



Utah Supreme Court
Advisory Committee on the Utah Rules of Civil Procedure
Meeting Agenda
Rod Andreason, Chair

Location: WebEx Webinar: [Link](#)

Date: January 22, 2025

Time: 4:00 – 6:00 p.m.

Welcome and approval of minutes	Tab 1	Rod Andreason
Rule 26 – NCSC study on long term impacts of 2011 revisions (<i>Discussion</i>)		Rod Andreason
Procedural rules for child protective orders (<i>Discussion and Subcommittee</i>)	Tab 2	Stacy Haacke
Rules 74 and 76 – when attorneys withdraw and contact information for parties (<i>Continued Discussion</i>)	Tab 3	Michael Stahler
Subcommittee List (<i>Informational</i>) - Rule 65C - Anyone with post-conviction experience? - Please send updates for when your subcommittee will be ready to present so we can plan out the meetings this year.	Tab 4	Rod Andreason

Reminder: Check style guide for conformity before rules are sent to the Supreme Court.

Upcoming Items:

- Subcommittees!

URCP Committee Website: [Link](#)

2025 Meeting Schedule:

Jan 22 • Feb 26 • Mar 26 • April 23 • May 28 • June 25 • Sep 24 • Oct 22 • Nov 26 • Dec 24

Tab 1

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

**Summary Minutes – December 18, 2024
via Webex**

THIS MEETING WAS CONDUCTED ELECTRONICALLY VIA WEBEX

Committee members	Present	Excused	Guests/Staff Present
Rod N. Andreason, Chair	X		Stacy Haacke, Staff
Justin T. Toth, Vice Chair	X		Keri Sargent
Ash McMurray	X		Crystal Powell, Recording Secretary
Michael Stahler	X		Judge Keith Kelly
Loni Page	X		Jacqueline Carlton
Bryan Pattison	X		
Trevor Lee	X		
Laurel Hanks	X		
Tonya Wright	X		
Judge Rita Cornish		X	
Commissioner Catherine Conklin	X		
Jonas Anderson		X	
Heather Lester		X	
Tyler Linley	X		
Judge Blaine Rawson		X	
Judge Ronald Russell		X	
Judge Patrick Corum	X		
Rachel Sykes	X		
Michael Young		X	
<i>Vacant</i> Self Represented Party Seat			
Judge Laura Scott, <i>Emeritus</i>	X		
James Hunnicutt, <i>Emeritus</i>	X		

(1) INTRODUCTIONS

The meeting began at 4:00 p.m. after forming a quorum. Mr. Rod Andreason welcomed the members.

(2) APPROVAL OF MINUTES

Mr. Rod Andreason asked for approval of the November 2024 Minutes subject to amendments noted by the Minutes subcommittee. Ms. Rachel Sykes moved to approve the Minutes. Mr. Michael Stahler seconded. The Minutes were unanimously approved.

(3) INTRODUCTIONS FROM MEMBERS

Judge Patrick Corum introduced himself giving a little background on other committee service he has participated in.

(4) RULE 107 AND 26.4. PETITION TO OPEN ADOPTION RECORDS AND DECREE OF ADOPTION

Ms. Stacey Haacke, summarized the changes made to the statute concerning who could request adoption records; the time frame to request; and the previous amendment made by the Committee.

Judge Keith Kelly from the WINGS Committee (Working Interdisciplinary Committee of Guardianship Shareholders) commented on behalf of that committee and recommended some suggested changed to line c (3) (A) (2). The WINGS committee suggested amending the language from a list of restrictive alternatives to a description of less restrictive alternatives.

Mr. Andreason opened the meeting for discussion and questions. Mr. Jim Hunnicut commended the effort but in by the WINGS Committee. Commissioner Conklin and Mr. Ash McMurray gave input on the punctuation for clarity. The Committee discussed the grammar. Mr. Michael Stahler moved to adopt the changes made to the Committee. Mr. McMurray seconded. The amendment passed unanimously.

The Committee discussed 76B-6-141 and 76B-6-144 in light of some of the public comment about limiting the adoptive parent's ability to obtain a copy of the decree of adoption. The Committee discussed the next steps and agreed that further action needed to be taken and will submit the amendments to the Supreme Court.

(5) RULE 101. MOTION PRACTICE BEFORE COURT COMMISSIONERS.

Ms. Haacke clarified that she consolidated the amendments to be consistent with the format that goes out to public comment so that the current amendments are clear.

Mr. Hunnicutt noted that he is not sure a great deal of changes had been made, and the majority of amendments were stylistic. Ms. Sykes questioned the interpretation of (b)(4) where the use of excusable neglect is used. After discussion, the Committee amended the Rule to exclude the language.

Commissioner Conklin moved to adopt the changes. Ms. Sykes seconded. The motion passed unanimously. Commissioner Conklin brought the Committees attention to the total number of pages that may be submitted to make the language more active and definitive.

(6) RULE 62. STAY OF PROCEEDINGS

Commissioner Conklin explained the two main points governing how the court handles stays in domestic relations cases being appealed. First, both parties have an inequitable division pending the appeal. Second, child support and alimony cannot be stayed leaving the other party or children unsupported during the appeal. Mr. Hunnicutt raised the comment from the Court of Appeals. The Committee discussed various interpretations of the footnote in the Court of Appeals opinion in *Rothwell v. Rothwell*, 2023 UT App 51. Mr. Hunnicutt also discussed the carve out in newly added section (j). Judge Patrick Corum questioned whether the Rule was limiting judges' equitable powers to any degree, given there could be rare situations where a stay might be equitable.

Commissioner Conklin expressed wanting direction from the Committee on whether the language should be changed to say affirmatively there can be no stay. Mr. Hunnicutt noted that he will continue working on this Rule.

(7) RULES 102 AND 106

The Committee discussed the changes made to this Rule to renumber it based on statutory changes. Mr. Stahler moved to adopt the changes. Ms. Sykes seconded. The amendments passed unanimously.

(8) RULES 56, 26, 26.2 AND 16. MOTIONS FOR SUMMARY JUDGMENT

Mr. Stahler summarized the history and aim of the amendments. He also summarized the new amendments. He explained that the biggest issue was providing clarity on what constitutes the end of discovery and a clear deadline.

Mr. Andreason opened the meeting up for discussions starting with easiest to most complex. Mr. Tyler Lindley noted that Rule 16 noted a missing amendment on this current version. Mr. Stahler clarified what was missing.

Mr. Trevor Lee noted that as a general matter expert discovery ends when the last expert deposition is taken. Ms. Tonya Wright questioned whether discovery closes on the date of party one's report/deposition? or when Party two's designation was due (but they failed to designate)? She noted that that's the issue that has come up in relation to when Rule 56 motions are due. Mr. Stahler noted that the subcommittee decided that the later date was more appropriate so that no time is lost; but there was also the thinking that where there was no expert disclosure by the party bearing the burden then no rebuttal expert would be necessary. Mr. Ash McMurray supported Mr. Lees comments and noted that he would support taking a look at sub-section (a) (iv) (E). After a full discussion, the Subcommittee noted that they will reconvene to address the points raised. Mr. Andreason thanked them for their hard work on the Rules.

(9) ADJOURNMENT

Mr. Andreason thanked everyone for their work on the Committee. The meeting was adjourned at 5:56 p.m. The next meeting will be January 22, 2025, at 4:00 p.m.

Tab 2

Child protective orders URCP and URJP Procedural rules

A request has come to the URCP and URJP Committees because of some questions regarding the procedure for child protective orders when they are transferred from juvenile court to district court under UC [78A-6-104\(5\)](#). When this happens the URCP kicks in and some of the procedures found in the URJP for interviews or recordings with children are lost. The request is to coordinate between the two sets of rules for some URJP rules to still apply to the child protective order proceedings in district court. Instead of fixing this in statute, we are hoping to coordinate between the court rules.

So far the request centers around URJP rules [37](#) and [37A](#), and the URJP Committee may have more thoughts. And then a good spot in URCP might be Rule [81](#) - to add which URJP rules apply to child protective order proceedings in district court.

The initial thought is to get a few folks from each committee to work together on this one so we are looking for a subcommittee that will work with the URJP subcommittee.

Tab 3

1 **Rule 74. Withdrawal of counsel.**

2 (a) ~~(a)~~ Notice of withdrawal. An attorney may withdraw from the case by filing with
 3 the court and serving on all parties a notice of withdrawal. The notice of
 4 withdrawal ~~shall~~ must include ~~the~~ the last known contact information for the
 5 attorney's client including the ~~physical~~ mailing address, ~~the~~ email address, and
 6 and the cell phone number if known and not safeguarded by Rule 76 or a court
 7 order. ~~of the attorney's client and a~~ The notice of withdrawal must include a
 8 statement that no motion is pending and no hearing or trial has been set.

9 (b) Motion to withdraw. Unless the party continues to be represented by counsel as
 10 described by subsection (f) of this rule, when ~~if~~ a motion is pending or a hearing or
 11 trial has been set, an attorney may not withdraw except upon motion and order of
 12 the court. The motion to withdraw ~~must describe~~ shall the status of the case,
 13 describe the nature of any pending motion and the date and purpose of any
 14 scheduled hearing or trial, ~~describe the requirements under any existing court~~
 15 orders or rules, and ~~include the last known contact information for the attorney's~~
 16 client if known and not safeguarded by Rule 76 or a court order. The motion to
 17 withdraw shall include a certification that the motion was filed and served on all
 18 parties pursuant to Rule 5 or, if applicable, why a party cannot be notified about
 19 the motion. The motion must include a proposed order for the court's entry that
 20 notifies the party who will be without an attorney:

21 (1) that within 21 days of the entry of the order, they must retain an
 22 attorney or proceed without an attorney and file a notice of personal
 23 appearance;

24 (2) that no further proceedings shall be held, and any pending deadlines
 25 shall be stayed, in the case until 21 days after the court grants the motion
 26 unless the unrepresented party waives the time requirement or unless
 27 otherwise ordered by the court;

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(3) that if the party is a corporation, association, partnership, or other artificial entity, it must be represented by an attorney who is admitted to practice in Utah and files a notice of appearance; and
 (4) that a party who fails to retain an attorney or file a notice of personal appearance, may be subject to sanctions including entry of a default judgment or an order of dismissal.

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(cb**) Withdrawal of limited appearance.** An attorney who has entered a limited appearance under Rule 75 shall withdraw from the case upon the conclusion of the purpose or proceeding identified in the Notice of Limited Appearance:

~~(b)~~(1) by filing and serving a notice of withdrawal; or

~~(b)~~(2) if permitted by the judge, by orally announcing the withdrawal on the record in a proceeding.

An attorney who seeks to withdraw before the conclusion of the purpose or proceeding shall proceed under subdivision (a).

(de**) Notice to personally ~~a~~Appear, ~~or~~ ~~a~~Appoint cCounsel.** If an attorney withdraws other than under subdivision (b), dies, is suspended from the practice of law, is disbarred, or is removed from the case by the court, the opposing party shall serve a Notice to Personally Appear or Appoint Counsel on the unrepresented party, informing the party of the responsibility to personally appear ~~personally~~ or appoint counsel. A copy of the Notice to Personally Appear or Appoint Counsel must be filed with the court and served on all parties pursuant to Rule 5. No further proceedings shall be held, and any pending deadlines shall be stayed, in the case until 21 days after filing the Notice to Personally Appear or Appoint Counsel unless the unrepresented party waives the time requirement or unless otherwise ordered by the court.

(ed**) Substitution of counsel.** An attorney may replace the counsel of record by filing and serving a notice of substitution of counsel signed by former counsel, new counsel and the

54 client. Court approval is not required if new counsel certifies in the notice of substitution
55 that counsel will comply with the existing hearing schedule and deadlines.

56 (f) Withdrawal when the party continues to be represented by counsel. An attorney
57 may withdraw from representing a party if the party continues to be represented by other
58 counsel who has already entered an appearance. The attorney seeking to withdraw must
59 file and serve on all parties pursuant to Rule 5 a notice of withdrawal of counsel stating
60 that the party continues to be represented by counsel. Upon filing the notice, the court
61 clerk will remove the attorney from the case.

62

63 Effective date:

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1 **Rule 76. Notice of contact information change.**

2 *Effective: 11/1/2022*

3 An attorney and ~~self-~~represented party must promptly notify the court in writing of
4 any change in that person's address, e-mail address, and phone number for purposes of
5 receiving service and communications from the court and other parties. The same notice
6 must be provided to other parties, unless disclosure is prohibited by a protective order,
7 a stalking injunction, or any other court order, or if the information is considered a
8 safeguarded court record per Utah Code of Judicial Administration Rule 4-202.02.~~other~~
9 ~~court order provides otherwise.~~

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Tab 4

Subcommittee/Subject	Members	Rules	Subcommittee Chair	Progress
ACTIVE:				
Probate	Judge Scott, <i>Allison Barger, Brant Christiansen, David Parkinson, Judge Kelly, Kathie Brown Roberts, Keri Sargent, Russ Mitchell, Shonna Thomas, Sarah Box</i>	New rules	Judge Scott	Ongoing work on new set of probate procedural rules
Plain language/Terminology	Ash McMurray, Trevor Lee, Loni Page, Heather Lester, Crystal Powell	104 14, 18, 19, 20, 22, 23, 26.1, 38, 46, 49, 53, 67	Ash McMurray	Subcommittee continues to review rules as they come up.
Omnibus	Justin Toth, Tonya Wright, Commissioner Conklin	30, 45, 37, 7	Justin Toth	Rules are out for public comment.
Rule 3(a)(2)	Trevor Lee, Keri Sargeant, Tonya Wright; Heather Lester; Judge Cornish	3	Trevor Lee	Rule went to SC in July and the judges are going to take time to consider the proposal.
Eviction Expungements	Tonya Wright, Heather Lester; Crystal Powell; Keri Sargent	?	Heather Lester	Subcommittee continues to work on this issue.
Rule 101	Jim Hunnicutt, Commissioner Conklin, Tonya Wright, Keri Sargent, <i>Samantha Parmley</i>	101 7 26.1	Jim Hunnicutt	Believe this rule is ready to go out for public comment.
MSJ Deadline	Michael Stahler, Tonya Wright, Keri Sargent, Rachel Sykes, Tyler Lindley, Michael Young	56, 26, 26.2	Michael Stahler	These were discussed at the December meeting and went back to the subcommittee.
Affidavit/Declaration	Ash McMurray, Bryan Pattison	4, 5, 6, 7A, 7B, 11, 23A, 27, 26.1, 26.2, 43, 45, 47, 54, 55, 56, 58A, 58C, 59, 62, 63, 64, 64A, 64D, 64E, 65A, 65C, 69A, 69C, 73, 83, 101, 102, 104, 105, 108	Ash McMurray	Ash presented on this issue at length and the subcommittee is continuing to work on these rules.

Rule 53A - Special Masters	<i>Brent Salazar-Hall; Nicole Salazar-Hall; Jim Hunnicutt</i>	New rule 53A	Jim Hunnicutt	This rule is out for public comment.
Rule 62 (COA opinion)	Jim Hunnicutt, Commissioner Conklin, Laurel Hanks	62	Commissioner Conklin	Discussion in December 2024 and will return soon
Standard POs	<i>Judge Oliver</i> , Bryan Pattison, Justin Toth, Rachel Sykes, Brett Chambers, Judge Cornish	26(g)	Justin Toth	After adjustments to membership, the subcommittee continues to work on this issue.
Rule 5(a)(2) and (b)(3)	Judge Cornish, Commissioner Conklin, Judge Scott, Michael Stahler, Laurel Hanks	5	Laurel Hanks	Subcommittee continues to work on this rule.
Rule 74	Michael Stahler, Rachel Sykes, Crystal Powell, Keri Sargent, Heather Lester, Loni Page	74	Michael Stahler	Subcommittee continues to work on this rule.
Rule 4	Rachel Sykes, Ash McMurray, Tonya Wright	4	Rachel Sykes	Subcommittee continues to work on this rule.
Rule 42	Loni Page; Keri Sargent; Judge Scott; Brett Chambers	42	Loni Page	Subcommittee continues to work on this rule.
New rules 65D & E	Michael Stahler, Loni Page, Brett Chambers, Bret Randall	New	Michael Stahler	Subcommittee continues to work on this rule.
Rule 65C	Loni Page; Keri Sargent; Trevor Lee	65C	Loni Page	Asking if anyone on the Committee has post-conviction experience as they review materials submitted.
Rule 73	Tonya Wright, Bryan Pattison, Heather Lester	73	Heather Lester	Subcommittee continues to work on this rule.