

Agenda

Policy and Planning Committee

August 5, 2016

12:00 – 1:30 p.m.

Council Room
Matheson Courthouse
450 South State Street
Salt Lake City, Utah 84114

12:00	Welcome and Approval of Minutes	Action	Tab 1	Judge Ann Boyden
12:05	<ul style="list-style-type: none">• Rule 3-104. Presiding Judges (senior judge assistance);• Rule 11-201. Senior Judges (resident and available to take cases).	Final Action	Tab 2	Nancy Sylvester
12:15	Rule 4-403. Electronic Signature and Signature Stamp Use.	Discussion/ Action	Tab 3	Keisa Williams
12:30	Rule 9-301. Record of enhancement warning.	Discussion/ Action	Tab 4	Nancy Sylvester
1:00	Rule 4-503: Pro se e-Filing.	Discussion/ Action	Tab 5	Nancy Sylvester
1:20	Other Business			Judge Ann Boyden Keisa Williams

Committee Web Page: <http://www.utcourts.gov/intranet/committees/policyplan/>

Meeting Schedule: Meetings are held in the Matheson Courthouse, Judicial Council Room, from 12:00 to 1:30 unless otherwise stated.

September 9, 2016

October 7, 2016

November 4, 2016

December 2, 2016

**Policy and Planning Committee Meeting
Executive Summary - Focus Sheet
August 5, 2016**

Issue	Scope	Status	Assignments	Notes
Approval of Minutes		Action Vote	Read June 24 minutes for accuracy and approval.	
Rules for Final Action	Consider rules 3-104 and 11-201 for final action.	Action Vote	Review the rules and be prepared to discuss them.	Ms. Sylvester will review the proposed rules. The original discussions of these rules are found in the May 2016 minutes and March 2016 minutes , respectively.
Electronic Signature and Signature Stamp Use	Consider Brent Johnson's additional comments on his edits to rule 4-403.	Discussion/ Action Vote	Review Mr. Johnson's email and be prepared to discuss the rule and vote on whether to recommend the changes.	Ms. Williams will review the proposed rule. The committee discussed the rule at its June 24 meeting (see the minutes in Tab 1).
Record of Enhancement Warning.	Consider Mr. Johnson's recommendation to repeal the rule or in the alternative amend it to incorporate URCrP 11 by reference and streamline the rule's requirements.	Discussion/ Action Vote	Review Mr. Johnson's email and be prepared to discuss the rule and vote on whether to recommend the changes.	Ms. Sylvester and Judge Parkin will review the proposed rule.
Pro Se E-Filing	Consider Tyler Felt's request to amend Rule 4-503 to allow for pro se e-filing.	Discussion/ Action Vote	Review Ms. Sylvester's memo, Mr. Felt's correspondence, and the proposed rule amendments.	Ms. Sylvester will review the proposed rule.
Other Business				

**Policy and Planning Committee Meeting
Executive Summary - Focus Sheet
August 5, 2016**

Issue	Scope	Status	Assignments	Notes

Next Meeting: Friday, August 05, 2016 at 12:00 p.m.

Tab 1

Policy and Planning Committee
Matheson Courthouse
Council room
450 South State St.
Salt Lake City, Utah 84111

June 24, 2016

Draft

Members Present

Hon. Reed S. Parkin
John Lund
Hon. Ann Boyden – by phone
Hon. Mark DeCaria

Members Excused

Hon. Mary Noonan
Hon. Marvin Bagley

Staff

Nancy J. Sylvester
Keisa L. Williams

Guests

(1) Approval of minutes

Judge Reed Parkin opened the meeting by thanking the members for their continued dedication to the committee. Judge Parkin also thanked staff members, Nancy Sylvester and Keisa Williams, for their hard work. Judge Parkin next addressed the minutes. Judge Parkin noted that since there wasn't a quorum at the June 3 meeting those minutes did not need to be approved. The committee then addressed the May 6 minutes. John Lund moved to approve the minutes and Judge Mark Decaria seconded the motion.

(2) CJA 4-401.03. Notice to Public of Recording.

Ms. Williams stated that the comment period for Rule 4-401.03 is now closed and there were no comments. One member noted that the rule states, "when...a recording system is used," even though court proceedings are now always recorded. There was brief discussion about whether to amend this wording. The committee decided to leave the wording as it is currently written because it tracked the statute (Utah Code § 78A-2-208).

Judge Mark DeCaria moved to recommend CJA 4-401.03 to the Judicial Council. John Lund seconded the motion and it passed unanimously.

(3) CJA 11-203. Senior Justice Court Judges.

Ms. Williams stated that H.B. 160 amended Utah Code § 78A-7-203 to grant certain municipalities the ability to remove justice court judges as a reduction in force. Ms. Williams noted Rule 11-203's proposed amendments account for changes to the statute and also include a requirement regarding judicial performance evaluations, which would then bring the rule in line with rule 11-201. Active senior justice court judges would be required to provide the results of their final judicial performance evaluation survey, conducted prior to termination of service, and the results must have been sufficient to have certified them for a retention election. Judge Parkin noted that justice courts are unique in that there are four different levels of evaluations that are done, so there would not be uniformity in the ability to furnish this. The committee discussed this issue further, detailing various scenarios that might apply to both senior judges as well as justice court senior judges. The committee then agreed upon changes to the wording of this rule that would bring Rules 11-201 and 11-203 in alignment while allowing for some flexibility with respect to the performance evaluation uniformity issue.

Mr. Lund moved to amend CJA 11-201 and 11-203 per language recommendations made by Judge Parkin and Ms. Sylvester. Judge Mark Decaria seconded the motion and it passed unanimously.

(4) CJA 4-202.02. Records Classification.

Ms. Williams stated that the amendments to Rule 4-202.02 are based on changes made to Utah Code section 78B-8-402 pursuant to H.B. 68. The amendments added a process for individuals exposed to infectious diseases to obtain a warrant to compel blood draws for testing. All of these records would be sealed.

Judge Mark Decaria moved to recommend amended CJA 4-402.02 to the Judicial Council. Judge Ann Boyden seconded the motion and it passed unanimously.

(5) CJA 4-403. Electronic Signature and Signature Stamp Use.

Ms. Williams stated that the proposed amendment to Rule 4-403 is based on the need for consistency throughout the State regarding the clerk's signature under a judge's electronic or stamped signature on a court document. Some justice courts have adopted a policy requiring only a clerk's first name and the first initial of their last name. This proposal would require both the first and last name to be used. Ms. Williams said Brent Johnson believes the need for consistency requires this amendment.

Judge Boyden expressed concern over instituting a legal requirement to use full names simply for consistency. Judge Boyden noted that an incomplete signature is still a legal signature. For example, signing with an "x" is accepted in certain cases. The committee discussed the requested changes and decided that the purpose of the rule is to be able to identify who signed for the judge electronically and/or used the judge's stamp. Judge Boyden said clerks are allowed to click a box indicating the document is e-signed or stamped at the judge's request. The electronic record should be sufficient to identify the clerk.

It was noted that Utah County Jail last week refused a commitment order because it was e-signed/stamped by the judge and simply initialed by a clerk. The jail stated they had no way to verify that the judge authorized the order. The committee noted in this case it would not matter if there was a signature or just initials. It was discussed that electronic signatures can be traced back, but stamped signatures cannot. The committee discussed the fact that while most courts in the state are now using electronic filing, some justice courts do not. Therefore, CORIS, and the ability to identify clerks may be varied. There was further discussion about whether to present this issue to the CORIS rewrite working group.

Judge Reed Parkin moved to invite Mr. Johnson to the next meeting for further discussion, but take no action today. Judge Mark Decaria seconded the motion and it passed unanimously.

(6) Other business

Ms. Sylvester addressed Remote Hearings Rules to the committee. Ms. Sylvester emailed a memorandum she wrote to the committee today. The committee already revised rule 4-106, and there was a complementary effort to establish new rules 29B and 37B of the Rules of Juvenile Procedure and rule 17.5 of the Rules of Criminal Procedure. Rule 43 of the Rules of Civil Procedure will be amended. Rule 4-106 was made effective May 1st. The Supreme Court took up these rules in May; however, they sent the rules back to the committees and the staff members because they did not feel as though the language was matching up.

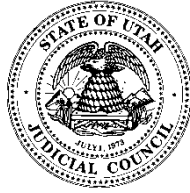
Ms. Sylvester addressed some suggested changes to rule 4-106 by the staff members. One suggestion is to repeal the rule because the issues will be addressed in the other proposed rules. As written, the current

language may foreclose the normal phone scheduling conferences. The committee discussed changes to the proposed rule 4-106. After a brief discussion, Ms. Sylvester stated she will take the suggestions back to the various committees to attempt to match up with their rules as closely as possible, and then return the rule for discussion to the committee.

Judge Parkin noted there are a tremendous amount of enhancement forms in the justice courts; some are ten pages long. Judge Parkin believes this has become quite cumbersome. Judge Parkin noted that district court judges give a verbal colloquy for enhancements on the record instead of a written document. Justice courts must provide proof of the discussion via an enhancement form. He was wondering whether, now that the hearing is recorded in a justice court, as it is in the district court, if there is a need for a written document showing the colloquy has taken place. There was committee discussion on simplifying these documents or simply not using them if the hearing is recorded. The committee asked Ms. Sylvester to discuss this with Brent Johnson. Judge Parkin said he would also speak to Mr. Johnson about this.

John Lund moved to adjourn and Judge Mark Decaria seconded the motion. There was no other business and the meeting was adjourned at 1:30 pm.

Tab 2



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Policy and Planning Committee
From: Nancy Sylvester *Nancy J. Sylvester*
Date: July 18, 2016
Re: Rules for Final Action

The public comment period for rules 3-104 and 11-201 of the Utah Code of Judicial Administration has now closed. The proposals received no public comments. These rules are now ready for final action by this committee.

CJA03-0104. Presiding judges. Amend. Affirms the authority of presiding judges to appoint senior judges to fill judicial vacancies for up to 14 judicial days without prior approval. Provides that if more than 14 judicial days of coverage is needed, the presiding judge will present to the State Court Administrator a plan for meeting the needs of the court and the budget needed to implement the plan. If any part of the plan is contested by the State Court Administrator, the plan will be reviewed by the Management Committee of the Judicial Council for final determination.

CJA 11-0201. Senior Judges. Amend. Provides that to be an active senior judge, a judge shall be both a current resident of Utah and be available to take cases.

If the proposals are recommended by this committee, they will be forwarded to the Judicial Council and Supreme Court, respectively, for final action.

Encl. CJA 03-0104
CJA 11-0201

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

Rule 3-104. Presiding judges.

Intent:

To establish the procedure for election, term of office, role, responsibilities and authority of presiding judges and associate presiding judges.

Applicability:

This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile Courts.

Statement of the Rule:

(1) Election and term of office.

(1)(A) Presiding judge. The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. The presiding judge's term of office shall be at least two years. A district, by majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years.

(1)(B) Associate presiding judge.

(1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A).

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge or by the court.

(1)(C) A presiding judge or associate presiding judge may be removed as the presiding judge or associate presiding judge by a two-thirds vote of all judges in the district. A successor presiding judge or associate presiding judge shall then be selected as provided in this rule.

(2) Court organization.

(2)(A) Court en banc.

(2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court executive from court en banc meetings called for the purpose of discussing the performance of the court executive. In single-judge courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

(2)(A)(vi) Minutes of each meeting shall be taken and preserved.

(2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court invitation only.

(2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

(2)(B) Absence of presiding judge. When the presiding judge and the associate presiding judge, if any, are absent from the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily be informed shall be notified of the judge acting as presiding judge.

(3) Administrative responsibilities and authority of presiding judge.

(3)(A)(i) Generally. The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of the court en banc and supplementary rules. The presiding judge has the authority to delegate the performance of non-judicial duties to the court executive. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

(3)(A)(ii) Caseload. Unless the presiding judge determines it to be impractical, there is a presumption that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient time to devote to the management and administrative duties of the office. The extent of the caseload reduction shall be determined by each district.

(3)(A)(iii) Appeals. Any judge of the judicial district may ask the Chief Justice or Judicial Council to review any administrative decision made by the presiding judge of that district.

(3)(B) Coordination of judicial schedules.

(3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an orderly plan of judicial absences from court duties.

(3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge consistent with Rule 3-103(4).

(3)(C) Authority to appoint senior judges.

(3)(C)(i) The presiding judge is authorized to use senior judge coverage for up to 14 judicial days if a judicial position is vacant or if a judge is absent due to illness, accident, or disability. Before assigning a senior judge, the presiding judge will consider the priorities for requesting judicial assistance established in Rule 3-108. The presiding judge may not assign a senior judge beyond the limits established in Rule 11-201(6).

(3)(C)(ii) The presiding judge will notify the State Court Administrator when a senior judge assignment has been made.

(3)(C)(iii) If more than 14 judicial days of coverage will be required, the presiding judge will promptly present to the State Court Administrator a plan for meeting the needs of the court for the anticipated duration of the vacancy or absence and a budget to implement that plan. The plan should describe the calendars to be covered by judges of the district, judges of other districts, and senior judges. The budget should estimate the funds needed for travel by judges and for time and travel by senior judges.

(3)(C)(iv) If any part of the proposed plan is contested by the State Court Administrator, the plan will be reviewed by the Management Committee of the Judicial Council for final determination.

(3)(~~D~~E) Court committees. The presiding judge shall, where appropriate, make use of court committees composed of other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or the court en banc.

(3)(~~D~~E) Outside agencies and the media.

(3)(~~D~~E)(i) The presiding judge or court executive shall be available to meet with outside agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative of the court.

(3)(~~D~~E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court executive shall represent the court and make statements to the media on matters pertaining to the total court and provide general information about the court and the law, and about court procedures, practices and rulings where ethics permit.

(3)(~~E~~F) Docket management and case and judge assignments.

(3)(~~E~~F)(i) The presiding judge shall monitor the status of the dockets in the court and implement improved methods and systems of managing dockets.

(3)(~~E~~F)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

(3)(~~E~~F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the ~~Administrative Office~~ State Court Administrator, request assistance of visiting judges or other appropriate resources when needed to handle the workload of the court.

(3)(~~E~~F)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite the disposition of cases.

(3)(~~F~~G) Court executives.

(3)(~~F~~G)(i) The presiding judge shall review the proposed appointment of the court executive made by the ~~s~~State Court Administrator and must concur in the appointment before it ~~can be effected~~ will be effective. The presiding judge shall obtain the approval of a majority of the judges in that jurisdiction prior to concurring in the appointment of a court executive.

(3)(~~F~~G)(ii) The presiding judge for the respective court level and the state level administrator shall jointly develop an annual performance plan for the court executive.

(3)(~~FG~~)(iii) Annually, the state level administrator shall consult with the presiding judge in the preparation of an evaluation of the court executive's performance for the previous year, also taking into account input from all judges in the district.

(3)(~~FG~~)(iv) The presiding judge shall be aware of the day-to-day activities of the court executive, including coordination of annual leave.

(3)(~~FG~~)(v) Pursuant to Council policy and the direction of the state level administrator, the court executive has the responsibility for the day-to-day supervision of the non-judicial support staff and the non-judicial administration of the court. The presiding judge, in consultation with the judges of the jurisdiction, shall coordinate with the court executive on matters concerning the support staff and the general administration of the court including budget, facility planning, long-range planning, administrative projects, intergovernmental relations and other administrative responsibilities as determined by the presiding judge and the state level administrator.

(3)(~~GH~~) Courtrooms and facilities. The presiding judge shall direct the assignment of courtrooms and facilities.

(3)(~~HJ~~) Recordkeeping. Consistently with Council policies, the court executive, in consultation with the presiding judge, shall:

(3)(~~HJ~~)(i) coordinate the compilation of management and statistical information necessary for the administration of the court;

(3)(~~HJ~~)(ii) establish policies and procedures and ensure that court personnel are advised and aware of these policies;

(3)(~~HJ~~)(iii) approve proposals for automation within the court in compliance with administrative rules.

(3)(~~IJ~~) Budgets. The court executive, in consultation with the presiding judge, shall oversee the development of the budget for the court. In contract sites, the court executive shall supervise the preparation and management of the county budget for the court on an annual basis and in accordance with the Utah Code.

(3)(~~JK~~) Judicial officers. In the event that another judge or commissioner of the court fails to comply with a reasonable administrative directive of the presiding judge, interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge may:

(3)(~~JK~~)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the position taken and consult with the judge or commissioner.

(3)(~~JK~~)(ii) Discuss the position with other judges and reevaluate the position.

(3)(~~JK~~)(iii) Present the problem to the court en banc or a committee of judges for input.

(3)(~~JK~~)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy, education or treatment.

(3)(~~JK~~)(v) Reassign the judge or commissioner to a different location within the district or to a different case assignment.

(3)(~~JK~~)(vi) Refer the problem to a the Judicial Council or to the Chief Justice.

(3)(~~JK~~)(vii) In the event that the options listed above in subsections (i) through (vi) do not resolve the problem and where the refusal or conduct is willful, continual, and the presiding judge believes the conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem to the Council or the Judicial Conduct Commission.

(3)(~~KL~~) Cases under advisement.

(3)(~~KL~~)(i) A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the judge for final determination. The final determination occurs when the judge resolves the pending issue by announcing the decision on the record or by issuing a written decision, regardless of whether the parties are required to subsequently submit for the judge's signature a final order memorializing the decision.

(3)(~~KL~~)(ii) Once a month each judge shall submit a statement on a form to be provided by the ~~Administrative Office~~ State Court Administrator notifying the presiding judge of any cases or issues held under advisement for more than two months and the reason why the case or issue continues to be held under advisement.

(3)(~~KL~~)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than two months to the appropriate state level administrator and indicate the reasons why the case or issue continues to be held under advisement.

(3)(~~KL~~)(iv) If a case or issue is held under advisement for an additional 30 days, the state level administrator shall report that fact to the Council.

(3)(~~LM~~) Board of judges. The presiding judge shall serve as a liaison between the court and the Board for the respective court level.

(3)(~~MN~~) Supervision and evaluation of court commissioners. The presiding judge is responsible for the development of a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan and evaluation shall be maintained in the official personnel file in the Administrative Office.

Rule 11-201. Senior judges.

Intent:

To establish the qualifications, term, authority, appointment and assignment for senior judges and active senior judges.

Applicability:

This rule shall apply to judges of courts of record.

The term "judge" includes justices of the Supreme Court.

Statement of the Rule:

(1) Qualifications.

(1)(A) Senior Judge. To be a senior judge, a judge shall:

(1)(A)(i) have been retained in the last election for which the judge stood for election;

(1)(A)(ii) have voluntarily resigned from judicial office, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, shall have recovered from or shall have accommodated that disability;

(1)(A)(iii) demonstrate appropriate ability and character;

(1)(A)(iv) be admitted to the practice of law in Utah, but shall not practice law; and

(1)(A)(v) be eligible to receive compensation under the Judges' Retirement Act, subject only to attaining the appropriate age.

(1)(B) Active Senior Judge. To be an active senior judge, a judge shall:

(1)(B)(i) meet the qualifications of a senior judge;

(1)(B)(ii) be a current resident of Utah and be available to take cases;

(1)(B)(iii) be physically and mentally able to perform the duties of judicial office;

(1)(B)(iv) maintain familiarity with current statutes, rules and case law;

(1)(B)(v) satisfy the education requirements of an active judge;

(1)(B)(vi) attend the annual judicial conference;

(1)(B)(vii) accept assignments, subject to being called, at least two days per calendar year;

(1)(B)(viii) conform to the Code of Judicial Conduct, the Code of Judicial Administration and rules of the Supreme Court;

(1)(B)(ix) obtain attorney survey results on the final judicial performance evaluation survey conducted prior to termination of service sufficient to have been certified for

retention election regardless whether the survey was conducted for self-improvement or certification;

(1)(B)(x) continue to meet the requirements for certification for judicial retention election as those requirements are determined by the Judicial Council to be applicable to active senior judges;

(1)(B)(xi) undergo a performance evaluation every eighteen months following an initial term as an active senior judge; and

(1)(B)(xii) take and subscribe an oath of office to be maintained by the state court administrator.

(2) Disqualifications. To be an active senior judge, a judge:

(2)(A) shall not have been removed from office or involuntarily retired on grounds other than disability;

(2)(B) shall not have been suspended during the judge's final term of office or final six years in office, whichever is greater;

(2)(C) shall not have resigned from office as a result of negotiations with the Judicial Conduct Commission or while a complaint against the applicant was pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause; and

(2)(D) shall not have been subject to any order of discipline for conduct as a senior judge.

(3) Term of Office.

(3)(A) The initial term of office of a senior judge is until December 31 of the second year following appointment. The initial term of office of an active senior judge less than age 75 years is until December 31 of the second year following appointment or until December 31 of the year in which the judge reaches age 75, whichever is shorter. The initial term of office of an active senior judge age 75 years or more is until December 31 of the year following appointment.

(3)(B) A subsequent term of office of a senior judge is for three years. A subsequent term of office of an active senior judge is three years or until December 31 of the year in which the judge reaches age 75, whichever is shorter. The subsequent term of office of an active senior judge age 75 years or more is for one year.

63 (3)(C) All subsequent appointments begin on January 1. The Supreme Court may
64 withdraw an appointment with or without cause.

65 (3)(D) The term of office of senior judges and active senior judges in office on
66 November 1, 2005 shall continue until December 31 of the year in which their terms
67 would have expired under the former rule.

68 (4) Authority. A senior judge may solemnize marriages. In addition to the authority of
69 a senior judge, an active senior judge, during an assignment, has all the authority of the
70 office of a judge of the court to which the assignment is made.

71 (5) Application and Appointment.

72 (5)(A) To be appointed a senior judge or active senior judge a judge shall apply to
73 the Judicial Council and submit relevant information as requested by the Judicial
74 Council.

75 (5)(B) The applicant shall:

76 (5)(B)(i) provide the Judicial Council with the record of all orders of discipline entered
77 by the Supreme Court; and

78 (5)(B)(ii) declare whether at the time of the application there is any complaint against
79 the applicant pending before the Supreme Court or pending before the Judicial Conduct
80 Commission after a finding of reasonable cause.

81 (5)(C) The Judicial Council may apply to the judicial performance evaluation
82 information the same standards and discretion provided for in Rule 3-111.05. After
83 considering all information the Judicial Council may certify to the Supreme Court that
84 the applicant meets the qualifications of a senior judge or active senior judge and the
85 Chief Justice may appoint the judge as a senior judge or active senior judge.

86 Judges who declined, under former Rule 3-111, to participate in an attorney survey
87 in anticipation of retirement may use the results of an earlier survey to satisfy
88 Subsection (1)(B)(ix).

89 (6) Assignment.

90 (6)(A) With the consent of the active senior judge, the presiding judge may assign an
91 active senior judge to a case or for a specified period of time. Cumulative assignments
92 under this subsection shall not exceed 60 days per calendar year except as necessary
93 to complete an assigned case.

94 (6)(B) In extraordinary circumstances and with the consent of the active senior
95 judge, the chief justice may assign an active senior judge to address the extraordinary
96 circumstances for a specified period of time not to exceed 60 days per calendar year,
97 which may be in addition to assignments under subsection (6)(A). To request an
98 assignment under this subsection, the presiding judge shall certify that there is an
99 extraordinary need. The state court administrator shall certify whether there are funds
100 available to support the assignment.

101 (6)(C) An active senior judge may be assigned to any court other than the Supreme
102 Court.

103 (6)(D) The state court administrator shall provide such assistance to the presiding
104 judge and chief justice as requested and shall exercise such authority in making
105 assignments as delegated by the presiding judge and chief justice.

106 (6)(E) Notice of an assignment made under this rule shall be in writing and
107 maintained by the state court administrator.

Tab 3



Nancy Sylvester <nancyjs@utcourts.gov>

Rule 4-403

Brent Johnson <brentj@utcourts.gov>

Sat, Jul 9, 2016 at 6:16 PM

To: Nancy Sylvester <nancyjs@utcourts.gov>, Keisa Williams <keisaw@utcourts.gov>

I found my emails with Peggy Johnson about why I proposed the change to rule 4-403 on the use of signature stamps. There was something there that I forgot about that may provide a better case for the proposal, at least on the more recent version I gave you.

The Uniform Electronic Transactions Act in Utah Code title 46, chapter 4 creates criteria for electronic transactions. Although the law does not mandate certain criteria for signatures, it certainly encourages consistency and uniformity, particular intra-agency. For example, Utah Code § 46-4-501(1)(d) states that when a government transacts business through electronic signatures the government entity may enact rules to "specify the type of electronic signature required, [and] the manner and format in which the electronic signature must be affixed to the electronic record."

I will concede that for wet signatures more flexibility is warranted. But for electronic signatures I think we should be consistent throughout the state, whether it is a judge's signature or a clerk's signature.

Rule 4-403. Electronic signature and signature stamp use.

Intent:

To establish a uniform procedure for the use of judges' and commissioners' electronic signatures and signature stamps.

Applicability:

This rule shall apply to all trial courts of record and not of record.

Statement of the Rule:

(1) A clerk may, with the prior approval of the judge or commissioner, use an electronic signature or signature stamp in lieu of obtaining the judge's or commissioner's signature on the following:

(1)(A) bail bonds from approved bondsmen;

(1)(B) bench warrants;

(1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases or when stipulated by both parties in contested cases;

(1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);

(1)(E) orders to show cause;

(1)(F) orders to take into custody;

(1)(G) summons;

(1)(H) supplemental procedure orders;

(1)(i) orders setting dates for hearing and for notice;

(1)(J) orders on motions requesting the Department of Workforce Services (DWS) to release information concerning a debtor, where neither DWS nor the debtor opposes the motion; and

(1)(K) orders for transportation of a person in custody to a court hearing.

~~(2) When a clerk is authorized to use a judge's or commissioner's electronic signature or signature stamp as provided in paragraph (1), the clerk shall sign his or her name on the document directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.~~

~~(3)~~ (2) All other documents requiring the judge's or commissioner's signature shall be personally signed by the judge or commissioner, unless the judge or commissioner, on a document by

document basis, authorizes the clerk to use the judge's or commissioner's electronic signature or signature stamp in lieu of the judge's or commissioner's signature. On such documents, the clerk shall indicate in writing that the electronic signature or signature stamp was used at the direction of the judge or commissioner ~~and shall sign his or her name directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.~~

(3) When a clerk is authorized to use a judge's or commissioner's signature stamp, the clerk shall sign directly beneath the judge's or commissioner's signature. When signing electronically the clerk shall use his or her full first and last name. When using the judge's stamped imprint, the clerk may sign by full name or by initials.

Tab 4



Nancy Sylvester <nancyjs@utcourts.gov>

Rule 9-301

Brent Johnson <brentj@utcourts.gov>

Thu, Jul 14, 2016 at 1:40 PM

To: Nancy Sylvester <nancyjs@utcourts.gov>, Keisa Williams <keisaw@utcourts.gov>

Attached you will find rule 9-301 with proposed changes. I am in favor of completely repealing 9-301 because it is ultimately a meaningless exercise. The Court of Appeals has determined that failure to follow this rule does not affect the validity of a plea or conviction. The rule simply results in extra work for justice court judges and clerks. I have raised this issue several times in the past, but I have always lost the battle. Apparently there are political reasons for keeping the rule. However, if no one can remember what those reasons are then lets repeal the dang thing. In fact keeping this rule may incorrectly focus on this as a requirement, rather than focusing on the importance of rule 11. (And I would note here that the rule does not address convictions that occur after trial. If an individual was not represented by counsel and did not adequately waive the right, then that conviction cannot be used to enhance future offenses. It seems like the rule should impose requirements at sentencing and not just taking a plea. But I didn't touch that because I presume there are reasons why it was originally written this way.) So maybe ask P&P to consider repealing before wading into my proposed changes.

I am proposing these changes in hopes of clarify and streamlining the process. The rule includes requirements from rule 11 of the rules of criminal procedure, so why not just let that rule control? The critical requirement for enhancement is that a judge follow rule 11, and that the defendant be represented by counsel or has knowing and voluntarily waived that right. So I propose eliminating anything in rule 9-301 that is covered by rule 11.

The other proposed amendments are designed to recognize the types of enhancements in the Utah Code. The rule currently refers to "enhanced penalties," but I'm not certain that this completely reflects the future possibilities. The Utah Code establishes three types of enhancements: 1) increase in the degree of offense; 2) the establishment or increase of minimum mandatory penalties; and 3) increase of the degree of the present offense based on the existence of an additional factor, such as weapons, gangs, or protected categories. The third type of enhancement is not an issue because judges only warning about the future. I suggest that the rule recognize the distinction between the other two types of enhancements by including language on an enhanced offense as well as an enhanced penalty. Also, enhancements are not always based on conviction of the same offense in the future. It can be based on conviction of a similar offense. For example, enhancement of a DUI conviction can be based on several offenses, each of which can enhance the other. Domestic violence can be based on one offense, but that offense would also serve as a prior conviction for enhancing a different offense involving cohabitants. I'm not certain that the "same or similar" language completely captures what may happen, but it at least recognizes that there are multiple types.

If you have any questions about this proposal, please let me know.

Thank you.

2 attachments

**9-301 (7-14-16 version).pdf**

47K

**9-301 (7-14-16 version).wpd**

5K

Rule 9-301. Record of arraignment and conviction enhancement warning.

Intent:

To establish a procedure for justice courts to follow in making a record at the time of arraignment and conviction in those cases where the defendant may be subject to an enhanced penalty if convicted of the same offense in the future.

Applicability:

This rule shall apply to the justice courts in those cases where the defendant may be subject to an enhanced penalty if convicted of the same or similar offense in the future.

Statement of the Rule:

(1) At the time of arraignment, the justice court judge shall determine whether a conviction may subject the defendant ~~would be subject~~ to an enhanced offense or penalty if convicted of the same or similar offense in the future.

(2) If the defendant would be subject to an enhanced penalty, upon the entry of a plea of guilty, the justice court judge shall:

(A) In addition to complying with Rule 11 of the Rules of Criminal Procedure, Advise the defendant, orally and in writing of the defendant's rights, the elements of the charged offense, the penalties for the charged offense, and the enhancement enhanced offense or penalty which that may be imposed ~~in the event the defendant is convicted of the same offense in the future; and~~

(B) Require the defendant to sign a statement acknowledging that the defendant ~~understands his rights and that he knowingly, intelligently and voluntarily waives those rights~~ was advised of the possibility of enhancement.

(3) Upon the entry of a guilty plea or receipt of a conviction, the justice court judge shall execute a written and signed judgment of conviction and forward the appropriate information and/or fingerprints to the state agencies responsible for maintaining criminal records.

Rule 11. Pleas.

(a) Upon arraignment, except for an infraction, a defendant shall be represented by counsel, unless the defendant waives counsel in open court. The defendant shall not be required to plead until the defendant has had a reasonable time to confer with counsel.

(b) A defendant may plead not guilty, guilty, no contest, not guilty by reason of insanity, or guilty and mentally ill. A defendant may plead in the alternative not guilty or not guilty by reason of insanity. If a defendant refuses to plead or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

(c) A defendant may plead no contest only with the consent of the court.

(d) When a defendant enters a plea of not guilty, the case shall forthwith be set for trial. A defendant unable to make bail shall be given a preference for an early trial. In cases other than felonies the court shall advise the defendant, or counsel, of the requirements for making a written demand for a jury trial.

(e) The court may refuse to accept a plea of guilty, no contest or guilty and mentally ill, and may not accept the plea until the court has found:

(e)(1) if the defendant is not represented by counsel, he or she has knowingly waived the right to counsel and does not desire counsel;

(e)(2) the plea is voluntarily made;

(e)(3) the defendant knows of the right to the presumption of innocence, the right against compulsory self-incrimination, the right to a speedy public trial before an impartial jury, the right to confront and cross-examine in open court the prosecution witnesses, the right to compel the attendance of defense witnesses, and that by entering the plea, these rights are waived;

(e)(4)(A) the defendant understands the nature and elements of the offense to which the plea is entered, that upon trial the prosecution would have the burden of proving each of those elements beyond a reasonable doubt, and that the plea is an admission of all those elements;

(e)(4)(B) there is a factual basis for the plea. A factual basis is sufficient if it establishes that the charged crime was actually committed by the defendant or, if the defendant refuses or is otherwise unable to admit culpability, that the prosecution has sufficient evidence to establish a substantial risk of conviction;

(e)(5) the defendant knows the minimum and maximum sentence, and if applicable, the minimum mandatory nature of the minimum sentence, that may be imposed for each offense to which a plea is entered, including the possibility of the imposition of consecutive sentences;

(e)(6) if the tendered plea is a result of a prior plea discussion and plea agreement, and if so, what agreement has been reached;

(e)(7) the defendant has been advised of the time limits for filing any motion to withdraw the plea; and

(e)(8) the defendant has been advised that the right of appeal is limited.

These findings may be based on questioning of the defendant on the record or, if used, a written statement reciting these factors after the court has established that the defendant has read, understood, and acknowledged the contents of the statement. If the defendant cannot understand the English language, it will be sufficient that the statement has been read or translated to the defendant.

Unless specifically required by statute or rule, a court is not required to inquire into or advise concerning any collateral consequences of a plea.

(f) Failure to advise the defendant of the time limits for filing any motion to withdraw a plea of guilty, no contest or guilty and mentally ill is not a ground for setting the plea aside, but may be the ground for extending the time to make a motion under Section 77-13-6.

(g) If the defendant pleads guilty, no contest, or guilty and mentally ill to a misdemeanor crime of domestic violence, as defined in Utah Code Section 77-36-1, the court shall advise the defendant orally or in writing that, as a result of the plea, it is unlawful for the defendant to possess, receive or transport any firearm or ammunition. The failure to advise does not render the plea invalid or form the basis for withdrawal of the plea.

(h)(1) If it appears that the prosecuting attorney or any other party has agreed to request or recommend the acceptance of a plea to a lesser included offense, or the dismissal of other charges, the agreement shall be approved or rejected by the court.

(h)(2) If sentencing recommendations are allowed by the court, the court shall advise the defendant personally that any recommendation as to sentence is not binding on the court.

(i)(1) The judge shall not participate in plea discussions prior to any plea agreement being made by the prosecuting attorney.

(i)(2) When a tentative plea agreement has been reached, the judge, upon request of the parties, may permit the disclosure of the tentative agreement and the reasons for it, in advance of the time for tender of the plea. The judge may then indicate to the prosecuting attorney and defense counsel whether the proposed disposition will be approved.

(i)(3) If the judge then decides that final disposition should not be in conformity with the plea agreement, the judge shall advise the defendant and then call upon the defendant to either affirm or withdraw the plea.

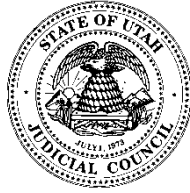
(j) With approval of the court and the consent of the prosecution, a defendant may enter a conditional plea of guilty, guilty and mentally ill, or no contest, reserving in the record the right, on appeal from the judgment, to a review of the adverse determination of any specified pre-trial motion. A defendant who prevails on appeal shall be allowed to withdraw the plea.

(k) When a defendant tenders a plea of guilty and mentally ill, in addition to the other requirements of this rule, the court shall hold a hearing within a reasonable time to determine if the defendant is mentally ill in accordance with Utah Code Ann. § 77-16a-103.

(l) Compliance with this rule shall be determined by examining the record as a whole. Any variance from the procedures required by this rule which does not affect substantial rights shall be disregarded. Failure to comply with this rule is not, by itself, sufficient grounds for a collateral attack on a guilty plea.

[Advisory Committee Notes](#)

Tab 5



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Policy and Planning Committee
From: Nancy Sylvester *Nancy D. Sylvester*
Date: July 18, 2016
Re: Pro Se E-filing

About a year ago, Tyler Felt contacted Ron Bowmaster about e-filing as a pro se litigant. He was granted it for his case but has requested expanded access since then for other pro se litigants. He contacted Brent Johnson and the chairs of the Technology Committee and the Committee on Resources for Self-represented Parties. He also spoke with the Management Committee of the Judicial Council. His request was not prioritized because other e-filing items were already ahead of his. Mr. Felt recently renewed his request with the Self-represented Parties Committee. He asked that pro se e-filing be put on the committee's Strategic Plan. The committee agreed to add it. He also approached me as staff to the Policy and Planning Committee about moving his request up the list. I spoke with Ron Bowmaster about whether anything prevented this committee from proposing a rule change to allow pro se e-filing. He said it didn't. As long as his department had sufficient time—a year to 18 months—to implement the change, it could be done. The timing corresponds with his department's rewriting of the CORIS program.

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

November 10, 2015

Sent electronically

Brent Johnson, General Counsel
Administrative Office of the Courts

Dear Mr. Johnson,

Pursuant to UCJA Rule 2-207, I write to submit a request for the modification of UCJA Rule 4-503 Mandatory electronic filing.

Attachment 1 is the proposed amendment. This amendment is needed as soon as possible to increase access and fairness for non-attorney pro se litigants. Some specific examples are numbered below.

Most significantly, this proposal will eliminate the unfair technology advantage that represented parties currently have in civil cases by permitting non-attorney pro se litigants to e-file. This proposal will also further the benefits realized from electronic filing, such as redeployment of clerks' office staff.

1. Attorneys can e-file documents 24/7, including up to midnight on the day of a deadline. Non-attorney pro se litigants can only file by mail or by traveling to the court during business hours.

2. Attorneys can e-file documents that are text-searchable and have copy and paste ability. Judges, commissioners, and other court personnel prefer e-filed documents because they are easier to review, research, and use. Non-attorney pro se litigants do not have the option to file text-searchable documents and can only hope the clerk scans the documents correctly.

3. Attorneys can easily view and save electronic copies of ALL prior case filings for FREE. Non-attorney pro se litigants must travel to the clerk's office and pay \$.25 per page to see copies of filings classified as "private" (most domestic case filings) or pay an additional \$5 to have the documents emailed or faxed, after submitting ID to the clerk, for 10 pages or less; \$.50 for each additional page.

4. Attorneys can view the case docket remotely 24/7 and receive case updates immediately. Because an XChange subscription is cost-prohibitive for non-attorney pro se litigants and only displays non-private documents, they must call the court to inquire about case updates or travel to the court during business hours to view the docket and non-private documents on a public terminal.

5. Attorneys save time, money, and paper over non-attorney pro se litigants from e-filing access.

Attachment 2 is a chart for select district court cases during FY15. As it indicates, in 81% of cases one party has an attorney while the other party is a pro se litigant. Thus, due to e-filing only being available to attorneys, one party has a technology, access, and cost advantage over the other party in 81% of cases. Exclude debt collection cases and these advantages still exist in 51% of cases.

The fact that over 50% of parties have a technology disadvantage should be alarming to the Judiciary. This should justify immediate prioritization of resources toward making e-filing available to non-attorney pro se litigants. I urge the Judicial Council and AOC to take swift action on this issue.

Sincerely,
/s/ Tyler Felt
Tyler Felt
Att. 3: Related emails with IT Division, AOC

Cc:
Ms. Jaclyn Howell-Powers,
Hon. Marsha Thomas, Self-rep. Parties Comm.;
Hon. John Pearce, Technology Committee

Rule 4-503. Mandatory electronic filing.

Intent:

To require that documents in district court civil cases be filed electronically.

To provide for exceptions.

Applicability:

This rule applies in the district court.

Statement of the Rule:

(1) Except as provided in Paragraph (2), pleadings and other papers filed in civil cases in the district court on or after April 1, 2013 shall be electronically filed using the electronic filer's interface.

(2)(A) A self-represented party who is not a lawyer may file pleadings and other papers using any means of delivery permitted by the court [including electronic filing, which shall be available to a self-represented party by March 1, 2016.](#)

(2)(B) A lawyer whose request for a hardship exemption from this rule has been approved by the Judicial Council may file pleadings and other papers using any means of delivery permitted by the court. To request an exemption, the lawyer shall submit the request to the Judicial Council's General Counsel on a form approved by the Judicial Council.

(2)(C) Pleadings and other papers in probate cases may be filed using any means of delivery permitted by the court until July 1, 2013, at which time they shall be electronically filed using the electronic filer's interface.

(3) The electronic filer shall be the attorney of record [or a self-represented party](#) and shall use a unique and personal identifier that is provided by the filer's service provider.

Attachment 2

Self-Represented Parties in Utah

The following chart shows the percentages of self-represented parties in selected district court case types during fiscal year 2015.³

2015 Data

Case Type	Cases	Both Parties with Attorney	One Party with Attorney	No Party with Attorney	Self-Represented Petitioner	Self-Represented Respondent
Adoption	1,352	1%	84%	14%	14%	4%
Civil Stalking	858	13%	18%	69%	79%	77%
Conservatorship	143	1%	84%	15%	15%	2%
Contracts	2,608	28%	71%	1%	1%	71%
Custody and Support	1,281	20%	49%	31%	36%	76%
Debt Collection	67,510	2%	98%	0%	0%	98%
Divorce/Annulment	13,227	19%	31%	50%	52%	80%
Estate Personal Rep	2,107	0%	87%	12%	12%	0%
Eviction	7,465	4%	83%	13%	13%	96%
Guardianship	1,622	1%	43%	56%	57%	3%
Name Change	1,041	0%	17%	83%	83%	1%
Paternity	1,043	36%	44%	20%	23%	61%
Protective Orders	4,744	23%	35%	42%	48%	71%
Small Claim	9	0%	22%	78%	78%	100%
Temporary Separation	85	19%	38%	44%	52%	73%

Total	105,095	6%	81%	13%	
Less: Debt Coll. (67,510)					
Total	37,585	14%	51%	35%	

³ Provided by Kim Allard, Director of Court Services, in August 2015.

Tyler Felt

From: Tyler Felt
Sent: Tuesday, September 22, 2015 11:41 AM
To: 'Ron Bowmaster'
Cc: 'Dan Becker'; 'Rick Schwermer'
Subject: RE: Electronic Filing for Pro Se Litigants

Hi Ron,

Could you please provide an update on the progress of non-attorney pro se e-filing in Utah's district courts? I personally would like to know and would also like to update my colleagues.

If Utah district courts already have e-filing capability, what exactly is the reason for not creating the registration process for non-attorney pro se litigants to obtain a CORIS ID and therefore be able to efile?

Is there now a planned date for implementation of this registration process so non-attorneys can obtain a CORIS ID?

As I mentioned previously, Texas – with a much larger population and a less centralized district court system – provides non-attorney e-filing in its district courts. In fact, Green Filing is one of the providers.

Thanks for your prior reply and I hope to hear back from you.

Sincerely,

Tyler Felt

From: Ron Bowmaster [mailto:ronb@utcourts.gov]
Sent: Thursday, August 28, 2014 6:11 PM
To:
Cc: Dan Becker; Rick Schwermer
Subject: Re: Electronic Filing for Pro Se Litigants

Good afternoon Tyler,

Thank you for your comments relating to e-filing by pro se litigants. Each of your points is well taken.

The offering of electronic filing has been an evolutionary process that has been funded and managed entirely by the courts. It began by limiting electronic filing to attorneys and by case type. As Utah expanded its electronic filing services, additional case types were added to those that already existed. Filing was first limited to general civil cases, then expanded to include domestic, probate, and criminal cases. It has been the court's priority to extend electronic filing to all case types in all Utah courts. It is also our intent to make electronic filing available to non-attorneys including pro se litigants, adult probation and parole, hospitals, and other litigants who file with the court.

In the evolutionary process of expanding electronic filing, priorities must be established. The immediate goal is extend electronic filing capability to all cases in all courts. By judicial rule, we must include criminal cases by January 1, 2015. Next week we will implement electronic filing to include these criminal filings, thus making all case types available. To extend electronic filing to all courts, we are actively expanding electronic filing to Utah's appellate courts.

This is not to suggest that extending electronic filing to non-attorneys is not a priority to the court. It is very much a priority that we intend to address after we come into compliance with existing judicial rules and have extended electronic filing capability to all courts. We understand that both pro se litigants and the court would significantly benefit from electronic filing.

Thank you again for your comments.

Ron Bowmaster
Director, IT Division
Utah Administrative Office of the Courts
801.578.3872

On Wed, Aug 27, 2014 at 2:12 PM, Tyler Felt [wrote](#):

Dear Ron,

I write to advocate for making electronic filing available in district courts to non-attorney pro se litigants – especially in civil cases. To increase access and fairness, I encourage the AOC to make this a priority. Other states, such as Texas, allow non-attorney pro se efilings.

As I've been following the development of efilings in the Utah State Courts over the past few years, I understand that non-attorney pro se efilings have become less of a priority by the AOC, which is disappointing.

Due to the inability of non-attorney pro se litigants to efile, they are disadvantaged to parties represented by counsel for the following reasons:

- Attorneys can efile documents 24/7, including up to midnight on the day of a deadline. Non-attorney pro se litigants must file by US mail or by traveling to the clerk's office during business hours only.
- Attorneys can efile documents that are text-searchable and have copy and paste ability. Judges, commissioners, and other court personnel prefer efiled documents because they are easier to review, research, and use. Non-attorney pro se litigants do not have the option to file text-searchable documents and can only hope the clerk scans the documents correctly.
- Attorneys can easily view and save electronic copies of ALL prior filings for FREE. Non-attorney pro se litigants must travel to the clerk's office and pay \$.25 per page to see copies of filings classified as "private" (which is most filings in domestic cases) or pay an additional \$5 to have the documents emailed or faxed after submitting identification to the clerk.
- Attorneys can easily view the case docket 24/7 and receive case updates immediately. Because an XChange subscription is expensive and therefore cost-prohibitive to non-attorney pro se litigants, they must call the clerk's office to inquire about case updates or travel to the court during business hours to view the case docket on a public terminal.
- Attorneys save time, money, and paper over non-attorney pro se litigants.

A party with an attorney already has an advantage over a self-represented party who is not an attorney. The courts should not increase the advantage by making technology advancements only available to attorneys.

I would appreciate receiving a reply and acknowledgment of this email.

Sincerely,

Tyler Felt

Rule 4-503. Mandatory electronic filing.

Intent:

To require that documents in district court civil cases be filed electronically.

To provide for exceptions.

Applicability:

This rule applies in the district court.

Statement of the Rule:

(1) Except as provided in Paragraph (2), pleadings and other papers filed in civil cases in the district court on or after April 1, 2013 shall be electronically filed using the electronic filer's interface.

(2)(A) A self-represented party who is not a lawyer may file pleadings and other papers using any means of delivery permitted by the court, including by electronic filing on or after January 1, 2018.

(2)(B) A lawyer whose request for a hardship exemption from this rule has been approved by the Judicial Council may file pleadings and other papers using any means of delivery permitted by the court. To request an exemption, the lawyer shall submit a written request outlining why the exemption is necessary to the District Court Administrator.

(2)(C) Pleadings and other papers in probate cases may be filed using any means of delivery permitted by the court until July 1, 2013, at which time they shall be electronically filed using the electronic filer's interface.

(3) The electronic filer shall be an attorney of record, or may be a self-represented party, and shall use a unique and personal identifier that is provided by the filer's service provider.