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MEMBERS OF THE UTAH SUPREME COURT  
ADVISORY COMMITTEE ON CIVIL PROCEDURE

Re: July Meeting

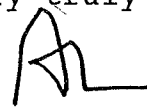
Dear Committee Members:

The next meeting of the committee will be held on Wednesday, July 21, beginning at 4:00 p.m. at the Administrative Office of the Courts. The primary purpose of the meeting will be to discuss and, if possible, finalize for publication our new version of Rule 45. As usual, Perrin Love has worked very hard in preparing a new draft, which reflects comments from our meeting in June. Please find enclosed a copy of that draft for your review.

In addition, I will be prepared to give you an update on recent discussions with members of the Utah Supreme Court concerning the legislative initiatives affecting the rules.

Please make a special effort to attend our July meeting. We can use your input on Rule 45. If you have any questions, please call.

Very truly yours,

  
Alan L. Sullivan

ALS/kr

Enclosure

cc: Colin Winchester, Esq. (w/encl.)  
Craig Jacobsen, Esq. (w/encl.)

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I've enclosed yet another "discovery" article  
you may find helpful. Colin

## MINUTES

### Utah Supreme Court Advisory Committee on the Rules of Civil Procedure

Wednesday, July 21, 1993, 4:00p.m.  
Administrative Office of the Courts

Alan L. Sullivan, Presiding

**PRESENT:** M. Karlynn Hinman, Brad R. Baldwin, Thomas R. Karrenberg, Hon. Boyd Bunnell, James R. Soper, Mary Anne Q. Wood, Terrie T. McIntosh, Francis M. Wikstrom, Perrin R. Love, Elizabeth T. Dunning, David K. Isom, Terry S. Kogan, Glenn C. Hanni, Alan L. Sullivan, Allan L. Larsen.

**EXCUSED:** Colin R. Winchester, Jaryl L. Rencher, Honorable Ronald N. Boyce, John L. Young, Hon. Michael R. Murphy, Robert A. Echard and Hon. Samuel Alba.

**STAFF:** Craig T. Jacobsen

**VISITORS:** Lisa Watts Baskin

#### **I. WELCOME**

Mr. Sullivan welcomed the members of the Committee to the meeting, thanking them for their willingness to meet in July. Mr. Sullivan indicated that the main purpose of the meeting was to complete the Committee work on the proposed changes to Rule 45.

#### **II. APPROVAL OF MINUTES**

Mr. Sullivan asked the Committee for a motion to approve the minutes for the meeting in June. Professor Kogan so moved and Ms. Hinman seconded the motion. The Committee unanimously approved the minutes as presented.

#### **III. RULE 64**

Mr. Sullivan stated that the Judicial Rules Committee of the legislature had apprised him of an interest to revise Rule 64 to the extent it addresses continuous garnishment procedure and also to make changes to Rule 64B. The underlying basis for the desire to make changes to Rule 64 is a sentiment that the rule should be statutory rather than procedural. Mr. Sullivan advised the Committee that he had met with the legislative committee two weeks ago, and the committee had expressed concern about rules governing garnishment. The legislative committee requested this Committee to research whether there is an identifiable constitutional problem with continuous writs of garnishment. Mr. Sullivan further stated that the Supreme Court would like to meet with the legislative committee to further identify the concerns.

#### **IV. RULE 45**

Mr. Sullivan suggested that the Committee go through the latest draft of Rule 45 paragraph by paragraph to complete any final revisions. Beginning with Rule 45(a)(1)(C), the Committee made a line-by-line analysis of the proposed language, which resulted in numerous edits, changes and stylistic improvements so that the subsections would conform with each other. In particular, the Committee focused on the language in 45(a)(1)(D) (which addresses whether there must be substantial or verbatim compliance with the language requirements of the rule). The Committee also focused on whether proof of service should be required in all subpoenas. The Committee members spent a great deal of time conforming the language and style of each subsection. The Committee discussed Rule 45's sanction provisions. Finally, the Committee debated the notice requirements and whether the proposed 14 day requirement is proper.

Following the Committee's discussion and line-by-line edit, Mr. Sullivan stated that Mr. Love and he (mostly Mr. Love) would complete a redraft of Rule 45, incorporating all of the changes, deletions and additions discussed in this meeting. Following completion of the final draft, Mr. Sullivan would send out the proposed final version and give the Committee members 7 days for comments. Mr. Sullivan requested that the Committee authorize Mr. Love and him to make any changes that would come out of the 7 day comment period so that the draft could be finalized. Without further discussion, the Committee approved Mr. Sullivan's authorization request.

#### **V. CONCLUSION**

There being no further business, Mr. Sullivan adjourned the Committee until the next meeting, scheduled for Wednesday, September 22, 1993.