule 4-202.02 of the Utah Code of Judicial Administration;

(E) the relative procedural postures of the actions;

(F) the risk that consolidation may unreasonably delay the progress, increase the expense, or complicate the processing of any action;

(G) prejudice to any party that far outweighs the overall benefits of consolidation;

(H) the convenience of the parties, witnesses, and counsel; and

(I) the efficient utilization of judicial resources and the facilities and personnel of the court.

[~~(2)~~] (3) A motion to consolidate may be filed or opposed by any party to either action to be consolidated, without seeking permission to intervene. The motion must be filed in and heard by the judge assigned to the first action filed and must be served on all parties in each action pursuant to Rule 5. The movant must file in each action notice of the motion and notice of the order denying or granting the motion.

[~~(3)~~] (4) If the court orders consolidation, the consolidated case will be heard by the judge assigned to the first action filed, unless otherwise ordered by the presiding judge or agreed upon by the originally assigned judges. The court will order that a single case number be used for all subsequent filings in the consolidated case.

(b) Consolidation or severance in whole or in part. For convenience or to avoid prejudice, the court may:

(1) order that the consolidated matters be tried together or that a separate trial be held on any one or more claims, crossclaims, counterclaims, third-party claims, or separate issues; or

(2) order that the consolidated matters be severed at any point and provide that the matters be treated as separate actions going forward, including that the severed matters be tried by either the judge in the consolidated matter or the originally assigned judge.

(c) Reassignment. If the consolidation of actions would be otherwise appropriate but is not

administratively possible, the judge assigned to the first action may order the court clerk to reassign the other actions to the judge assigned to the first action. Such actions will be treated for all purposes as if they were consolidated except that the actions will retain their separate case numbers, which must be included on all filings.

(d) [~~Venue Transfer~~] Transfer of an action to proper venue or the business and chancery court.

(1) Transfer to proper venue.

(A) On timely motion of any party, where transfer to a proper venue is available, the court must transfer any action filed in an improper venue.

[~~(2)~~] (B) The court must give substantial deference to a plaintiff's choice of a proper venue.

(C) On timely motion of any party, a court may:

(i) transfer venue of any action, in whole or in part, to any other venue for any purpose, including for discovery, other pretrial matters, or a joint hearing or trial;

(ii) stay any or all of the proceedings in the action; and

(iii) make other such orders concerning proceedings therein to pursue the interests of justice and avoid unnecessary costs or delay. [~~In determining whether to transfer venue and the appropriate venue for the transferred proceedings, the court may consider, among other factors, whether transfer will: increase the likelihood of a fair and impartial determination in the action; minimize expense or inconvenience to parties, witnesses, or the court; decrease delay; avoid hardship or injustice otherwise caused by venue requirements; and advance the interests of justice.~~

~~(3) The court may direct that specified parties pay the expenses, if any, of transfer.~~]

(2) Transfer to business and chancery court.

(A) If a plaintiff filed the complaint in the district court and the action meets the jurisdictional requirements of the business and chancery court, a party may file a separate notice requesting transfer of the action to the business and chancery court.

(B) If a party makes a request to transfer an action to the business and chancery court within 21 days after the appearance of the party:

(i) the district court must transfer the action to the business and chancery court unless the district court determines that the transfer will prejudice the interests of justice; and

(ii) the district court may not give any deference to the plaintiff's choice to file the complaint in the district court.

(C) If a party makes a request to transfer an action to the business and chancery court

more than 21 days after the appearance of the party, the district court may:

(i) give deference to the plaintiff's choice to file the complaint in the district court; or

(ii) transfer the action to the business and chancery court if the factors described in paragraph (d)(3) weigh in favor of transfer.

(D) A district court may not transfer the action to the business and chancery court under this rule if the action does not meet the jurisdictional requirements of the business and chancery court.

(3) Factors in determining whether to transfer an action. On a motion under paragraph (d)(1) or (2), a court may consider, among other factors, whether the transfer will:

(A) increase the likelihood of a fair and impartial determination in the action;

(B) minimize expense or inconvenience to parties, witnesses, or the court;

(C) decrease delay;

(D) avoid hardship or injustice otherwise caused by:

(i) the venue requirements if the court is determining whether to transfer the action to the appropriate venue under paragraph (d)(1); or

(ii) keeping the action in the district court if the court is determining whether to transfer the action to the business and chancery court under paragraph (d)(2); and

(E) advance the interests of justice.

(4) Expenses. The court may direct that specified parties pay the expenses, if any, of a transfer of an action to the appropriate venue or to the business and chancery court.

(e) Transfer of an action to district court panel.

(1) The Attorney General, the Governor, or the Legislature may file a notice to convene a district court panel, as described in Utah Code section 78A-5-102.7, in an action in the district court if the notice to convene is filed within 45 days after:

(A) the day on which the action is commenced;

(B) the day on which the amended complaint is filed if the complaint is amended in the action; or

(C) February 13, 2026, if the action is pending in the district court on February 13, 2026.

(2) If the Attorney General, the Governor, or the Legislature files a notice to convene a district court panel, the district court judge assigned to the action at the time the notice is filed must:

(A) notify the presiding officer of the Judicial Council that the action must be

transferred to a district court panel; and

(B) transfer the action to the district court panel convened to hear and decide the action.

(3) Upon the filing of a notice to convene a district court panel, the district court judge assigned to the action at the time the notice is filed may not sever any matter from the action or take any further action.

Section 3. **Rule 63,** Utah Rules of Civil Procedure is amended to read:

Rule 63 . Disability or disqualification of a judge.

(a) Substitute judge; [~~Prior~~] prior testimony. If the judge to whom an action has been assigned is unable to perform his or her duties, then any other judge of that district or any judge assigned pursuant to Judicial Council rule is authorized to perform those duties. The judge to whom the case is reassigned may rehear the evidence or some part of it.

(b) Motion to disqualify; affidavit or declaration.

[~~(b)~~](1) A party to an action or the party's attorney may file a motion to disqualify a judge.

(2) The motion must be accompanied by a certificate that the motion is filed in good faith and must be supported by an affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, stating facts sufficient to show bias, prejudice or conflict of interest. The motion must also be accompanied by a request to submit for decision.

[~~(b)(2)~~] (3) The motion must be filed after commencement of the action, but not later than 21 days after the last of the following:

[~~(b)(2)~~](A) assignment of the action or hearing to the judge;

[~~(b)(2)~~](B) appearance of the party or the party's attorney; or

[~~(b)(2)~~](C) the date on which the moving party knew or should have known of the grounds upon which the motion is based.

If the last event occurs fewer than 21 days before a hearing, the motion must be filed as soon as practicable.

[~~(b)(3)~~] (4) Signing the motion or affidavit or declaration constitutes a certificate under Rule 11 and subjects the party or attorney to the procedures and sanctions of Rule 11.

[~~(b)(4)~~] (5) No party may file more than one motion to disqualify in an action, unless the second or subsequent motion is based on grounds that the party did not know of and could not have known of at the time of the earlier motion.

[~~(b)(5)~~] (6) If timeliness of the motion is determined under paragraph [~~(b)(2)(C)~~] (b)(3)(C) or paragraph [~~(b)(4)~~] (b)(5), the affidavit or declaration supporting the motion must state when and how the party came to know of the reason for disqualification.

(c) Reviewing judge.

[~~(c)~~](1) The judge who is the subject of the motion must, without further hearing or a response from another party, enter an order granting the motion or certifying the motion and affidavit or declaration to a reviewing judge. The judge must take no further action in the case until the motion is decided. If the judge grants the motion, the order will direct the presiding judge of the court to assign another judge to the action or hearing. Assignment in justice court cases will be in accordance with Utah Code of Judicial Administration Rule 9-109. The presiding judge of the court, any judge of the district, or any judge of a court of like jurisdiction may serve as the reviewing judge.

[~~(c)~~](2) If the reviewing judge finds that the motion and affidavit or declaration are timely filed, filed in good faith and legally sufficient, the reviewing judge shall assign another judge to the action or hearing or request the presiding judge to do so. Assignment in justice court cases will be in accordance with Utah Code of Judicial Administration Rule 9-109.

[~~(c)~~](3) In determining issues of fact or of law, the reviewing judge may consider any part of the record of the action and may request of the judge who is the subject of the motion an affidavit or declaration responding to questions posed by the reviewing judge.

[~~(c)~~](4) The reviewing judge may deny a motion not filed in a timely manner.

(d) Disqualification of a judge on a district court panel.

(1) A party may file a motion to disqualify a judge on a district court panel but may not file a motion to disqualify a district court panel.

(2) The presiding officer of the Judicial Council is the reviewing judge for any motion to disqualify a judge on a district court panel.

(3) If a motion to disqualify is granted for a judge on a district court panel:

(A) the action is not reassigned to a new district court panel; and

(B) a new judge must be promptly assigned in accordance with the random selection process in the Utah Code of Judicial Administration for a district court panel.

Effective May 8, 2018 pursuant to CJA Rule 11-105(5)

Section 4. **Rule 63A,** Utah Rules of Civil Procedure is amended to read:

Rule 63A . Change of judge as a matter of right.

(a) **Change of judge by one side of an action.**

[~~(a)~~](1) **Right to change a judge by one side of an action.**

[~~(a)(1)~~](A) In a civil action pending in a court in a county with seven or more district court judges, each side is entitled to one change of judge as a matter of right under this paragraph (a).

(B) When a district court panel is convened, each side is entitled to one change of a judge on the district court panel as a matter of right under this paragraph (a).

[~~(a)(1)(B)~~] (C) Even if two or more parties on one side of a civil action have adverse or hostile interests, the action, whether single or consolidated, must be treated as only having two sides for purposes of a changing judge under this paragraph (a).

[~~(a)(1)(C)~~] (D) A side is not entitled to more than one change of judge under this paragraph (a).

[~~(a)(1)(D)~~] (E) Regardless of when a party joins a civil action, a party is not entitled to a change of judge as a matter of right under this paragraph (a) if the notice of a change of judge is untimely under paragraph (a)(2).

[~~(a)~~](2) **Notice of a change of judge.**

[~~(a)(2)~~](A) A party seeking a change of judge under this paragraph (a) must file a notice of a change of judge with the clerk of the court.

[~~(a)(2)~~](B) If the notice of a change of judge is timely under this paragraph (a)(2), the notice must be granted.

[~~(a)(2)~~](C) In filing a notice of a change of judge under this paragraph (a), a party is not required to state any reason for seeking a change of judge, but the party must attest in good faith that the notice is not being filed:

[~~(a)(2)(C)~~](i) for the purpose to delay any action or proceeding; or

[~~(a)(2)(C)~~](ii) to change the judge on the grounds of race, gender, or religious affiliation.

[~~(a)(2)~~](D) The notice must be filed:

[~~(a)(2)(D)~~](i) on the side of a plaintiff or petitioner, within seven days after the day on which a judge is first assigned to the action or proceeding; or

[~~(a)(2)(D)~~](ii) on the side of a defendant or respondent, within seven days after the day on which the defendant or respondent is served the complaint or petition, or at the time of the first filing by the defendant or respondent with the court, whichever occurs first.

(E) For a district court panel, the notice must be filed within seven days after the day on which the parties receive notice of the judges assigned to the district court panel.

[~~(a)(2)(E)~~] (F) Failure to file a timely notice of a change of judge under this rule precludes a change of judge under this paragraph (a).

[~~(a)~~](3) **Assignment of action.**

[~~(a)(3)~~](A) Upon the filing of a notice under this paragraph (a), the judge assigned to the action must take no further action in the case.

[~~(a)(3)~~](B) [~~The~~] Except as provided in paragraph (a)(3)(D), the action must be promptly reassigned to another judge within the county.

[~~(a)(3)~~](C) If the action is unable to be reassigned to another judge within the county under paragraph (a)(3)(B), the action may be transferred to a court in another county in accordance with Rule 42.

(D) If a notice of a change of judge is filed for a district court panel:

(i) the action is not reassigned to a new district court panel; and

(ii) a new judge must be promptly assigned in accordance with the random selection process described in the Utah Code of Judicial Administration for a district court panel.

[~~(a)~~](4) **Exceptions.** A party, or a side, is not entitled to change a judge as a matter of right under this paragraph (a):

[~~(a)(4)~~](A) in any proceeding regarding a petition for post-conviction relief under Rule 65C;

[~~(a)(4)~~](B) on a petition to modify child custody, child support, or alimony, unless the judge assigned to the action is not the same judge assigned to any of the previous actions between the parties;

[~~(a)(4)~~](C) in an action before the juvenile court or the Business and Chancery Court;

[~~(a)(4)~~](D) in an action in which the judge is sitting as a water or tax judge;

[~~(a)(4)~~](E) in an action on remand from an appellate court; or

[~~(a)(4)~~](F) if an action is unable to be transferred under paragraph (a)(3)(C) to another county in accordance with Rule 42.

(b) **Right to change a judge by agreement of the parties.**

[~~(b)~~](1) **Notice of a change of judge.**

[~~(b)(1)~~](A) Except in actions with only one party, all parties joined in the action may, by unanimous agreement and without cause, change the judge assigned to the action by filing a notice of change of judge.

(B) For an action before a district court panel, all parties joined in the action may, by unanimous agreement and without cause, change a judge assigned to the panel by filing a notice of change of judge.

[~~(b)(1)(B) The parties shall send a copy of the notice to the assigned judge and the~~

~~presiding judge.~~]

(C) Except as provided in paragraph (b)(1)(D), the parties must file a copy of the notice with the assigned judge and send a copy of the notice to the presiding judge.

(D) If the action is before a district court panel, the parties must file a copy of the notice with the district court panel and send a copy of the notice to the presiding officer of the Judicial Council.

[~~(b)(1)(C)~~] (E) The notice [~~shall~~] must be signed by all parties and [~~shall~~] must state: (1) the name of the assigned judge; (2) the date on which the action was commenced; (3) that all parties joined in the action have agreed to the change; (4) that no other persons are expected to be named as parties; and (5) that a good faith effort has been made to serve all parties named in the pleadings.

[~~(b)(1)(D)~~] (F) The notice [~~shall not~~] may not specify any reason for the change of judge.

[~~(b)(1)(E)~~] (G) Under no circumstances [~~shall~~] is more than one change of judge [~~be~~] allowed under this paragraph (b) in an action.

[~~(b)~~](2) **Time for filing a notice.**

[~~(b)(2)~~](A) Unless extended by the court upon a showing of good cause, the notice must be filed within 90 days after:

(i) commencement of the action or prior to the notice of trial setting, whichever occurs first[~~.~~] ; or

(ii) if the action is before a district court panel, the parties receive notice of the judges assigned to the district court panel.

[~~(b)(2)~~](B) Failure to file a timely notice precludes any change of judge under this paragraph (b).

[~~(b)~~](3) **Assignment of action.**

[~~(b)(3)~~](A) Upon the filing of a notice of change, the assigned judge [~~shall~~] must take no further action in the case.

[~~(b)(3)~~](B) [~~The~~] Except as provided in paragraph (b)(3)(D), the presiding judge [~~shall~~] must promptly determine whether the notice is proper and, if so, [~~shall~~] must reassign the action.

[~~(b)(3)~~](C) If the presiding judge is also the assigned judge, the clerk [~~shall~~] must promptly send the notice to the associate presiding judge, to another judge of the district, or to any judge of a court of like jurisdiction, who [~~shall~~] must determine whether the notice is proper and, if so, [~~shall~~] must reassign the action.

(D) If a notice is filed for a change of judge on a district court panel:

(i) the presiding officer of the Judicial Council must promptly determine whether the notice is proper; and

(ii) if the notice is proper, a new judge must be promptly assigned in accordance with the random selection process described in the Utah Code of Judicial Administration for a district court panel.

[~~(b)~~](4) **Nondisclosure to court.** [~~No party shall~~] A party may not communicate to the court, or cause another to communicate to the court, the fact of any party's seeking consent to a notice of change.

(c) **Rule 63 unaffected.** Nothing in this rule precludes the right of any party to seek disqualification of a judge under Rule 63.

Section 5. **Effective Date.**

As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect upon a two-thirds vote of all members elected to each house.

Section 6. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in enrolling this resolution:

(1) delete the phrase "the effective date of this resolution" where the phrase appears in Sections 2 and 7 of this resolution; and

(2) replace the phrase with the actual date on which the resolution takes effect.

Section 7. **Coordinating S.J.R. 5 with S.J.R. 6.**

If S.J.R. 5, Joint Resolution Amending the Utah Rules of Civil Procedure, and S.J.R. 6, Joint Resolution Amending Court Rules Regarding Medical Malpractice, both pass and become law, the Legislature intends that, on the date when both resolutions have passed and taken effect, Rule 42 of the Utah Rules of Civil Procedure be amended to read:

"**Rule 42. Consolidation; separate trials; [~~venue transfer~~] transfer of an action**.

(a) Consolidation.

(1) When actions involving a common question of law or fact or arising from the same transaction or occurrence are pending before the court in one or more judicial districts, the court may, on motion of any party or on the court's own initiative:

(A) order that the actions are consolidated in whole or in part for any purpose, including discovery, other pretrial matters, or a joint hearing or trial;

(B) stay any or all of the proceedings in any action subject to the order;

(C) transfer any or all further proceedings in the actions to a location in which any of

the actions is pending after consulting with the presiding judge of the receiving court; and

(D) make other such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

[~~(1)~~] (2) In determining whether to order consolidation and the appropriate location for the consolidated proceedings, the court may consider, among other factors:

(A) the complexity of the actions;

(B) the importance of any common question of fact or law to the determination of the actions;

(C) the risk of duplicative or inconsistent rulings, orders, or judgments;

(D) the case and record classifications of each case as described in Rule 4-202.02 of the Utah Code of Judicial Administration;

(E) the relative procedural postures of the actions;

(F) the risk that consolidation may unreasonably delay the progress, increase the expense, or complicate the processing of any action;

(G) prejudice to any party that far outweighs the overall benefits of consolidations;

(H) the convenience of the parties, witnesses, and counsel; and

(I) the efficient utilization of judicial resources and the facilities and personnel of the court.

[~~(2)~~] (3) A motion to consolidate may be filed or opposed by any party to either action to be consolidated, without seeking permission to intervene. The motion must be filed in and heard by the judge assigned to the first action filed and must be served on all parties in each action pursuant to Rule 5. The movant must file in each action notice of the motion and notice of the order denying or granting the motion.

[~~(3)~~] (4) If the court orders consolidation, the consolidated case will be heard by the judge assigned to the first action filed, unless otherwise ordered by the presiding judge or agreed upon by the originally assigned judges. The court will order that a single case number be used for all subsequent filings in the consolidated case.

(b) Consolidation or severance in whole or in part. For convenience or to avoid prejudice, the court may:

(1) order that the consolidated matters be tried together or that a separate trial be held on any one or more claims, crossclaims, counterclaims, third-party claims, or separate issues; or

(2) order that the consolidated matters be severed at any point and provide that the matters be treated as separate actions going forward, including that the severed matters be tried by either the judge in the consolidated matter or the originally assigned judge.

(c) Separate trials in a medical malpractice action. For a malpractice action against a health care provider, the factfinder may not prejudice a defendant by knowing or considering evidence of the claimant's alleged losses for past medical expenses or the past cost of medical equipment before:

(1) liability for the alleged losses has been established; and

(2) any claim or award of noneconomic damages, if any, for the alleged losses has been fully adjudicated or entered.

[~~(c)~~] (d) Reassignment. If the consolidation of the actions would be otherwise appropriate but is not administratively possible, the judge assigned to the first action may order the court clerk to reassign the other actions to the judge assigned to the first action. Such actions will be treated for all purposes as if they were consolidated except that the actions will retain their separate case numbers, which must be included on all filings.

[~~(d)~~] (e) [~~Venue Transfer.~~] Transfer of an action to proper venue or the business and chancery court.

(1) Transfer to proper venue.

(A) On timely motion of any party, where transfer to a proper venue is available, the court must transfer any action filed in an improper venue.

[~~(2)~~] (B) The court must give substantial deference to a plaintiff's choice of proper venue.

(C) On timely motion of any party, a court may:

(i) transfer venue of any action, in whole or in part, to any other venue for any purpose, including for discovery, other pretrial matters, or a joint hearing or trial;

(ii) stay any or all of the proceedings in the action; and

(iii) make other such orders concerning proceedings therein to pursue the interests of justice and avoid unnecessary costs or delay. [~~In determining whether to transfer venue and the appropriate venue for the transferred proceedings, the court may consider, among other facts, whether the transfer will: increase the likelihood of a fair and impartial determination in the action; minimize expense or inconvenience to parties, witnesses, or the court; decrease delay; avoid hardship or injustice otherwise caused by the venue requirements; and advance the interests of justice.~~]

[~~(3) The court may direct that specified parties pay the expenses, if any, of transfer.~~]

(2) Transfer to business and chancery court.

(A) If a plaintiff filed the complaint in the district court and the action meets the jurisdictional requirements of the business and chancery court, a party may file a separate

notice requesting transfer of the action to the business and chancery court.

(B) If a party makes a request to transfer an action to the business and chancery court within 21 days after the appearance of the party:

(i) the district court must transfer the action to the business and chancery court unless the district court determines that the transfer will prejudice the interests of justice; and

(ii) the district court may not give any deference to the plaintiff's choice to file the complaint in the district court.

(C) If a party makes a request to transfer an action to the business and chancery court more than 21 days after the appearance of the party, the district court may:

(i) give deference to the plaintiff's choice to file the complaint in the district court; or

(ii) transfer the action to the business and chancery court if the factors described in paragraph (e)(3) weigh in favor of transfer.

(D) A district court may not transfer the action to the business and chancery court under this rule if the action does not meet the jurisdictional requirements of the business and chancery court.

(3) Factors in determining whether to transfer an action. On a motion under paragraph (e)(1) or (2), a court may consider, among other factors, whether the transfer will:

(A) increase the likelihood of a fair and impartial determination in the action;

(B) minimize expense or inconvenience to parties, witnesses, or the court;

(C) decrease delay;

(D) avoid hardship or injustice otherwise caused by:

(i) the venue requirements if the court is determining whether to transfer the action to the appropriate venue under paragraph (e)(1); or

(ii) keeping the action in the district court if the court is determining whether to transfer the action to the business and chancery court under paragraph (e)(2); and

(E) advance the interests of justice.

(4) Expenses. The court may direct that specified parties pay the expenses, if any, of a transfer of an action to the appropriate venue or to the business and chancery court.

(f) Transfer of an action to district court panel.

(1) The Attorney General, the Governor, or the Legislature may file a notice to convene a district court panel, as described in Utah Code section 78A-5-102.7, in an action in the district court if the notice to convene is filed within 45 days after:

(A) the day on which the action is commenced;

(B) the day on which the amended complaint is filed if the complaint is amended in the action; or

(C) February 13, 2026, if the action is pending in the district court on February 13, 2026.

(2) If the Attorney General, the Governor, or the Legislature files a notice to convene a district court panel, the district court judge assigned to the action at the time the notice is filed must:

(A) notify the presiding officer of the Judicial Council that the action must be transferred to a district court panel; and

(B) transfer the action to the district court panel convened to hear and decide the action.

(3) Upon the filing of a notice to convene a district court panel, the district court judge assigned to the action at the time the notice is filed may not sever any matter from the action or take any further action.".