UTAH SUPREME COURT ADVISORY COMMITTEE
ON RULES OF CIVIL PROCEDURE

Summary Minutes – September 23, 2026
via Webex

THIS MEETING WAS CONDUCTED ELECTRONICALLY VIA WEBEX

Committee members	Present	Excused	Guests/Staff Present
Rod N. Andreason, Chair	X		Sonia Sweeney, Staff
Justin T. Toth, Vice Chair	X		Keri Sargent
Ash McMurray	X		Jacqueline Carlton
Michael Stahler	X		Daniel L. Day
Tracy Bullock		X	Mark Field
Joshua Jewkes	X		David Ferguson
Meagan Rudd	X		Annie Taliaferro
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 4:09 p.m. with a quorum formed. Mr. Rod Andreason welcomed the Committee Members.

(2) APPROVAL OF MINUTES

Mr. Andreason acknowledged the proposed edits to the May 27, 2026 meeting minutes by Mr. Jim Hunnicutt that had been circulated via email. Judge Rita Cornish moved to approve the minutes subject to Mr. Hunnicutt's proposed revisions. Ms. Meagan Rudd seconded the motion. The motion to approve the minutes passed unanimously.

(3) RULES BACK FROM PUBLIC COMMENT – RULES 5, 29, 30, 37, 64, 64E, 74, 105, 110

Regarding Rule 5, Mr. Andreason summarized objections submitted by collection bar attorneys Mr. Chip Shaner and Mr. Chad Rasmussen, who expressed opposition to requiring first-class mail service of default judgment papers to defaulting debtors, citing substantial cumulative costs across high-volume filings without commensurate benefit. There were observations that debt collection attorneys frequently request alternative service by mail, and that the requirement addresses ten-day summons abuses where complaints are delayed in docketing or misfiled. Ms. Tonya Wright and Judge Cornish discussed ongoing efforts under Senate Bill 270 (2026) and the High Volume Case Committee to create a specialized Debt Collection and Housing Action Division within the district courts, noting that distinct procedural rules are currently being drafted for debt collection and housing matters. Ms. Keri Sargent and Judge Cornish recommended moving forward with Rule 5 amendments rather than pausing for the separate committee. Judge Laura Scott and Judge Cornish requested additional time for the Rule 5 subcommittee to review the public comments, including a comment from Mr. Leslie Slaugh regarding Rule 58A notice, and report back at the next meeting. The Committee had no objection.

Regarding Rules 64 and 64E, Ms. Sonia Sweeney and Ms. Tonya Wright explained that the proposed amendments were originally drafted to reflect statutory changes enacted under Senate Bill 156 (2026). However, because S.B. 156 lacked a coordinating clause with S.B. 218, the statutory provisions failed to take effect. Ms. Wright recommended tabling the rules until the Legislature resolves the statutory defect. The Committee had no objection. Mr. Andreason and Ms. Sweeney will provide an update to the Supreme Court about this at the next conference they attend.

Regarding Rule 110, Mr. Andreason noted that the proposed rule governing judicial interviews of children generated two public comments, one of which was particularly lengthy. Mr. Hunnicutt and Judge Conklin reviewed the submissions from Ms. Liz Kazandzhy and Mr. Eric Johnson. Judge Conklin explained that Mr. Johnson's proposal to

permit child depositions and subpoenas directly contradicts the primary purpose of Rule 110, which is to protect children. Addressing Ms. Kazandzhy's suggestion to restrict parental access to interview recordings, Judge Conklin emphasized that parents must be granted access to evidence used against them in custody determinations to preserve constitutional due process rights. Mr. Hunnicutt, Commissioner Marian Ito, and Judge Russell agreed that protecting the child's best interests remains the paramount policy objective, and the Committee concluded that referring the matter back to the subcommittee would not alter these core policy determinations. Judge Cornish made a motion to forward Rule 110 to the Supreme Court for final approval. Commissioner Ito seconded the motion and it passed unanimously.

Rules 29, 30, 74, and 105 received no public comments. Rule 37 received a single brief comment of support from Ms. Rachel Sykes, Committee Member. Judge Cornish made a motion to forward Rule 74 to the Supreme Court for final approval. Mr. Joshua Jewkes seconded the motion and it passed unanimously. Judge Russell made a motion to forward Rules 29, 30, 37, and 105 to the Supreme Court for final approval. Judge Conklin seconded the motion and it passed unanimously.

(4) RULE 65C – AMENDMENTS CLARIFYING AND UPDATING POSTCONVICTION RELIEF PROCEDURES

Ms. Keri Sargent presented the Rule 65C workgroup's proposed amendments, explaining that the workgroup encountered differing views regarding broader revisions to the rule and ultimately focused on reaching consensus on amendments necessary to address the Court of Appeals' decision in *Bevan*.

Mr. Mark Field explained that Rule 65C currently permits a court to summarily dismiss claims that have been previously adjudicated, while the Post-Conviction Remedies Act requires notice and an opportunity to be heard before a procedural bar is imposed. He stated that this inconsistency has resulted in appellate reversals and that the workgroup agreed to remove the language permitting summary dismissal of previously adjudicated claims. Ms. Annie Taliaferro agreed that the workgroup had reached consensus on the narrower *Bevan*-related amendments but explained that additional issues remained for further consideration. Mr. David Ferguson described his proposal as a more comprehensive revision of Rule 65C and noted disagreement regarding the scope of changes that could appropriately be accomplished by rule. Judge Russell emphasized that Rule 65C should remain procedural and should not attempt to alter the substantive grounds for post-conviction relief.

The Committee also discussed proposed page and word limits for memoranda of law. Ms. Taliaferro explained that her primary concern was ensuring that pro se petitioners understand that a memorandum of law is not required, although the workgroup agreed that page limits could apply when one is submitted.

Judge Cornish moved to send the workgroup's consensus redline, beginning on page 35 of the meeting materials, to the Supreme Court for approval for public comment. Judge Russell seconded the motion and the motion passed unanimously.

The Committee agreed that the existing workgroup would continue as a subcommittee, with Ms. Sargent continuing to coordinate its work, to consider additional proposed amendments. Ms. Taliaferro agreed to provide a proposal explaining her suggested revisions, and Mr. Ferguson agreed to provide a short summary of his proposal and supporting rationale for consideration at a future meeting.

(5) RULE 64D – WAGE GARNISHMENTS

Ms. Sweeney introduced Mr. Michael Drechsel, Assistant State Court Administrator, to discuss concerns regarding the continuous garnishment requirements in URCP Rule 64D. This topic had not been listed on the agenda.

Mr. Drechsel explained that Representative Paul Cutler had received concerns from employer constituents regarding the burden associated with completing interrogatory answers for each pay period during a continuing wage garnishment. Employers reported that the required submissions take significant time to complete and that they rarely receive any indication that judgment creditors or their attorneys use the information provided.

Mr. Drechsel explained that the Supreme Court had considered the issue earlier that day and asked the Committee to explore whether changes to Rule 64D might reduce unnecessary burdens on employers while preserving information needed by judgment creditors. He noted that Representative Cutler had not committed to pursuing legislation but could consider a joint resolution amending the civil rules if the issue were not otherwise addressed. The Supreme Court had not expressed a preference for a particular outcome and asked only that the issue be studied and possible solutions considered.

Mr. Drechsel also noted that district courts issue approximately 75,000 writs of garnishment each year, so even modest changes could have a significant impact. Mr. Andreason proposed forming a subcommittee to study the issue. Judge Patrick Corum, Mr. Jewkes, and Judge Cornish agreed to serve, and Ms. Sweeney offered to assist with coordination, scheduling, stakeholder outreach, and gathering materials. The subcommittee will review the continuous garnishment requirements in Rule 64D, obtain input from relevant stakeholders, including creditors and creditor attorneys, and report back to the Committee regarding whether changes to the rule should be recommended.

(6) NEW RULE 88 – AFFIDAVITS VS DECLARATIONS

Mr. Ash McMurray presented the revised draft of proposed new Rule 88 regarding verifications and declarations. He explained that the subcommittee incorporated the Committee's feedback from the prior meeting and returned the revised draft to Justice Jill Pohlman's team for review. Mr. McMurray reported that the response was favorable and resulted in only minor revisions, including formatting changes, consolidating the definition

of a sworn declaration, changing the word "verified" to "accompanied," and refining references to documents. Mr. McMurray stated that Justice Pohlman was supportive of the revised proposal and moved to submit proposed Rule 88 to the Supreme Court for approval for public comment. Mr. Jewkes seconded the motion. The motion passed without opposition. Mr. McMurray noted that, if Rule 88 is adopted, additional rules will need to be reviewed and updated for consistency.

(7) RULE 103 – CHILD PROTECTIVE ORDERS

Ms. Sweeney presented proposed amendments to Rule 103 in Mr. Justin Toth's absence. She explained that, following the Supreme Court's July conference, Justice Jeffrey Nielsen requested that Rule 103 and Utah Rules of Juvenile Procedure Rule 37A be coordinated by removing language stating that the recording equipment is capable of making an accurate recording and that the operator is competent. Ms. Sweeney noted that the other justices present agreed that the language was outdated. She further explained that the Juvenile Rules Committee had already revised URJP Rule 37A and, in addition to removing that language, added the phrase "if requested by a party or the court" to the provision addressing when the person who conducted the interview and recording must be present and available to testify and be cross-examined. Although that additional language was not specifically requested by the Supreme Court, Ms. Sweeney noted that the Court had asked that the civil and juvenile rules mirror one another, and that the Supreme Court had already approved URJP 37A to go out for public comment. Judge Conklin stated that she had no concerns with the proposed changes and that mirroring Rule 37A had been part of the subcommittee's goal from the outset. Mr. Hunnicutt agreed. Judge Cornish moved to approve the proposed amendments to Rule 103 and send the rule to the Supreme Court for approval for public comment. Judge Conklin seconded the motion, and the motion passed unanimously.

(8) RULE 73 – ATTORNEY FEES CLAIMED AS DAMAGES (*WESTERN MORTGAGE & REALTY CO. V. WALKER*)

Mr. Andreason introduced the Supreme Court's invitation in *Western Mortgage & Realty Co. v. Walker*, 2026 UT 30, for the Committee to consider clarifying Rule 73 regarding attorney fees claimed as damages. Judge Cornish explained that Rule 73 is presently ambiguous as to whether its procedures apply when attorney fees are sought as an element of damages, rather than as a post-judgment fee award pursuant to contract or statute. She noted that the opinion suggests the rule should clarify or carve out the procedure for proving attorney fees when they are claimed as damages. Mr. Andreason proposed referring the issue to a Rule 73 subcommittee. Ms. Sweeney noted that the prior Rule 73 subcommittee included Ms. Tonya Wright, Ms. Heather Lester, and former member Mr. Bryan Pattison, although that group had previously worked on a different Rule 73 issue. Ms. Wright and Ms. Lester agreed to resume work on Rule 73, and Mr. McMurray volunteered to join the

subcommittee. The subcommittee will review Rule 73 in light of *Western Mortgage & Realty Co. v. Walker* and report back to the Committee with any recommended amendments.

(9) RULES 26.1 AND 37 – NONDISCLOSURE SANCTIONS (*BONHAM V. BONHAM*)

Mr. Andreason introduced the Court of Appeals' invitation in *Bonham v. Bonham*, 2026 UT App 141, for the Committee to clarify whether sanctions imposed under Rule 26.1(f) must follow the procedures set forth in Rule 37(b). Judge Conklin observed that the issue may extend beyond Rule 26.1 because Rule 26 also addresses the consequences of failing to disclose information, including limitations on the use of undisclosed material at trial. She suggested that the subcommittee consider the broader interaction among Rules 26, 26.1, and 37 when evaluating nondisclosure sanctions. Judge Corum, Mr. Hunnicutt, Ms. Laurel Hanks, Ms. Rudd, and Commissioner Ito volunteered to serve on the subcommittee. Mr. Hunnicutt agreed to serve as chair. The subcommittee will review *Bonham v. Bonham* and the related provisions of Rules 26, 26.1, and 37 and report back to the Committee with any recommended amendments.

(10) RULES 26 AND 31 – LIMITS ON SUBPOENAS AND DEPOSITIONS UPON WRITTEN QUESTIONS

Judge Scott raised concerns regarding the increasing use of artificial intelligence by self-represented litigants to generate discovery requests, including depositions upon written questions and subpoenas. She noted that the rules currently place no numerical limit on subpoenas and suggested that the Committee consider either eliminating depositions upon written questions or imposing limits on them, along with possible limits on subpoenas through the Rule 26 discovery tier framework. Judge Conklin expressed concern that broad subpoena limits could create problems in complex or high-asset cases where records from multiple third parties may be necessary. Judge Russell asked whether the federal rules impose similar limits. Ms. Hanks expressed concern about a proposed zero-subpoena limit for Tier 1 cases. Judge Scott clarified that the numbers presented were intended only as a starting point and emphasized that any limits should be fully vetted with input from practitioners handling self-represented, domestic, commercial, and other complex matters. Mr. Michael Stahler similarly cautioned against unintended consequences, explaining that even Tier 1 personal-injury cases may require subpoenas to obtain complete medical records and stating that a zero-subpoena limit would not be workable in those cases. Mr. Andreason formed a subcommittee consisting of Ms. Rudd, Ms. Hanks, Judge Scott, Mr. Stahler, and Mr. Toth to study possible limits on subpoenas and depositions upon written questions. Ms. Rudd will serve as chair.

(11) NEW RULE – REVIEW OF DEBT COLLECTION AND HOUSING DIVISION COMMISSIONER RECOMMENDATIONS

Judge Cornish informed the Committee that the Judicial Council had asked it to develop a rule analogous to Rule 108 for the new Debt Collection and Housing Action Division commissioners. She explained that Rule 108 governs objections to commissioner recommendations and the procedure for obtaining judicial review, and that a similar rule is needed for the new division. Judge Cornish noted that the commissioners are expected to begin work in January 2027 and that the Judicial Council asked that the rule be fast-tracked so it can be in place when the division becomes operational. Judge Cornish offered to chair the subcommittee and stated that she would ask Ms. Heather Lester and other individuals involved with the SB 270 steering committee and related high-volume case work to participate. Judge Conklin volunteered to serve, noting her familiarity with Rule 108 and an interest in avoiding problems that have arisen under that rule. Judge Cornish explained that the proposed rule would likely be a newly numbered Utah Rule of Civil Procedure and would serve as a temporary measure while more comprehensive rules for the Debt Collection and Housing Action Division are developed. The Committee agreed to form the subcommittee, with Judge Cornish authorized to assemble its membership, and the group will attempt to present a draft at the October or November meeting.

(12) ADJOURNMENT

Mr. Andreason reminded Committee members that the October 28, 2026 meeting will be held in a hybrid format, with members attending in person when possible at the Matheson Courthouse and a virtual option available. The meeting adjourned at approximately 6:04 p.m.