Agenda

Advisory Committee on Rules of Civil Procedure

November 28, 2018

4:00 to 6:00 p.m.

Scott M. Matheson Courthouse

450 South State Street

Judicial Council Room

Administrative Office of the Courts, Suite N31

Welcome and approval of minutes	Tab 1	Jonathan Hafen, Chair
Updates on Labor Commission issues and Finality rules (URCP Rules 73, 58A, URAP Rule 4)	Tab 2	Jonathan Hafen, Nancy Sylvester
Rule 24: Incorporating the federal language.	Tab 3	Jim Hunnicutt, Nancy Sylvester
Rule 4. Standards for electronic acceptance of service. Subcommittee update and request for feedback.	Tab 4	Justin Toth (subcommittee chair), Judge Laura Scott, Lauren DiFrancesco, and Susan Vogel
Rule 26. General provisions governing disclosure and discovery (multiple requests for rule amendments).	Tab 5	Rod Andreason (subcommittee chair), Tim Pack, Trystan Smith, Leslie Slaugh
New Rule 7A. Motion for order to show cause	Tab 6	Lauren DiFrancesco (subcommittee chair), Jim Hunnicutt, Judge Holmberg, Susan Vogel
Other business: Committee Notes	Tab 7	Jonathan Hafen

Committee Webpage: http://www.utcourts.gov/committees/civproc/

2019 Meeting Schedule:

January 30, 2019

February 27, 2019

March 27, 2019

April 24, 2019

May 29, 2019

June 26, 2019

September 25, 2019

October 30, 2019

November 20, 2019

Tab 1

UTAH SUPREME COURT ADVISORY COMMITTEE

ON RULES OF CIVIL PROCEDURE

Meeting Minutes – October 24, 2018

PRESENT: Chair Jonathan Hafen, Heather Sneddon, Judge Andrew Stone, Judge Kent Holmberg, Larissa Lee, Susan Vogel, Barbara Townsend, Judge Clay Stucki, Leslie Slaugh, Judge Amber Mettler, Trystan Smith, Lincoln Davies, Lauren DiFrancesco, Justin Toth, Judge James Blanch, Timothy Pack, Katy Strand (Recorder)

EXCUSED: Paul Stancil, Judge Kate Toomey, Trevor Lee, Judge Laura Scott, James Hunnicutt, Rod Andreason, Michael Petrogeorge, Lincoln Davies, Dawn Hautamaki

STAFF: Nancy Sylvester

GUESTS: Dennis Lloyd, Hans Scheffler, Phil Shell, Dawn Atkin, Paul Burke, Patricia Owen, Kenneth Atkin, Jeff Rowley, JacesonMaughn, Jinks Dabney, Stoney Olsen, Cathy Dupont

(1) WELCOME

Jonathan Hafen welcomed the committee and guests. He stated the importance of the Labor Commission and committee's processes and thanked those who were in attendance to speak with the committee.

(2) LABOR COMMISSION PETTITION AND RESPONSE TO OBJECTIONS.

Jaceson Maughn from the Labor Commission gave background. On May 18, 2016 the Supreme Court found the statutory provisions governing attorney fees for workers compensation to be unconstitutional. The commission found that when only medical benefits or a small amount of compensation was at issue, without the ability to order attorney fees, workers were not able to obtain counsel. This was also a problem for the plaintiff's attorneys who could no longer accept cases. The committee created statutorily in response to the Supreme Court's decision met at least 7 times in 2017 to discuss the issues and recommended a statutory change that would require attorney fees as allowed by a rule from the Supreme Court. This rule is now being presented to the committee as well as proposed legislation. Before the committee are also two objections. Mr. Maughn said the objections to the rule rely on statements and motivations that the Commission contends are not true. Mr. Maughn said this is not a Labor Commission issue; all work was done as requested by the legislature and there was broad representation in the group. He said the major concern is that currently a small group of injured workers do not have access to counsel.

Leslie Slaugh questioned how proposed new Rule 73A is procedural rule, although he has other concerns. He believed this was a substantive setting of attorney fees and does not believe this is something the committee can do. Mr. Maughn answered that the Court directed this. Mr. Slaugh

questioned why the provisions of the rule were not a part of the statute. This rule would provide for an add-on award and is purely substantive.

Larissa Lee asked how the attorney fees worked before the decision. Mr. Maughn stated that the only part of the statute that was unconstitutional was the add-on fee, and so this will be the same. Before some fees were done through the add on, and some were from the indemnity. Ms. Lee questioned who would be paying this.

Lauren DiFrancesco questioned how the math worked because the cases were for under $5,000 indemnity with an undefined medical benefit and she was not sure how the amount could work as written in the rule. This was clarified that $5,000 was only for the indemnity, but that the medical was additional. The add-on fee cap on these cases was then $25,000.

Mr. Slaugh questioned if something in the statute limited attorneys from requesting a percentage of the medical fees. Dawn Atkin clarified that the defendants must pay the doctors bills directly to the doctor, so no money can be taken by the attorney.

Susan Vogel asked for an example to clarify how this works. Phil Shell gave an example where a person gets hurt and ends up with a large medical bill, but he gets better in a month, so his indemnity is only $3,000. He takes only 25% of the indemnity. He took a loss of 40% of his cases with this change as he could no longer take these for business purposes. With attorneys fees as an add-on he is able to take more cases to help the workers.

(3) OBJECTIONS TO LABOR COMMISSION PETTITION.

Jinks Dabney stated that as proposed the rule includes the regulation of his fees which hurts his ability to practice law. The rules on agreed upon fees are now under the general rules of ethics. The statute included add-on fees but is no longer allowed. He expressed concern that the rule will face a constitutional challenge because there are caps included in it. Mr. Dabney argued that under this rule there is a risk that he may take on a case where indemnity is under $5,000 but in the course of the case, the indemnity amount rises. and if there is more indemnity there are no fees for the attorneys. He argued this makes no sense, as the doctors should be paid, and in all cases (irrespective of the amount of indemnity) the carrier should have to pay the fees. The $5,000 cap creates an unfair system.

Mr. Dabney said that if attorneys were getting the add-on fees he questioned whether it was ethical to demand additional fees for getting those medical bills paid. He also questioned if this rule would hinder abilities to get an attorney. The regulation on what the insurer pays impacts the fees of the attorneys. He did not believe that who paid the fees changed the acceptability of these limits.

Stoney Olsen stated that it is important to understand that when the medical fee case is won there is no real benefit to the client, only to the doctor. Because of this the attorney is unlikely to be able to get fees from the client for this case. Paul Burke questioned if there were no benefits to the client, as they would have been paying the bills themselves. Mr. Olsen stated that in most cases the clients are not paying the bills themselves anyway.

Trystan Smith questioned how, practically, an injured worker would accrue the type of expenses discussed without having a party able to pay. Kenneth Atkin stated that when injuries happen, hospitals often take action without preauthorization. Mr. Smith also questioned if the injured worker isn't getting the procedure until the case is over. Mr. Olsen pointed out that often this occurs when the injury is real, but the insurer states that the injury is not related, so they should not pay.

Heather Sneddon asked if the real problem they had with the rule was based upon the limit for the add-on. Mr. Olsen agreed that the limit being $5,000 was putting too much of a limit on the attorney fees. Essentially attorneys must work pro bono for the medical bills if the indemnity is over $5,000. He questioned why there would be this block if the issue is access to justice for the worker. Mr. Slaugh asked the objecting parties what they would like. He believed they were asking for attorney fees in any case. He again questioned if this was procedure. Mr. Dabney stated that the problem was just the $5,000 limit, and that without it there would be more bills paid and attorneys could take cases. He believed that the add-on fee should always be available and separate from the indemnity question.

Lincoln Davies also questioned if this was a substantive question. Mr. Olsen stated that under the *Injured Workers* case, the Supreme Court has stated that it governs all attorney fees, which would include this rule. The legislature may not have the power to create the caps and percentages. He agreed this was in part substantive, and pointed out that the rules of procedure don't even apply to these hearings. Mr. Slaugh pointed out that the rules do claim to apply to all statutory proceedings. He also questioned why this should be different from other injury type cases. Mr. Olsen reported that the legislature may still create add-on fees. They are concerned that this would be the only fee the attorney can get. He also argued that this scheme is very close to the rules that the Supreme Court stated the legislature could not create.

Mr. Peck questioned who could create this rule if not through this committee. Mr. Slaugh argued that the statute should provide an add-on fee. This would not be regulating the fees the attorney could charge. Mr. Haffen stated that the legislature stated there would be a fee, but could not create a cap. The Court is looking to hear the solution to this problem.

Judge Blanch stated that if the rules of civil procedure don't apply to workers compensation cases this committee should not be involved. He then added that the default is that the prevailing party would get no fees without a statute. With a statute they should get a reasonable fee. He questioned why this should be different from any other case. Judge Holmberg addressed why he thought this could not be done in a similar manner to personal injury. The medical expenses are paid based upon a schedule in workers compensation. Additionally, the medical providers must be paid by the insurance company, without going through the attorney. This is different than a personal injury case, where some of the fees go through the attorneys. Everything is statutory in workers compensation; attorneys cannot be creative in their solutions.

Ms. Atkin said that the reason it was different is because the legislature must create another benefit for insurance companies to be required to pay. She then added that this would not work without limits as it would not pass as a statute. The idea was a compromise to allow for some attorney fees but not overly impact the insurance companies. Mr. Burke stated that the difference between the

standard was that all of this was occurring within a compromise creating workers compensation. Because this was done legislatively additional compromise is required.

Mr. Burke then questioned if there was also philosophical objection to the rules. Mr. Olsen agreed with the philosophical idea behind the add on fees. Currently there is no penalty for denying a claim, and he believes there should be a penalty, and these fees could serve as one. The rule has changed since the objections were written. Judge Blanch questioned if it would be possible to create this fee without it being called an attorney fee. Calling it simply a fee would allow the attorneys to contract for this, without the legislature limiting attorney fees. Mr. Davies stated that this would also help pro se litigants, as they would be able to keep those fees. Ms. Snedden pointed out that the add on fee issue may be being appropriately addressed. The Court did say that they had the power to adopt a scheme for these fees.

Ms. Vogel questioned how much loss the injured worker would actually have if they don't get an attorney. She questioned further if they would be able to get these fees, as she thinks it would be more fair.

Ms. DiFrancesco repeated her question as to what was being requested by those objecting. She also asked if the fees would be increased if the bills continued past the resolution of a medical benefits case. Ms. Atkin reported that the fees would not continue to accrue past the conclusion of the case; only the bills accrued before the conclusion would be included. Mr. Dabney said he did not object to the language of proposed rule 73A, however he would remove the indemnity limit in the statute. He added that he believed the court was saying a statutory fee was acceptable, but the regulation on the amount was not.

Judge Stucki questioned if the legislature has seeded their authority to this committee, which would solve the problems with the substantive issues. Mr. Dabney stated he had asked the legislature to go as far as he believed they could. He believed that the amount of the fee must be created by the court. Judge Stucki stated that this would mean that the question of when the add on fees were allowed would not be the purview of this committee. Judge Blanch said that the legislature is allowed to create a fee, but not regulate the fee. The problem is the cap is required as a practical matter with the insurance companies.

Denis Lloyd from Workers' Compensation Fund (WCF) said he did not speak for the entire industry. He said, however, that an expansion of the indemnity amount was beyond the scope of the legislatively-created committee's charge. He said WCF may not be able to support such a proposal. The scope of this rule was dramatically changed in this discussion. Mr. Smith questioned what the costs would really be. Mr. Lloyd reported that this would change the marketplace, and the rates would be changed. Some may even leave the market all together. Mr. Slaugh questioned if the fee is already allowed by the statute. Lloyd stated they had supported the statute, but only because of the compromises. Mr. Lloyd may support a capped fee, but without removing the $5,000 indemnity limit.

Mr. Hafen closed this discussion and thanked everyone for their participation. He said that the committee will discuss this further and make a recommendation to the Supreme Court about next steps.

(4) APPROVAL OF MINUTES

Mr. Hafen asked for approval of the September minutes. Judge Stone moved to approve them; Judge Stucki seconded. Ms. Vogel requested that page 5 reflect that only pro se litigants who create OCAP accounts are providing emails. The motion passed as amended by Ms. Vogel.

(5) FINALITY: CIVIL RULES 73, 58A AND APPELLATE RULE 4.

Judge Mettler reported that the Civil Rules Committee had discussed and approved a version of Rule 58A and Appellate Rule 4 last meeting. However, the Appellate Rules committee did not agree with the recommended changes. The joint subcommittee met and discussed a fix to the finality issues raised by *McQuarrie v. McQuarrie*, 2017 UT App 209, and *Chaparro v. Torero*, 2018 UT App 181, by amending Rule 73 to control all requests for attorney fees. Judge Mettler said she believed that the ruling was not so narrow. The consensus was that even if Rule 58A and Appellate Rule 4 were changed, Rule 73 must be changed. The changes were proposed, along with a committee note. The joint committee requested additional instruction from the Court regarding the scope of the requests as they proposed two options: an option that tracks the federal rules and an option that is consistent with the current finality scheme. Mr. Slaugh clarified that this would still only apply to post-judgement fees, not to those fees which can be awarded by a jury. Ms. Vogel proposed that under paragraph (d) changing "filed" to "served," as a pro se litigant doesn't know when things are filed, only when they are served. Judge Blanch argued that in most cases, and soon all cases, service and filing would occur at the same time. He also stated that filing dates are clear and known to the court. Mr. Slaugh moved that the committee accept the Rule 73 amendments as shown below and present proposed Rules 58A and Appellate Rule 4 to the court once the Appellate Rules Committee has had a chance to weigh in. Paul Stancil seconded. The motion passed.

Rule 73. Attorney fees.

(a) **Time in which to claim.** Attorney fees must be claimed by filing a motion for attorney fees no later than 14 days after the judgment is entered, except as provided in paragraph (f) of this rule, or in accordance with Utah Code § 75-3-718, and no objection to the fee has been made.

(b) **Content of motion.** The motion must:

(b)(1) specify ~~the judgment and~~ the statute, rule, contract, judgment, or other basis entitling the party to the award;

(b)(2) disclose, if the court orders, the terms of any agreement about fees for the services for which the claim is made;

(b)(3) specify factors showing the reasonableness of the fees, if applicable;

(b)(4) specify the amount of attorney fees claimed and any amount previously awarded; and

(b)(5) disclose if the attorney fees are for services rendered to an assignee or a debt collector, the terms of any agreement for sharing the fee and a statement that the attorney will not share the fee in violation of Rule of Professional Conduct 5.4.

(c) **Supporting affidavit.** The motion must be supported by an affidavit or declaration that reasonably describes the time spent and work performed, including for each item of work the name, position (such as

attorney, paralegal, administrative assistant, etc.) and hourly rate of the persons who performed the work, and establishes that the claimed fee is reasonable.

(d) **Liability for fees.** The court may decide issues of liability for fees before receiving submissions on the value of services. If the court has established liability for fees, the party claiming them may file an affidavit and a proposed order. The court will enter an order for the claimed amount unless another party objects within 7 days after the affidavit and proposed order are filed.

(e) **Fees claimed in complaint.** If a party claims attorney fees under paragraph (f), the complaint must state the basis for attorney fees, cite the law or attach a copy of the contract authorizing the award, and state that the attorney will not share the fee in violation of Rule of Professional Conduct 5.4.

(f) **Fees.** Attorney fees awarded under this rule may be augmented upon submission of a motion and supporting affidavit meeting the requirements of paragraphs (b) and (c) within a reasonable time after the fees were incurred, except as provided in paragraphs (f)(1), (f)(2) and (f)(3), and only where the augmented fees sought exceed those already awarded.

(f)(1) **Fees upon entry of uncontested judgment.** When a party seeks a judgment, the responding party does not contest entry of judgment by presenting at a hearing either evidence or argument, and the party seeking the judgment has complied with paragraph (e) of this rule, the request for judgment may include a request for attorney fees, and the clerk or the court shall allow any amount requested up to $350.00 for such attorney fees without a supporting affidavit.

(f)(2) **Fees upon entry of judgment after contested proceeding.** When a party seeks a judgment, the responding party contests the judgment by presenting at a hearing either evidence or argument, and the party seeking the judgment has established its right to attorney fees, the request for judgment may include a request for attorney fees, and the clerk or the court shall allow any amount requested up to $750 for such attorney fees without a supporting affidavit.

(f)(3) **Post Judgment Collections.** When a party has established its entitlement to attorney fees under any paragraph of this rule, and subsequently:

(f)(3)(A) applies for any writ pursuant to Rules 64, 64A, 64B, 64C, 64D, *or* 64E*; or*

(f)(3)*(B) files a motion pursuant to Rules 64(c)(2) or 58C or pursuant to Utah Code § 35A-4-314,*

the party may request as part of its application for a writ or its motion that the party's judgment be augmented according to the following schedule, and the clerk or the court shall allow such augmented attorney fees request without a supporting affidavit if it approves the writ or motion:

Action	Attorney Fees Allowed
Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee;	$75.00
Any subsequent application for a writ under Rule 64D to the same garnishee;	$25.00

Action	Attorney Fees Allowed
Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee;	$75.00
Any motion filed with the court under Rule 64(c)(2), Utah Code § 35A-4-314, or Rule 58C;	$75.00
Any subsequent motion under Rule 64(c)(2), Utah Code § 35A-4-314, or Rule 58C filed within 6 months of the previous motion.	$25.00

(f)(4) **Fees in excess of the schedule.** If a party seeks attorney fees in excess of the amounts set forth in paragraphs (f)(1), (f)(2), or (f)(3), the party shall comply with paragraphs (a) through (c) of this rule.

(f)(5) **Objections.** Nothing in this paragraph shall be deemed to eliminate any right a party may have to object to any claimed attorney fees.

Advisory Committee Notes

New 2019 Committee Note

Rule 73 has been amended in response to *McQuarrie v. McQuarrie*, 2017 UT App 209, and *Chaparro v. Torero*, 2018 UT App 181, to clarify that it applies to all motions for attorney fees, not just post-judgment motions.

(6) OTHER BUSINESS, COMMITTEE NOTES.

Ms. Sylvester introduced the subcommittee assignments for the committee notes and the subcommittees were asked to be ready with their recommendations by the first meeting of 2019. The committee will take 30 minutes each meeting to review the proposals until they are done.

(7) ADJOURNMENT

The remaining matters were deferred and the committee adjourned at 7:00 pm. The next meeting will be held on November 28, 2018 at 4:00 pm.

Tab 2

Christopher C. Hill (9583)
General Counsel
Utah Labor Commission
160 East 300 South, 3rd Floor
P.O. Box 146600
Salt Lake City, Utah 84114
(801) 530-6113
chill@utah.gov

IN THE UTAH SUPREME COURT

IN RE: **UTAH LABOR COMMISSION** Petitioner.	Withdrawal of Petition For A Rule To Award Attorney's Fees In Medical-Only Workers' Compensation Cases

The statutory workgroup created by Utah Code Ann. §34A-2-107.1 (the "Workgroup"), by and through the Utah Labor Commission ("Commission") and its General Counsel, hereby withdraws its Petition for a Rule to Award Attorney's Fees in Medical-Only Workers' Compensation Cases which was submitted to the Utah Supreme Court via email to Cathy Dupont, Appellate Court Administrator, on June 4, 2018.

DATED this 6th day of November, 2018.

Christopher C. Hill
Utah Labor Commission General Counsel

Tab 3

Administrative Office of the Courts

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

Richard H. Schwermer
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Civil Rules Committee
From: Nancy Sylvester
Date: September 21, 2018
Re: Civil Rule 24

A subcommittee consisting of representatives from the Appellate, Criminal, and Civil Procedures Committees studied how to better coordinate Civil Rule 24, Appellate Rule 25A, and Criminal Rule 12 and intervention when the constitutionality of a statute or ordinance is challenged.

This committee approved the subcommittee's proposed amendments at its June 2018 meeting but put the rule on hold until September pending incorporation of federal rule 24's language, which has been streamlined.

The draft rule with the federal amendments incorporated is attached to this memorandum. The primary language differences between the federal rule and Utah's rule is that the federal rule requires intervention by motion, versus application in Utah, and replaces "shall" with "must" throughout.

Jim Hunnicutt and I have two questions for the committee:

1) In paragraph 2, how much of this language about federal law and executive orders should stay; and
2) Rule 4(d)(1)(F) et seq. provides a variety of rules for serving different types of governmental entities when commencing a lawsuit against them. Rule 24 never went into that level of detail, but should it? Is it possible that a school board, for example, might issue a rule that is unconstitutional and that rule is then challenged in the district court?

Rule 24. Intervention. (Paragraphs (a)-(c) include the federal language incorporated.)

(a) Intervention of right. ~~Upon.~~ On timely ~~application~~ motion, the court must permit anyone ~~shall be permitted~~ to intervene ~~in an action:~~ who:

(1) ~~when a statute confers~~ is given an unconditional right to intervene by a statute; or

(2) ~~when the applicant~~ claims an interest relating to the property or transaction ~~which~~that is the subject of the action, and ~~the applicant~~ is so situated that ~~the disposition~~disposing of the action may as a practical matter impair or impede the ~~applicant's~~movant's ability to protect ~~that~~its interest, unless ~~the applicant's interest is adequately represented by~~ existing parties adequately represent that interest.

(b) Permissive intervention. ~~Upon~~.

(1) In General. On timely ~~application~~ motion, the court may permit anyone ~~may be permitted~~ to intervene ~~in an action: (1) when a statute confers~~who:

(A) is given a conditional right to intervene by a statute; or ~~(2) when an applicant's~~

(B) has a claim or defense ~~and~~that shares with the main action ~~have~~ a common question of law or fact ~~in common. When a party to an action bases~~.

(2) By a Government Officer or Agency. On timely motion, the court may permit a federal or state governmental officer or agency to intervene if a party's claim or defense ~~upon any~~is based on:

(A) a statute or executive order administered by ~~a governmental~~the officer or agency; or ~~upon~~

(B) any regulation, order, requirement, or agreement issued or made ~~pursuant to~~under the statute or executive order~~, the officer or agency upon timely application may be permitted to intervene in the action.~~.

(3) Delay or Prejudice. In exercising its discretion, the court ~~shall~~must consider whether the intervention will unduly delay or prejudice the adjudication of the ~~rights of the~~ original ~~parties~~parties' rights.

(c) ~~Procedure.~~ Notice and Pleading Required. A ~~person desiring~~motion to intervene ~~shall serve a motion to intervene upon~~ must be served on the parties as provided in ~~Rule 5~~Rule 5. The ~~motions shall~~motion must state the grounds ~~therefor~~ for intervention and ~~shall~~ be accompanied by a pleading ~~setting forth~~that sets out the claim or defense for which intervention is sought.

(d) Constitutionality of Utah statutes and ordinances. [This paragraph is not in FRCP024.)

(d)(1) If a party challenges the constitutionality of a Utah statute in an action in which the Attorney General has not appeared, the party raising the question of constitutionality ~~shall~~ must notify the Attorney General of such fact as described in paragraphs (d)(1)(A), (d)(1)(B), and (d)(1)(C). The court ~~shall~~ must permit the state to be heard upon timely ~~application~~motion.

(d)(1)(A) **Form and Content**. The notice must (i) be in writing, (ii) be titled "Notice of Constitutional Challenge Under URCP 24(d)," (iii) concisely describe the nature of the challenge, and (iv) include, as an attachment, the pleading, motion, or other paper challenging the constitutionality of the statute.

(d)(1)(B) **Timing**. The party must serve the notice on the Attorney General on or before the date the party files the paper challenging the constitutionality of the statute.

(d)(1)(C) **Service**. The party must serve the notice on the Attorney General by email or, if circumstances prevent service by email, by mail at the addresses below, and file proof of service with the court.

Email: notices@agutah.gov

Mail:

Office of the Utah Attorney General

Attn: Utah Solicitor General

350 North State Street, Suite 230

P.O. Box 142320

Salt Lake City, Utah 84114-2320

(d)(2) If a party challenges the constitutionality of a county or municipal ordinance in an action in which the district attorney, county attorney, or municipal attorney has not appeared, the party raising the question of constitutionality ~~shall~~ must notify the district attorney, county attorney, or municipal attorney of such fact. The procedures will be as provided in paragraphs (d)(1)(A), (d)(1)(B), and (d)(1)(C) except that service must be on the individual county or municipality. The court ~~shall~~ must permit the county or municipality to be heard upon timely ~~application~~motion.

(d)(3) Failure of a party to provide notice as required by this rule is not a waiver of any constitutional challenge otherwise timely asserted. If a party does not serve a notice as required under paragraphs (d)(1) or (d)(2), the court may postpone the hearing until the party serves the notice. It is the party's responsibility to find and use the correct email address for the relevant district attorney and county attorney or municipal attorney, or if circumstances prevent service by email, it is the party's responsibility to find and use the correct mailing address.

Tab 4

Administrative Office of the Courts

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

Richard H. Schwermer
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Civil Rules Committee
From: Nancy Sylvester
Date: September 19, 2018
Re: Rules 4 and Acceptance of Service

The following is provided by Justin Toth, chairman of the Rule 4 subcommittee. The members comprising the subcommittee include Judge Laura Scott, Lauren DiFrancesco, and Susan Vogel.

> The subcommittee was asked to look at possible revisions to Utah Rule of Civil Procedure 4, including subsection (d)(1) (Personal service) and subsection (d)(3) (Acceptance of service). We have also sought input from certain process servers identified by Nancy Sylvester, although we have not heard back from them yet. The questions initially considered by the subcommittee included (1) whether electronic service should be treated as "personal service" under URCP 4(d)(1) and (2) whether and what types of electronic service would be permissible under URCP 4(d)(3).
>
> To begin, the subcommittee concluded that electronic service, by text, email or other social media, should not be recommended as an amendment to URCP 4(d)(1). After discussion and input from the members, the subcommittee concluded that electronic service of process should not be permitted as "personal service" because of the unreliability of establishing e-mail addresses, cell phone numbers, and social media accounts as points of delivery for process. The subcommittee observed that each of these electronic mediums are often cancelled (either voluntarily or involuntarily), changed or not regularly used to make them appropriate to assume that delivery to the electronic medium is actually delivery to the individual identified in the summons under URCP 4(c). The subcommittee believes that, if a putative defendant is avoiding service, or otherwise cannot be located, the preferred procedure for obtaining service through electronic mediums is to file a "motion for alternative service" with the court and obtain judicial approval for such

service on a case-by-case basis. To generally allow "electronic service" as personal service is subject to abuse by parties and process servers alike. It is also more like to have a disparate negative impact on low-income or ESL populations. The subcommittee wanted to bring this recommendation in front of the entire Advisory Committee for comment.

With regard to "acceptance of service," the subcommittee concluded that it is appropriate for a person to accept service by any electronic medium under URCP 4(d)(3). That acceptance, however, should reflect a knowing receipt of process and should provide information sufficient to establish proof of service under URCP 4(e). The subcommittee had concerns that communications from process servers and others not assume any imprimatur of the Utah courts or other governmental agency. We believe that is best addressed in the Advisory Committee notes, rather than amendment to URCP 4(d)(3) itself, but wanted more input from the entire Advisory Committee. Judge Scott observed that some other members of the judiciary may have differing views on this issue also and we should seek broader input before moving ahead.

Rule 4. Process.

(a) Signing of summons. The summons must be signed and issued by the plaintiff or the plaintiff's attorney. Separate summonses may be signed and issued.

(b) Time of service. Unless the summons and complaint are accepted, a copy of the summons and complaint in an action commenced under Rule 3(a)(1) must be served no later than 120 days after the complaint is filed, unless the court orders a different period under Rule 6. If the summons and complaint are not timely served, the action against the unserved defendant may be dismissed without prejudice on motion of any party or on the court's own initiative.

(c) Contents of summons.

(c)(1) The summons must:

(c)(1)(A) contain the name and address of the court, the names of the parties to the action, and the county in which it is brought;

(c)(1)(B) be directed to the defendant;

(c)(1)(C) state the name, address and telephone number of the plaintiff's attorney, if any, and otherwise the plaintiff's address and telephone number;

(c)(1)(D) state the time within which the defendant is required to answer the complaint in writing;

(c)(1)(E) notify the defendant that in case of failure to answer in writing, judgment by default will be entered against the defendant; and

(c)(1)(F) state either that the complaint is on file with the court or that the complaint will be filed with the court within 10 days after service.

(c)(2) If the action is commenced under Rule 3(a)(2), the summons must also:

(c)(2)(A) state that the defendant need not answer if the complaint is not filed within 10 days after service; and

(c)(2)(B) state the telephone number of the clerk of the court where the defendant may call at least 14 days after service to determine if the complaint has been filed.

(c)(3) If service is by publication, the summons must also briefly state the subject matter and the sum of money or other relief demanded, and that the complaint is on file with the court.

(d) Methods of service. The summons and complaint may be served in any state or judicial district of the United States. Unless service is accepted, service of the summons and complaint must be by one of the following methods:

(d)(1) Personal service. The summons and complaint may be served by any person 18 years of age or older at the time of service and not a party to the action or a party's attorney. If the person to be served refuses to accept a copy of the summons and complaint, service is sufficient if the person serving them states the name of the process and offers to deliver them. Personal service must be made as follows:

(d)(1)(A) Upon any individual other than one covered by paragraphs (d)(1)(B), (d)(1)(C) or (d)(1)(D), by delivering a copy of the summons and complaint to the individual personally, or by leaving them at the individual's dwelling house or usual place of abode with a person of suitable age and discretion who resides there, or by delivering them to an agent authorized by appointment or by law to receive process;

(d)(1)(B) Upon a minor under 14 years old by delivering a copy of the summons and complaint to the minor and also to the minor’s father, mother, or guardian or, if none can be found within the state, then to any person having the care and control of the minor, or with whom the minor resides, or by whom the minor is employed;

(d)(1)(C) Upon an individual judicially declared to be incapacitated, of unsound mind, or incapable of conducting the individual’s own affairs, by delivering a copy of the summons and complaint to the individual and to the guardian or conservator of the individual if one has been appointed; the individual’s legal representative if one has been appointed, and, in the absence of a guardian, conservator, or legal representative, to the person, if any, who has care, custody, or control of the individual;

(d)(1)(D) Upon an individual incarcerated or committed at a facility operated by the state or any of its political subdivisions, by delivering a copy of the summons and complaint to the person who has the care, custody, or control of the individual, or to that person's designee or to the guardian or conservator of the individual if one has been appointed. The person to whom the summons and complaint are delivered must promptly deliver them to the individual;

(d)(1)(E) Upon a corporation not otherwise provided for in this rule, a limited liability company, a partnership, or an unincorporated association subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, a managing or general agent, or other agent authorized by appointment or law to receive process and by also mailing a copy of the summons and complaint to the defendant, if the agent is one authorized by statute to receive process and the statute so requires. If no officer or agent can be found within the state, and the defendant has, or advertises or holds itself out as having, a place of business within the state or elsewhere, or does business within this state or elsewhere, then upon the person in charge of the place of business;

(d)(1)(F) Upon an incorporated city or town, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the recorder;

(d)(1)(G) Upon a county, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the county clerk;

(d)(1)(H) Upon a school district or board of education, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the superintendent or administrator of the board;

(d)(1)(I) Upon an irrigation or drainage district, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the president or secretary of its board;

(d)(1)(J) Upon the state of Utah or its department or agency by delivering a copy of the summons and complaint to the attorney general and any other person or agency required by statute to be served; and

(d)(1)(K) Upon a public board, commission or body by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to any member of its governing board, or to its executive employee or secretary.

(d)(2) Service by mail or commercial courier service.

(d)(2)(A) The summons and complaint may be served upon an individual other than one covered by paragraphs (d)(1)(B) or (d)(1)(C) by mail or commercial courier service in any state or judicial district of the United States provided the defendant signs a document indicating receipt.

(d)(2)(B) The summons and complaint may be served upon an entity covered by paragraphs (d)(1)(E) through (d)(1)(I) by mail or commercial courier service in any state or judicial district of the United States provided defendant's agent authorized by appointment or by law to receive service of process signs a document indicating receipt.

(d)(2)(C) Service by mail or commercial courier service shall be complete on the date the receipt is signed as provided by this rule.

(d)(3) Acceptance of service.

(d)(3)(A) Duty to avoid expenses. All parties have a duty to avoid unnecessary expenses of serving the summons and complaint.

(d)(3)(B) Acceptance of service by party. Unless the person to be served is a minor under 14 years old or an individual judicially declared to be incapacitated, of unsound mind, or incapable of conducting the individual's own affairs, a party may accept service of a summons and complaint by signing a document that acknowledges receipt of the summons and complaint.

(d)(3)(C) Acceptance of service by attorney for party. An attorney may accept service of a summons and complaint on behalf of the attorney's client by signing a document that acknowledges receipt of the summons and complaint.

(d)(3)(D) Effect of acceptance, proof of acceptance. A person who accepts service of the summons and complaint retains all defenses and objections, except for adequacy of service. Service is effective on the date of the acceptance. Filing the acceptance of service with the court constitutes proof of service under Rule 4(e).

(d)(4) Service in a foreign country. Service in a foreign country must be made as follows:

(d)(4)(A) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(d)(4)(B) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(d)(4)(B)(i) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction;

(d)(4)(B)(ii) as directed by the foreign authority in response to a letter of request issued by the court; or

(d)(4)(B)(iii) unless prohibited by the law of the foreign country, by delivering a copy of the summons and complaint to the individual personally or by any form of mail requiring a signed receipt, addressed and dispatched by the clerk of the court to the party to be served; or

(d)(4)(C) by other means not prohibited by international agreement as may be directed by the court.

(d)(5) Other service.

(d)(5)(A) If the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence, if service upon all of the individual parties is impracticable under the circumstances, or if there is good cause to believe that the person to be served is avoiding service, the party seeking service may file a motion to allow service by some other means. An affidavit or declaration supporting the motion must set forth the efforts made to identify, locate, and serve the party, or the circumstances that make it impracticable to serve all of the individual parties.

(d)(5)(B) If the motion is granted, the court will order service of the complaint and summons by means reasonably calculated, under all the circumstances, to apprise the named parties of the action. The court's order must specify the content of the process to be served and the event upon which service is complete. Unless service is by publication, a copy of the court's order must be served with the process specified by the court.

(d)(5)(C) If the summons is required to be published, the court, upon the request of the party applying for service by other means, must designate a newspaper of general circulation in the county in which publication is required.

(e) Proof of service.

(e)(1)The person effecting service must file proof of service stating the date, place, and manner of service, including a copy of the summons. If service is made by a person other than by an attorney, sheriff, constable, United States Marshal, or by the sheriff’s, constable’s or marshal's deputy, the proof of service must be by affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act.

(e)(2) Proof of service in a foreign country must be made as prescribed in these rules for service within this state, or by the law of the foreign country, or by order of the court.

(e)(3) When service is made pursuant to paragraph(d)(4)(C), proof of service must include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court.

(e)(4) Failure to file proof of service does not affect the validity of the service. The court may allow proof of service to be amended.

Advisory Committee Notes

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

Tab 5

KIRTON | McCONKIE

Rod N. Andreason
randreason@kmclaw.com
801.321.4853

MEMORANDUM

TO: Nancy Sylvester

FROM: Rod Andreason, Chair, URCP 26 Subcommittee

DATE: October 19, 2018

SUBJECT: URCP 26 Subcommittee Report and Proposed Changes

On June 27, 2018, at the regular monthly meeting of the Utah Supreme Court Advisory Committee on the Utah Rules of Civil Procedure, Chairman Jon Hafen formed a subcommittee consisting of Committee members Rod Andreason (chair), Leslie Slaugh, Trystan Smith, and Tim Pack to discuss and draft proposed changes to URCP 26. After soliciting input regarding potential problems with the Rule and meeting twice to discuss them, the subcommittee has decided to propose the following changes to the Rule, for the following reasons:

1. Add at the end of (a)(1), insert: "Rule 34 governs the form of producing all documents, data compilations, electronically stored information, tangible things, and evidentiary material pursuant to this Rule."

   Reason: Ensure compliance with URCP 34 in initial disclosure document production.

2. Revise (a)(2)(A) to: "by a plaintiff within 14 days after filing of the first answer to that plaintiff's complaint; and"

   Reason: There may be multiple plaintiffs, some of which may join the case at a later date.

3. Revise (a)(2)(B) to: "by a defendant within 42 days after filing of that defendant's first answer to the complaint."

   Reason: There may be multiple defendants; some of them may seek to file a motion to dismiss or similar motion after appearance that is not an answer, and such should not have to provide initial disclosures before such motion is resolved.

4. Revise (a)(4)(A) title to: "Disclosure of retained expert testimony."

   Reason: Clarity; this paragraph only pertains to this type of expert witness.

5. Revise (a)(4)(C)(i) to: "The party who bears the burden of proof on the issue for which expert testimony is offered shall serve on the other parties the information required by

paragraph (a)(4)(A) within 14 days after the close of fact discovery. Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted."

Reason: Practitioners reportedly need more time for these actions.

6. Revise (a)(4)(C)(ii) to "The party who does not bear the burden of proof on the issue for which expert testimony is offered shall serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the later of (A) the date on which the disclosure under paragraph (a)(4)(C)(i) is due, or (B) receipt of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(i). Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted."

   Reason: Practitioners reportedly need more time for these actions. Also, when the party bearing the burden fails to disclose an expert, the party who does not bear the burden currently has no triggering event for providing its expert disclosure.

7. Revise (a)(4)(C)(iii) to "(a)(4)(C)(iii) If the party who bears the burden of proof on an issue wants to designate rebuttal expert witnesses, it shall serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the later of (A) the date on which the election under paragraph (a)(4)(C)(ii) is due or (B) receipt of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(ii). Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted."

   Reason: Practitioners reportedly need more time for these actions.

8. Revise (a)(4)(E) to: "If a party intends to present evidence at trial under Rule 702 of the Utah Rules of Evidence from any person other than an expert witness who is retained or specially employed to provide testimony in the case or a person whose duties as an employee of the party regularly involve giving expert testimony, that party must serve on the other parties a written summary of the facts and opinions to which the witness is expected to testify in accordance with the deadlines set forth in paragraph (a)(4)(C). Such a witness cannot be required to provide a report pursuant to (a)(4)(B). A deposition of such a witness may not exceed four hours. No further discovery of such a witness is permitted."

   Reason: Prohibit excessive discovery and expense in seeking testimony information from non-retained experts.

9. Revise (a)(5)(B) to "Disclosure required by paragraph (a)(5)(A) shall be served on the other parties at least 28 days before trial. Disclosures required by paragraph (a)(5)(A)(i) and (a)(5)(A)(ii) shall also be filed. At least 14 days before trial, a party shall serve and file any counter designations of deposition testimony and any objections and grounds for the objections to the use of any deposition, witness, or exhibit. Other than objections under Rules 402 and 403 of the Utah Rules of Evidence, objections not listed are waived unless excused by the court for good cause."

   Reasons: Judges reportedly want to see these items, although not all of the proposed trial exhibits (we would like judges' input and confirmation on this). Also, this section needs parallel reference to objections to witnesses as well as other disclosures. Although many objections to witnesses, as well as exhibits, must be considered within the scope of their offering at trial, this funnels down the scope of such potential objections. (If this is too demanding as to witnesses, it is likely too demanding for exhibits as well, requiring both to be removed).

10. Revise (c)(6)(A) to: "before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, a stipulated statement that extraordinary discovery is necessary and proportional under paragraph (b)(2) and, for each party represented by an attorney, a statement that the attorney consulted with the client about the request for extraordinary discovery."

Reason: The current requirement has been universally ignored and may be too onerous and expensive relative to its desired goal: ensuring that parties know that extraordinary discovery will result in additional expense.

11. Revise (d)(3) to “A party is not excused from making disclosures or responses because the party has not completed investigating the case, the party challenges the sufficiency of another party's disclosures or responses, or another party has not made disclosures or responses.

    Reason: Language.

A redline of Rule 26 with these proposed changes is attached.

Rule 26. General provisions governing disclosure and discovery.

(a) Disclosure. This rule applies unless changed or supplemented by a rule governing disclosure and discovery in a practice area.

(a)(1) Initial disclosures. Except in cases exempt under paragraph (a)(3), a party shall, without waiting for a discovery request, serve on the other parties:

(a)(1)(A) the name and, if known, the address and telephone number of:

(a)(1)(A)(i) each individual likely to have discoverable information supporting its claims or defenses, unless solely for impeachment, identifying the subjects of the information; and

(a)(1)(A)(ii) each fact witness the party may call in its case-in-chief and, except for an adverse party, a summary of the expected testimony;

(a)(1)(B) a copy of all documents, data compilations, electronically stored information, and tangible things in the possession or control of the party that the party may offer in its case-in-chief, except charts, summaries, and demonstrative exhibits that have not yet been prepared and must be disclosed in accordance with paragraph (a)(5);

(a)(1)(C) a computation of any damages claimed and a copy of all discoverable documents or evidentiary material on which such computation is based, including materials about the nature and extent of injuries suffered;

(a)(1)(D) a copy of any agreement under which any person may be liable to satisfy part or all of a judgment or to indemnify or reimburse for payments made to satisfy the judgment; and

(a)(1)(E) a copy of all documents to which a party refers in its pleadings.

Rule 34 governs the form of producing all documents, data compilations, electronically stored information, tangible things, and evidentiary material pursuant to this Rule.

Comment [RNA1]: Reason: ensure compliance with URCP 34 in initial disclosure document production.

(a)(2) Timing of initial disclosures. The disclosures required by paragraph (a)(1) shall be served on the other parties:

(a)(2)(A) by ~~the~~ a plaintiff within 14 days after filing of the first answer to ~~the~~ that plaintiff's complaint; and

Comment [RNA2]: Reason: There may be multiple plaintiffs, some of who may join the case at a later date.

(a)(2)(B) by ~~the~~ a defendant within 42 days after filing of ~~the~~ that defendant's first answer to the complaint ~~or within 28 days after that defendant's appearance, whichever is later~~.

Comment [RNA3]: Reason: There may be multiple defendants; some of them may seek to file a motion to dismiss or similar motion after appearance that is not an answer, and such should not have to provide initial disclosures before such motion is resolved.

(a)(3) Exemptions.

(a)(3)(A) Unless otherwise ordered by the court or agreed to by the parties, the requirements of paragraph (a)(1) do not apply to actions:

(a)(3)(A)(i) for judicial review of adjudicative proceedings or rule making proceedings of an administrative agency;

(a)(3)(A)(ii) governed by Rule 65B or Rule 65C;

(a)(3)(A)(iii) to enforce an arbitration award;

(a)(3)(A)(iv) for water rights general adjudication under Title 73, Chapter 4, Determination of Water Rights.

(a)(3)(B) In an exempt action, the matters subject to disclosure under paragraph (a)(1) are subject to discovery under paragraph (b).

(a)(4) Expert testimony.

(a)(4)(A) Disclosure of retained expert testimony. A party shall, without waiting for a discovery request, serve on the other parties the following information regarding any person who

Comment [RNA4]: Reason: Clarity; this paragraph only pertains to this type of expert witness.

may be used at trial to present evidence under Rule 702 of the Utah Rules of Evidence and who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony: (i) the expert's name and qualifications, including a list of all publications authored within the preceding 10 years, and a list of any other cases in which the expert has testified as an expert at trial or by deposition within the preceding four years, (ii) a brief summary of the opinions to which the witness is expected to testify, (iii) all data and other information that will be relied upon by the witness in forming those opinions, and (iv) the compensation to be paid for the witness's study and testimony.

(a)(4)(B) Limits on expert discovery. Further discovery may be obtained from an expert witness either by deposition or by written report. A deposition shall not exceed four hours and the party taking the deposition shall pay the expert's reasonable hourly fees for attendance at the deposition. A report shall be signed by the expert and shall contain a complete statement of all opinions the expert will offer at trial and the basis and reasons for them. Such an expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the report. The party offering the expert shall pay the costs for the report.

(a)(4)(C) Timing for expert discovery.

(a)(4)(C)(i) The party who bears the burden of proof on the issue for which expert testimony is offered shall serve on the other parties the information required by paragraph (a)(4)(A) within ~~seven~~ 14 days after the close of fact discovery. Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within ~~28~~ 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted.

(a)(4)(C)(ii) The party who does not bear the burden of proof on the issue for which expert testimony is offered shall serve on the other parties the information required by paragraph (a)(4)(A) within 14 ~~seven~~ days after the later of (A) the date on which the ~~election~~ disclosure under paragraph (a)(4)(C)(i) is due, or (B) receipt of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(i). Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within ~~28~~ 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted.

(a)(4)(C)(iii) If the party who bears the burden of proof on an issue wants to designate rebuttal expert witnesses, it shall serve on the other parties the information required by paragraph (a)(4)(A) within 14 ~~seven~~ days after the later of (A) the date on which the election under paragraph (a)(4)(C)(ii) is due~~,~~ or (B) receipt of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(ii). Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within ~~28~~ 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted.

(a)(4)(D) Multiparty actions. In multiparty actions, all parties opposing the expert must agree on either a report or a deposition. If all parties opposing the expert do not agree, then further discovery of the expert may be obtained only by deposition pursuant to paragraph (a)(4)(B) and Rule 30.

(a)(4)(E) Summary of non-retained expert testimony. If a party intends to present evidence at trial under Rule 702 of the Utah Rules of Evidence from any person other than an

Comment [RNA5]: Reason: Practitioners reportedly need more time.

Comment [RNA6]: Reason: Practitioners reportedly need more time.

Comment [RNA7]: Reason: Practitioners reportedly need more time.

Comment [RNA8]: Reason: When the party bearing the burden fails to disclose an expert, the party who does not bear the burden currently has no triggering event for providing its expert disclosure.

Comment [RNA9]: Reason: Practitioners reportedly need more time.

Comment [RNA10]: Reason: Practitioners reportedly need more time.

Comment [RNA11]: Reason: Practitioners reportedly need more time.

expert witness who is retained or specially employed to provide testimony in the case or a person whose duties as an employee of the party regularly involve giving expert testimony, that party must serve on the other parties a written summary of the facts and opinions to which the witness is expected to testify in accordance with the deadlines set forth in paragraph (a)(4)(C). Such a witness cannot be required to provide a report pursuant to (a)(4)(B). A deposition of such a witness may not exceed four hours. No further discovery of such a witness is permitted.

(a)(5) Pretrial disclosures.

(a)(5)(A) A party shall, without waiting for a discovery request, serve on the other parties:

(a)(5)(A)(i) the name and, if not previously provided, the address and telephone number of each witness, unless solely for impeachment, separately identifying witnesses the party will call and witnesses the party may call;

(a)(5)(A)(ii) the name of witnesses whose testimony is expected to be presented by transcript of a deposition and a copy of the transcript with the proposed testimony designated; and

(a)(5)(A)(iii) a copy of each exhibit, including charts, summaries, and demonstrative exhibits, unless solely for impeachment, separately identifying those which the party will offer and those which the party may offer.

(a)(5)(B) Disclosure required by paragraph (a)(5)(A) shall be served on the other parties at least 28 days before trial. Disclosures required by paragraph (a)(5)(A)(i) and (a)(5)(A)(ii) shall also be filed. At least 14 days before trial, a party shall serve and file any counter designations of deposition testimony~~,~~ and any objections and grounds for the objections to the use of any deposition, witness, ~~and~~ or ~~to the admissibility of~~ exhibits~~.~~. Other than objections under Rules 402 and 403 of the Utah Rules of Evidence, objections not listed are waived unless excused by the court for good cause.

(b) Discovery scope.

(b)(1) In general. Parties may discover any matter, not privileged, which is relevant to the claim or defense of any party if the discovery satisfies the standards of proportionality set forth below. Privileged matters that are not discoverable or admissible in any proceeding of any kind or character include all information in any form provided during and created specifically as part of a request for an investigation, the investigation, findings, or conclusions of peer review, care review, or quality assurance processes of any organization of health care providers as defined in the Utah Health Care Malpractice Act for the purpose of evaluating care provided to reduce morbidity and mortality or to improve the quality of medical care, or for the purpose of peer review of the ethics, competence, or professional conduct of any health care provider.

(b)(2) Proportionality. Discovery and discovery requests are proportional if:

(b)(2)(A) the discovery is reasonable, considering the needs of the case, the amount in controversy, the complexity of the case, the parties' resources, the importance of the issues, and the importance of the discovery in resolving the issues;

(b)(2)(B) the likely benefits of the proposed discovery outweigh the burden or expense;

(b)(2)(C) the discovery is consistent with the overall case management and will further the just, speedy, and inexpensive determination of the case;

(b)(2)(D) the discovery is not unreasonably cumulative or duplicative;

(b)(2)(E) the information cannot be obtained from another source that is more convenient, less burdensome, or less expensive; and

Comment [RNA12]: Reason: Judges reportedly want to see these items, although not all of the proposed trial exhibits (need judges' input/confirmation).

Comment [RNA13]: Reason: Need parallel reference to objections to witnesses as well as other disclosures. Although many objections to witnesses, as well as exhibits, must be considered within the scope of their offering at trial, this funnels down the scope of such potential objections. (If this is too demanding as to witnesses, it is likely too demanding for exhibits as well, requiring both to be removed).

(b)(2)(F) the party seeking discovery has not had sufficient opportunity to obtain the information by discovery or otherwise, taking into account the parties' relative access to the information.

(b)(3) Burden. The party seeking discovery always has the burden of showing proportionality and relevance. To ensure proportionality, the court may enter orders under Rule 37.

(b)(4) Electronically stored information. A party claiming that electronically stored information is not reasonably accessible because of undue burden or cost shall describe the source of the electronically stored information, the nature and extent of the burden, the nature of the information not provided, and any other information that will enable other parties to evaluate the claim.

(b)(5) Trial preparation materials. A party may obtain otherwise discoverable documents and tangible things prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials and that the party is unable without undue hardship to obtain substantially equivalent materials by other means. In ordering discovery of such materials, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party.

(b)(6) Statement previously made about the action. A party may obtain without the showing required in paragraph (b)(5) a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement about the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order under Rule 37. A statement previously made is (A) a written statement signed or approved by the person making it, or (B) a stenographic, mechanical, electronic, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(b)(7) Trial preparation; experts.

(b)(7)(A) Trial-preparation protection for draft reports or disclosures. Paragraph (b)(5) protects drafts of any report or disclosure required under paragraph (a)(4), regardless of the form in which the draft is recorded.

(b)(7)(B) Trial-preparation protection for communications between a party's attorney and expert witnesses. Paragraph (b)(5) protects communications between the party's attorney and any witness required to provide disclosures under paragraph (a)(4), regardless of the form of the communications, except to the extent that the communications:

(b)(7)(B)(i) relate to compensation for the expert's study or testimony;

(b)(7)(B)(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(b)(7)(B)(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(b)(7)(C) Expert employed only for trial preparation. Ordinarily, a party may not, by interrogatories or otherwise, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. A party may do so only:

(b)(7)(C)(i) as provided in Rule 35(b); or

(b)(7)(C)(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(b)(8) Claims of privilege or protection of trial preparation materials.

(b)(8)(A) Information withheld. If a party withholds discoverable information by claiming that it is privileged or prepared in anticipation of litigation or for trial, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced in a manner that, without revealing the information itself, will enable other parties to evaluate the claim.

(b)(8)(B) Information produced. If a party produces information that the party claims is privileged or prepared in anticipation of litigation or for trial, the producing party may notify any receiving party of the claim and the basis for it. After being notified, a receiving party must promptly return, sequester, or destroy the specified information and any copies it has 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 it. The producing party must preserve the information until the claim is resolved.

(c) Methods, sequence, and timing of discovery; tiers; limits on standard discovery; extraordinary discovery.

(c)(1) Methods of discovery. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; requests for admission; and subpoenas other than for a court hearing or trial.

(c)(2) Sequence and timing of discovery. Methods of discovery may be used in any sequence, and the fact that a party is conducting discovery shall not delay any other party's discovery. Except for cases exempt under paragraph (a)(3), a party may not seek discovery from any source before that party's initial disclosure obligations are satisfied.

(c)(3) Definition of tiers for standard discovery. Actions claiming $50,000 or less in damages are permitted standard discovery as described for Tier 1. Actions claiming more than $50,000 and less than $300,000 in damages are permitted standard discovery as described for Tier 2. Actions claiming $300,000 or more in damages are permitted standard discovery as described for Tier 3. Absent an accompanying damage claim for more than $300,000, actions claiming non-monetary relief are permitted standard discovery as described for Tier 2.

(c)(4) Definition of damages. For purposes of determining standard discovery, the amount of damages includes the total of all monetary damages sought (without duplication for alternative theories) by all parties in all claims for relief in the original pleadings.

(c)(5) Limits on standard fact discovery. Standard fact discovery per side (plaintiffs collectively, defendants collectively, and third-party defendants collectively) in each tier is as follows. The days to complete standard fact discovery are calculated from the date the first defendant's first disclosure is due and do not include expert discovery under paragraphs (a)(4)(C) and (D).

Tier	Amount of Damages	Total Fact Deposition Hours	Rule 33 Interrogatories including all discrete subparts	Rule 34 Requests for Production	Rule 36 Requests for Admission	Days to Complete Standard Fact Discovery
1	$50,000 or less	3	0	5	5	120

2	More than $50,000 and less than $300,000 or non-monetary relief	15	10	10	10	180
3	$300,00 or more	30	20	20	20	210

(c)(6) Extraordinary discovery. To obtain discovery beyond the limits established in paragraph (c)(5), a party shall file:

(c)(6)(A) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, a stipulated statement that extraordinary discovery is necessary and proportional under paragraph (b)(2) and, for each party represented by an attorney, a statement that the attorney ~~that each party has reviewed and approved a discovery budget~~consulted with the client about the request for extraordinary discovery; or

(c)(6)(B) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, a request for extraordinary discovery under Rule 37(a).

Comment [RNA14]: Reason: The current requirement has been universally ignored and may be too onerous and expensive relative to its desired goal: ensuring that parties know that extraordinary discovery will result in additional expense.

(d) Requirements for disclosure or response; disclosure or response by an organization; failure to disclose; initial and supplemental disclosures and responses.

(d)(1) A party shall make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(d)(2) If the party providing disclosure or responding to discovery is a corporation, partnership, association, or governmental agency, the party shall act through one or more officers, directors, managing agents, or other persons, who shall make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(d)(3) A party is not excused from making disclosures or responses because the party has not completed investigating the case, ~~or because~~ the party challenges the sufficiency of another party's disclosures or responses, or ~~because~~ another party has not made disclosures or responses.

(d)(4) If a party fails to disclose or to supplement timely a disclosure or response to discovery, that party may not use the undisclosed witness, document, or material at any hearing or trial unless the failure is harmless or the party shows good cause for the failure.

(d)(5) If a party learns that a disclosure or response is incomplete or incorrect in some important way, the party must timely serve on the other parties the additional or correct information if it has not been made known to the other parties. The supplemental disclosure or response must state why the additional or correct information was not previously provided.

(e) Signing discovery requests, responses, and objections. Every disclosure, request for discovery, response to a request for discovery, and objection to a request for discovery shall be in writing and signed by at least one attorney of record or by the party if the party is not represented. The signature of the attorney or party is a certification under Rule 11. If a request or response is not signed, the receiving party does not need to take any action with respect to it. If a certification is made in violation of the rule, the court, upon motion or upon its own initiative, may take any action authorized by Rule 11 or Rule 37(b).

(f) Filing. Except as required by these rules or ordered by the court, a party shall not file with the court a disclosure, a request for discovery, or a response to a request for discovery, but shall file only the

certificate of service stating that the disclosure, request for discovery, or response has been served on the other parties and the date of service.

Advisory Committee Notes

Legislative Note

4832-1426-2649

Tab 6

Administrative Office of the Courts

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

Richard H. Schwermer
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Civil Rules Committee
From: Nancy Sylvester
Date: October 23, 2018
Re: New Rule 7A. Motion for order to show cause.

The Forms Committee proposed a change to the procedure for enforcing court orders by doing everything through regular motion practice. A subcommittee consisting of Lauren DiFrancesco (chair), Jim Hunnicutt, Judge Holmberg, and Susan Vogel met to discuss the Forms Committee's proposal along with a 2016 new Rule 7A proposal and the 5th District's own CJA Rule 10-1-501. The subcommittee proposes its own new Rule 7A, which merges the 5th District Rule with the 2016 version of Rule 7A.

Rule 7A. Motion for order to show cause.

(a) Motion. To obtain an order to show cause for violation of an order or judgment, a party must file a motion for an order to show cause following the procedures of this rule.

(b) Affidavit or declaration. The motion must be accompanied by at least one supporting affidavit or declaration under Utah Code Section 78B-18a-101, *et seq.*, based on personal knowledge and showing that the affiant or declarant is competent to testify on the matters set forth. At least one affidavit or declaration must state the title and date of entry of the order or judgment that the moving party seeks to enforce. Collectively, the affidavits or declarations must set forth facts that would be admissible in evidence and that would support a finding that the party has violated the order or judgment.

(c) Order to show cause. The motion must be accompanied by a proposed order to show cause, which must:

(c)(1) state the title and date of entry of the order or judgment that the moving party seeks to enforce;

(c)(2) state the relief sought by the moving party;

(c)(3) state whether the moving party has requested that the nonmoving party be held in contempt and, if that request has been made, state that the penalties for contempt may include, but are not limited to, a fine of up to $1000 and confinement in jail for up to 30 days.

(c)(4) order the nonmoving party to appear personally or through counsel at a specific date, time and place to explain whether the nonmoving party has violated the order or judgment;

(c)(5) state that no written response is required;

(c)(6) state that the hearing is not an evidentiary hearing, but is for the purpose of determining:

(c)(6)(A) whether the nonmoving party denies the claims made by the moving party;

(c)(6)(B) whether an evidentiary hearing is needed;

(c)(6)(C) the issues on which evidence needs to be submitted; and

(c)(6)(D) the estimated length of an evidentiary hearing.

(d) Service of the order. If the court grants the motion and issues an order to show cause, the moving party must have the order, the motion, and all supporting affidavits and declarations personally served on the nonmoving party in a manner provided in Rule 4 at least 7 days before the hearing. For good cause the court may order that service be made on the nonmoving party's counsel of record in a manner provided in Rule 5. The court may order less than 7 days' notice of the hearing if:

(d)(1) the motion requests an earlier date; and

(d)(2) it clearly appears from specific facts shown by affidavit or declaration that immediate and irreparable injury, loss, or damage will result to the moving party if the hearing is not held sooner.

(e) First hearing.

(e)(1) At the hearing, the court will determine:

(e)(1)(A)whether the nonmoving party denies the claims made by the moving party;

(e)(1)(B) whether an evidentiary hearing is needed;

(e)(1)(C) the issues on which evidence needs to be submitted; and

(e)(1)(D) the estimated length of an evidentiary hearing.

(e)(2) The court may enter an order regarding any claim that the nonmoving party does not deny. The court may order the parties to file memoranda before the evidentiary hearing. Memoranda must follow the requirements of Rule 7, or Rule 101 if the hearing will be before a commissioner.

(f) Evidentiary hearing. The moving party bears the burden of proof on all claims made in the motion.

(g) Limitations. A motion for an order to show cause may not be used to obtain any order other than an order to show cause. This rule does not apply to an order to show cause issued by the court on its own initiative. A motion for an order to show cause presented to a court commissioner must also follow Rule 101, including all time limits set forth in Rule 101.

Advisory Committee Notes

Rule 7A only applies in civil actions; orders to show cause in criminal cases are governed by statute.

Tab 7

Advisory Committe Notes Project

Civil Rules	Committee Note?	Subcommittee
Part I Scope of Rules - One Form of Action		**A**
Rule 1 General provisions.	Yes	
Rule 1 General provisions. (superseded 11/1/2011)	n/a	
Rule 2 One form of action.	No	
Part II Commencement of Action; Service of Process, Pleadings, Motions and Orders		**A**
Rule 3 Commencement of action.	Yes	
Rule 4 Process.	Yes	
Rule 5 Service and filing of pleadings and other papers.	Yes	
Rule 6 Time.	No	
Part III Pleadings, Motions, and Orders		**B**
Rule 7 Pleadings allowed; motions, memoranda, hearings, orders.	Yes	
Rule 8 General rules of pleadings.	Yes	
Rule 8 General rules of pleadings. (superseded 11/1/2011)	n/a	
Rule 9 Pleading special matters.	Yes	
Rule 9 Pleading special matters. (superseded 11/1/2011)	n/a	
Rule 10 Form of pleadings and other papers.	Yes	
Rule 11 Signing of pleadings, motions, and other papers; representations to court; sanctions.	Yes	
Rule 12 Defenses and objections.	No	
Rule 13 Counterclaim and cross-claim.	No	
Rule 14 Third-party practice.	No	
Rule 15 Amended and supplemental pleadings.	Yes	
Rule 16 Pretrial conferences.	Yes	
Rule 16 Pretrial conferences. (superseded 11/1/2011)	n/a	
Part IV Parties		**A**
Rule 17 Parties plaintiff and defendant.	Yes	
Rule 18 Joinder of claims and remedies.	No	

A	B
Lauren DiFrancesco	Prof. Lincoln Davies
Larissa Lee	Prof. Paul Stancil
Trevor Lee	Michael Petrogeorge
Susan Vogel	Judge Kent Holmberg
Dawn Hautamaki	Jim Hunnicut
C	**D**
Rod N. Andreason	Judge Andrew Stone
Leslie Slaugh	Judge James Blanch
Trystan Smith	Bryan Pattison
Tim Pack	Judge Laura Scott
	E
	Judge Amber Mettler
	Judge Clay Stucki
	Justin Toth
	Heather Sneddon

Rule 19 Joinder of persons needed for just adjudication.	No	
Rule 20 Permissive joinder of parties.	No	
Rule 21 Misjoinder and non-joinder of parties.	No	
Rule 22 Interpleader.	No	
Rule 23 Class actions.	No	
Rule 23A Derivative actions by shareholders.	No	
Rule 24 Intervention.	No	
Rule 25 Substitution of parties.	No	
Part V Depositions and Discovery		**C**
Rule 26 General provisions governing disclosure and discovery.	Yes (long)	
Rule 26 General provisions governing disclosure and discovery. (superseded 11/1/2011)	n/a	
Rule 26.1 Disclosure in domestic relations actions.	Yes	
Rule 26.2. Disclosures in personal injury actions.	Yes	
Rule 26.3. Disclosure in unlawful detainer actions.	No	
Rule 27 Depositions before action or pending appeal.	Yes	
Rule 28 Persons before whom depositions may be taken.	Yes	
Rule 29 Stipulations regarding disclosure and discovery procedure.	No	
Rule 29 Stipulations regarding disclosure and discovery procedure. (superseded 11/1/2011)	n/a	
Rule 30 Depositions upon oral questions.	No	
Rule 30 Depositions upon oral questions. (superseded 11/1/2011)	n/a	
Rule 31 Depositions upon written questions.	No	
Rule 31 Depositions upon written questions. (superseded 11/1/2011)	n/a	
Rule 32 Use of depositions in court proceedings.	Yes	
Rule 33 Interrogatories to parties.	No	
Rule 33 Interrogatories to parties. (superseded 11/1/2011)	n/a	
Rule 34 Production of documents and things and entry upon land for inspection and other purposes.	Yes	
Rule 34 Production of documents and things and entry upon land for inspection and other purposes. (superseded 11/1/2011)	n/a	

Rule 35 Physical and mental examination of persons.	Yes	
Rule 35 Physical and mental examination of persons. (superseded 11/1/2011)	n/a	
Rule 36 Request for admission.	Yes	
Rule 36 Request for admission. (superseded 11/1/2011)	n/a	
Rule 37 Statement of discovery issues; Sanctions; Failure to admit, to attend deposition or to preserve evidence.	Yes	
Rule 37 Discovery and disclosure motions; Sanctions. (superseded 11/1/2011)	n/a	
Part VI Trials		**D**
Rule 38 Jury trial of right.	No	
Rule 39 Trial by jury or by the court.	No	
Rule 40 Assignment of cases for trial; continuance.	No	
Rule 41 Dismissal of actions.	Yes	
Rule 42 Consolidation; separate trials.	No	
Rule 43 Evidence.	Yes	
Rule 44 Proof of official record.	No	
Rule 45 Subpoena.	Yes	
Rule 46 Exceptions unnecessary.	No	
Rule 47 Jurors.	Yes (long)	
Rule 48 Juries of less than eight - Majority verdict.	No	
Rule 49 Special verdicts and interrogatories.	No	
Rule 50 Judgment as a matter of law in a jury trial; related motion for a new trial; conditional ruling.	Yes	
Rule 51 Instructions to jury; objections.	No	
Rule 52 Findings by the court; correction of the record.	Yes	
Rule 53 Masters.	No	
Part VII Judgment		**E**
Rule 54 Judgments; costs.	Yes	
Rule 54 Judgments; costs. (superseded 11/1/2011)	n/a	
Rule 55 Default.	No	
Rule 56 Summary judgment.	Yes	
Rule 57 Declaratory judgments.	No	
Rule 58A Entry of judgment; abstract of judgment.	Yes (long)	
Rule 58B Satisfaction of judgment.	No	
Rule 58C Motion to renew judgment.	Yes	

Rule 59 New trials; amendments of judgment.	No	
Rule 60 Relief from judgment or order.	Yes	
Rule 61 Harmless error.	No	
Rule 62 Stay of proceedings to enforce a judgment.	Yes	
Rule 63 Disability or disqualification of a judge.	No	
Rule 63A Change of judge as a matter of right.	No	
Part VIII Provisional and Final Remedies and Special Proceedings		**E**
Rule 64 Writs in general.	No	
Rule 64A Prejudgment writs in general.	No	
Rule 64B Writ of replevin.	No	
Rule 64C Writ of attachment.	No	
Rule 64D Writ of garnishment.	No	
Rule 64E Writ of execution.	No	
Rule 64F REPEALED.	n/a	
Rule 64G REPEALED.	n/a	
Rule 65A Injunctions.	Yes	
Rule 65B Extraordinary relief.	Yes	
Rule 65C Post-conviction relief.	Yes	
Rule 66 Receivers.	No	
Rule 67 Deposit in court.	No	
Rule 68 Settlement offers.	Yes	
Rule 69 REPEALED.	n/a	
Rule 69A Seizure of property.	No	
Rule 69B Sale of property; delivery of property.	No	
Rule 69C Redemption of real property after sale.	No	
Rule 70 Judgment for specific acts; vesting title.	No	
Rule 71 Process in behalf of and against persons not parties.	No	
Rule 71B REPEALED.	n/a	
Rule 72 Property bonds.	No	
Part IX Attorneys		**B**
Rule 73 Attorney fees.	Yes	
Rule 74 Withdrawal of counsel.	No	
Rule 75 Limited appearance.	No	
Rule 76 Notice of contact information change.	No	
Part X District courts and clerks		**A**
Rule 77 District courts and clerks.	Yes	
Rule 78 REPEALED.	n/a	
Rule 79 REPEALED.	n/a	

Rule 80 REPEALED.	n/a	
Part XI General Provisions		**None**
Rule 81 Applicability of rules in general.	No	
Rule 82 Jurisdiction and venue unaffected.	No	
Rule 83 Vexatious litigants.	No	
Rule 84 REPEALED.	n/a	
Rule 85 Title.	No	
Part XII Family Law		**None**
Rule 100 Coordination of cases pending in district court and juvenile court.	No	
Rule 101 Motion practice before court commissioners.	No	
Rule 102 Motion and order for payment of costs and fees.	No	
Rule 103 REPEALED.	n/a	
Rule 104 Divorce decree upon affidavit.	No	
Rule 105. Shortening 30 day waiting period in divorce actions.	No	
Rule 106 Modification of final domestic relations order.	No	
Rule 107 Decree of adoption; Petition to open adoption records.	No	
Rule 108 Objection to court commissioner's recommendation.	No	
FAQs About Disclosure and Discovery		
Appendix Of Forms		