

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

Summary Minutes – November 17, 2021

**DUE TO THE COVID-19 PANDEMIC AND PUBLIC HEALTH EMERGENCY
THIS MEETING WAS CONDUCTED ELECTRONICALLY VIA WEBEX**

Committee members	Present	Excused	Guests/Staff Present
Robert Adler	X		Stacy Haacke, Staff
Rod N. Andreason	X		Crystal Powell, Recording Secretary
Judge James T. Blanch	X		
Lauren DiFrancesco, Chair	X		
Judge Kent Holmberg		X	
James Hunnicutt		X	
Judge Linda Jones		X	
Trevor Lee		X	
Ash McMurray	X		
Judge Amber M. Mettler		X	
Kim Neville		X	
Timothy Pack	X		
Loni Page		X	
Bryan Pattison	X		
James Peterson		X	
Judge Laura Scott		X	
Leslie W. Slaugh	X		
Paul Stancil		X	
Judge Clay Stucki		X	
Judge Andrew H. Stone		X	
Justin T. Toth	X		
Susan Vogel	X		
Tonya Wright	X		

(1) MEMBER INTRODUCTIONS

The meeting started at 4:12 p.m. after forming a quorum. Ms. Lauren DiFrancesco welcomed the Committee and new committee member Ms. Tonya Wright.

(2) APPROVAL OF MINUTES

Ms. DiFrancesco asked for approval of the minutes subject to minor amendments noted by the minutes subcommittee. Mr. Leslie Slaugh moved to adopt the minutes as amended; Justin Toth seconded. The minutes were approved unanimously.

(3) SUPREME COURT MEETING UPDATE

Ms. DiFrancesco reported on her meeting with the Supreme Court. Mr. Tim Pack, Judge Clay Stucki, Ms. Susan Vogel, Mr. Leslie Slaugh were reappointed to the Committee. Ms. DiFrancesco announced the appointment of Ms. Tonya Wright, a licensed legal practitioner. Ms. Wright introduced herself and shared a little of her background.

The Supreme Court welcomes the new subcommittee project chaired by Judge Stone on the classification of records and other rules that could be moved from the Rules of Judicial Administration to the Rules of Civil Procedure. Ms. DiFrancesco passed on more specific feedback directly to the subcommittee.

(4) RULE 5 AND SELF- HELP FORMS

Ms. Stacy Haacke reported on Rule 5 and noted that the Self-Help Center has concerns about the timing of the rule being implemented and the effect that could have on the work that is already underway to revise the forms pursuant to amendments in Rule 10. They suggested an effective date of May 2022 to avoid the forms quickly becoming non-compliant between the Rule 10 updates and the prospective Rule 5 updates. Ms. Haacke noted that Rule is still out for public comment. Ms. DiFrancesco noted that rules go into effect either November 1 or May 1 and asked if anyone disagreed with the Rule being on the May 1 track. The committee agreed.

(5) LEGAL COMMUNITY REQUESTS—RULE 4

Ms. Stacy Haacke reported on a request from an attorney to make amendments to Rule 4 regarding a discrepancy between the language of the summons and default judgment language. Mr. Slaugh noted the federal rule has the same language and that the issue is not the rule but rather the form not being clear enough to comply with the rule. Ms. Vogel noted that self-represented parties do get upset when an automatic default is not entered when an answer is late; and noted that she likes the language of the rule that would say that the other party “may” request a default. Mr. Rob Alder noted that there is an inconsistency where one makes it mandatory and the other makes it discretionary

and agreed with Ms. Vogel on that point. Mr. Alder motioned to amend the rule to change “will” to “may” in Rule 4(c)(1)(E). Ms. Vogel seconded. The motion passed unanimously.

(6) UPCOMING COMMITTEE ISSUES

Ms. DiFrancesco addressed the upcoming pipeline issues. Ms. Vogel gave a brief report on the discussion from the Clerks of Court meeting regarding the notices of remote hearings and the agreement from the Clerks to provide specific contact information where individuals may get immediate help to connect to the WebEx link. Ms. Vogel agreed that she would do a worksheet for the IT Department to help to mitigate the issues. The classifications subcommittee will report in January.

Ms. DiFrancesco noted that if any committee member gets a request for changes from a community member, the most helpful procedure would be for them to send to either her or Ms. Haacke, a redline version of proposed changes along with a short paragraph on the reason for the changes and whether they would like to come and present on the proposed change.

(7) ADJOURNMENT

The next meeting will be on January 26, 2022. The chair thanked everyone for their time and effort and wished all a happy Thanksgiving. The meeting adjourned at 4:32 p.m.