

**UTAH SUPREME COURT ADVISORY COMMITTEE
ON RULES OF CIVIL PROCEDURE**

Meeting Minutes – June 26, 2019

Committee members & staff	Present	Excused	Appeared by Phone
Jonathan Hafen, Chair	X		
Rod N. Andreason		X	
Judge James T. Blanch	X		
Lincoln Davies		X	
Lauren DiFrancesco	X		
Dawn Hautamaki		X	
Judge Kent Holmberg	X		
James Hunnicutt	X		
Larissa Lee	X		
Trevor Lee	X		
Judge Amber M. Mettler	X		
Timothy Pack	X		
Bryan Pattison		X	
Michael Petrogeorge		X	
Judge Clay Stucki	X		
Judge Laura Scott		X	
Leslie W. Slaugh		X	
Trystan B. Smith	X		
Heather M. Sneddon	X		
Paul Stancil	X		
Judge Andrew H. Stone		X	
Justin T. Toth	X		
Susan Vogel	X		
Katy Strand, Recording Secretary		X	
Nancy Sylvester, Staff	X		

(1) WELCOME AND APPROVAL OF MINUTES

Jonathon Hafen welcomed the committee and started with a brief overview of his meeting with the Utah Supreme Court last week. Mr. Hafen asked for approval of the minutes. Jim Hunnicutt moved to approve the minutes, as amended. Judge Clay Stucki seconded. The motion passed.

(2) RULE 4 AND ELECTRONIC ACCEPTANCE OF SERVICE

Justin Toth introduced the Rule 4 issues. The Utah Supreme Court has concerns with the inclusion of references to the Utah Code within the language of the proposed rule, so those references were removed. Judge James Blanch discussed concerns with inconsistencies in the application of the current rule and additional thoughts on removing the reference to the statute from the language of the rule, as well as the need to include in the rule both minimum requirements as well as limitations on the content of the acceptance form. Susan Vogel reminded the committee that what is being discussed would not satisfy Rule 4 service, but applies only to acceptance of service under Rule 4(d)(3). Judge Blanch also mentioned that electronic acceptance of service was extensively discussed at the 3rd District Bench meeting today and Judge Kent Holmberg said he expected to see more guarantees that the person who signed the acceptance was actually the party to be served. Paragraph (d)(3)(B)(i) was revised as follows: "If acceptance is obtained electronically, the proof of acceptance must demonstrate on its face that the party received and was able to retain readable copies of the summons and complaint prior to electronically signing the acceptance of service." The rule was sent back to the subcommittee with the request that the subcommittee look at what other states are doing, discuss the potential for accreditation of these providers and whether a reference to a Judicial Council form would work, and come back with another recommendation in August.

(3) ADVISORY COMMITTEE NOTES

Mr. Hunnicutt introduced the Group B subcommittee's recommendations on the advisory committee notes for Rules 8 through 16. The committee agreed with all of the subcommittee's recommendations; specifically, to delete the advisory committee notes to Rules 8, 10, 11, and 16, and make no changes to the note to Rule 15 (Rules 12-14 had no advisory committee notes). Also, a small technical change to the language Rule 16 was adopted to spell out ADR as "alternative dispute resolution." Tim Pack moved to adopt the foregoing changes; Tristan Smith seconded. The motion passed.

Judge Amber Mettler introduced the Group E subcommittee's recommendation on the advisory committee notes for Rules 54 through 72. The committee agreed with the subcommittee's recommendation to make no changes to the advisory committee notes to Rules 54 and 56, to adopt the recommendation for changes to Rule 58A (as amended, to also delete the sentence referencing the Appendix of Forms and not add the bracketed language), to delete the advisory committee notes to Rules 58C, 60, 62, 65A, 65B, 65C, and 68 (Rules 55, 57, 58B, 59, 61, 63, 63A, 64, 64A, 64B, 64C, 64D, 64E, 66, 67, 69A, 69B, 69C, 70, 71, and 72 had no advisory committee notes). The committee also discussed adding rule history and resource links to the end of each rule, as well as

changing the font size and style for the rules on the website. Judge Clay Stucki moved to adopt the foregoing changes; Lauren DiFrancesco seconded. The motion passed.

(4) Multidistrict Litigation Under Rule 42

A subcommittee consisting of Judge Kent Holmberg (chair), Rod Andreason, Tim Pack, Trevor Lee, Lauren DiFrancesco, and Judge Richard Mrazik was formed. The subcommittee will aim to have a recommendation for a proposed new rule ready by the September meeting.

(5) ADJOURNMENT.

The remaining issues were deferred until the next meeting. The fall meeting schedule was discussed. The committee will meet again in August; this may be in lieu of a November meeting, but the November meeting will stay on the schedule in case anything urgent comes up. The meeting adjourned at 5:25pm. The next meeting will be held August 28, 2019 at 4:00 pm.