



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

Location: WebEx Webinar: [Link](#)

Date: February 26, 2025

Time: 4:00 – 6:00 p.m.

Welcome and approval of minutes	Tab 1	Rod Andreason
Rules 7, 30, 37, and 45 – Back from public comment	Tab 2	Justin Toth
Rule 53A – Back from public comment	Tab 3	Jim Hunnicutt
Rule 26.1 and 109 – update “paternity” language to “parentage”	Tab 4	Jim Hunnicutt
Rule 107 – update “Bureau of Vital Records” to “Office of Vital Records and Statistics”	Tab 5	Jim Hunnicutt
Rule 108 – update to motion to enforce language	Tab 6	Jim Hunnicutt
Rule 62 – stays in domestic relations cases on appeal	Tab 7	Judge Conklin
Rule 5(a)(2) – requirements for default	Tab 8	Laurel Hanks
Subcommittee List (<i>Informational</i>)	Tab 9	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 – January 22, 2025
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		Janine Liebert
Loni Page	X		
Bryan Pattison	X		
Trevor Lee	X		
Laurel Hanks	X		
Tonya Wright	X		
Judge Rita Cornish	X		
Judge Catherine Conklin	X		
Jonas Anderson		X	
Heather Lester		X	
Judge Blaine Rawson	X		
Judge Ronald Russell		X	
Judge Patrick Corum		X	
Rachel Sykes	X		
Michael Young	X		
Brett Chambers	X		
Tyler Lindley	X		
<i>Vacant</i> Commissioner seat			
<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 4:02 p.m. after forming a quorum. Mr. Rod Andreason welcomed the members.

(2) APPROVAL OF MINUTES

Mr. Andreason asked for approval of the December 2024 Minutes subject to amendments noted by the Minutes subcommittee. Mr. Brett Chambers motioned to approve the Minutes. Ms. Loni Page seconded. The Minutes were unanimously approved.

(3) RULE 26. NCSC STUDY ON 2011 REVISION OF

Mr. Andreason informed the Committee that the (National Center for State Courts (NCSC) report on the 2011 amendments to the Rules was sent out to the Committee. He gave a history of the 2011 efforts to amend the Rules. He noted that generally it has been a great innovation and has been followed by other states. He summarized that the analysis of that has continued over the years and more recently on the long-term effect of the changes including the effect of the COVID 19 pandemic. He noted that they declined to compare post COVID but analyzed up to 2019. He noted that the NSCS was to meet to discuss the findings, but that meeting has been postponed. He invited the Committee to report the preliminary report and that he would report again after that meeting.

(4) PROCEDURAL RULES FOR CHILD PROTECTIVE ORDERS

Ms. Stacy Haacke, summarized the work done on this matter. She noted that a request came to Committee out of the legislative session for statutory changes to the Rules as it related to child protective orders filed in juvenile court and then transferred to the district court. Instead of statutory amendment, the proposal was for a joint subcommittee between the juvenile rules committee and this Committee on the procedure related to transfer of such cases especially related to interviews of children or testimony to be taken from children. She noted that they have spoken to Juvenile Rules Committee and asked for volunteers from this Committee.

Ms. Crystal Powell, Commissioner Conklin, Ms. Laurel Hanks, and Mr. Jim Hunnicut volunteered. Ms. Haacke will connect the groups.

(5) RULES 74 AND 76. ATTORNEY WITHDRAWALS AND CONTACT INFORMATION FOR PARTY

Mr. Michael Stahler summarized the work of the subcommittee on this Rule. He noted that the Rule as currently written requires the withdrawing counsel to motion to withdraw; but in many cases with junior attorneys as clerks, that motion is not filed as the case continues to have an attorney or the motion is opposed. He explained that the goals were to have a more streamlined and clear process to withdraw from a case when other representation remains for a party; and when counsel withdraws leaving the party unrepresented.

Mr. Stahler summarized the amendments made to the Rules. The Committee discussed Rule 76 amendments. Mr. Bryan Pattison questioned whether the use of the term safeguarded was a record classification. Ms. Haacke clarified that is it and that the Code of Judicial Administration is being updated to reflect that. After discussion, Mr. Pattison moved to adopt the changes. Mr. Michael Young seconded. The motion passed unanimously. The amendment will be published for public comment.

The Committee discussed Rule 74. Mr. Stahler noted that the inclusion of service under Rule 5 in 74 (f) was from feedback from the Committee. Mr. Ash McMurray questioned whether the language suggested the court clerk must file the notice. The language was clarified to detail that the clerk removes the attorney after a notice is filed by the attorney. Under 74 (a) the language was amended to clarify that a notice of withdrawal could be filed if no motion, hearing, or trial is pending. Mr. Pattison suggested using the same language in all sections to refer to either the party or the attorney's client for consistency. The Committee agreed on using the language "the party." The Committee discussed other grammatical amendments and other possible contact information that might need to be included.

Under 74(b) (4), Commissioner Conklin and Judge Rawson questioned whether the sanctions were too harsh for a party failing to retain an attorney or file a notice of personal appearance. Mr. Stahler noted that the motion to appear or appoint is not meant to be dispositive of an issue and the failure could lead to sanctions; not that these would be the sanctions. The judges reiterated their concern that this could be misconstrued and wanted to clarify that the failure to have an attorney does not put a party in default but the failure to act after not having an attorney may put the individual in default. Mr. Andreason noted that perhaps subsection (4) should refer to only entities under subsection (3) and not individuals. The Committee discussed the language to ensure that the correct principles were reflected in the Rule. Judge Blaine cited the case law (2020 UT App 100, ¶ 17) for the Committee to refer to.

The Committee questioned whether "stayed" could be removed for a plainer word. Ms. Page suggested using the plain language used on the court website. Commissioner Conklin questioned whether a hearing could be scheduled for after the 21 days or whether the stay would foreclose that action as well. The Committee discussed that it could be so long as notice was provided to the party. The Committee concluded to publish the Rule for public comments with the amended language. Commissioner Conklin motioned. Mr. McMurray seconded. The vote passed by majority.

(6) SUBCOMMITTEE ASSIGNMENTS

Mr. Andreason asked the Subcommittee Chairs to update him on when their matters can be calendared for discussion and voting. Ms. Haacke requested that if any Committee Member has experience in post-conviction to reach out to her to work on that Subcommittee.

(7) ADJOURNMENT

Mr. Andreason thanked everyone for their work on the Committee. The meeting was adjourned at 5:43 p.m. The next meeting will be February 26, 2025, at 4:00 p.m.

Tab 2

UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

To submit a comment or view the comments of others, click on “Continue Reading.” To submit a comment, scroll down to the “Leave a Reply” section, and type your comment in the “Comment” field. Type your name and email address in the designated fields and click “Post Comment.”

Comments cannot be acknowledged, but all will be considered. Comments are saved to a buffer for review before publication.

HOME

LINKS

Posted: December 17, 2024

Utah Courts

Rules of Civil Procedure – Comment Period Closed January 31, 2025

URCP007. Pleadings allowed; motions, memoranda, hearings, orders. AMEND. Proposed amendments to (b)(4) regarding orders related to subpoenas under rule 45, and adding motions that may be acted upon without waiting for a response under (l).

URCP030. Depositions upon oral questions. AMEND. Proposed amendment to subparagraph (b)(6) to add clarity regarding objections to a subpoena, and amendments to conform with the style guide for the rules.

URCP037. Statement of discovery issues; Sanctions; Failure to admit, to attend deposition or to preserve evidence. AMEND. Proposed amendments to add a reference to objections under rule 45(e)(4) to the statement of discovery issues in subparagraph (a)(2), as well as to subparagraph (a)(3), to add person subject to and non parties affected by subpoenas to the proposed order requirements found in (a)(5), to remove subparagraph (b)(6), and amendments to correct references to other rules as well as conform with the style guide for the rules.

Search...

SEARCH

To view all comments submitted during a particular comment period, click on the comment deadline date. To view all comments to an amendment, click on the rule number.

CATEGORIES

- Alternate Dispute Resolution
- Code of Judicial Administration
- Code of Judicial Conduct
- Fourth District Court Local Rules
- Licensed Paralegal Practitioners Rules of Professional Conduct
- Rules Governing Licensed Paralegal Practitioner
- Rules Governing the State Bar

URCP045. Subpoena. AMEND. Proposed amendments to add a written requirement to subparagraph (e)(4), to clarify the process found in subparagraph (e)(5) regarding responses to objections and compliance, and amendments to conform with the style guide for the rules.

This entry was posted in [URCP007](#), [URCP030](#), [URCP037](#), [URCP045](#).

« [Rules of Juvenile Procedure – Comment Period Closed February 1, 2025](#)

[Code of Judicial Administration – Comment Period Closed January 30, 2025](#) »

UTAH COURTS

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4 thoughts on “Rules of Civil Procedure – Comment Period Closed January 31, 2025”

Jason McNeill
December 17, 2024 at 4:41 pm

I have comments regarding the proposed amendments to Rule 30 and Rule 37.

First, under the proposed amended Rule 30(b)(6)(C), it provides that “The deposition may proceed only on the matters to which there as been no objection”. This should be changed to “The deposition may proceed only on the matters to which there as been no Statement of Discovery Issues filed by an objecting party under Rule 37” This way, the deposition seeking answers on a topic will proceed, unless a SDI process has been initiated by the objecting party, thereby placing the burden to delay or interrupt the requested topic of questioning on the objecting party – and not the deposing party.

- [-Rules of Appellate Procedure](#)
- [-Rules of Civil Procedure](#)
- [-Rules of Criminal Procedure](#)
- [-Rules of Evidence](#)
- [-Rules of Juvenile Procedure](#)
- [-Rules of Professional Conduct](#)
- [-Rules of Professional Practice](#)
- [-Rules of Small Claims Procedure](#)
- [ADR101](#)
- [ADR103](#)
- [Appendix B](#)
- [Appendix F](#)
- [CJA 1-101](#)
- [CJA Appendix F](#)
- [CJA01-0201](#)
- [CJA01-0204](#)
- [CJA01-0205](#)
- [CJA01-0205](#)
- [CJA01-0302](#)
- [CJA01-0303](#)
- [CJA01-0304](#)
- [CJA01-0305](#)
- [CJA010-01-0404](#)
- [CJA010-1-020](#)
- [CJA014-0701](#)
- [CJA014-0704](#)
- [CJA014-0705](#)
- [CJA014-0719](#)
- [CJA02-0101](#)
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- [CJA03-0105](#)
- [CJA03-0106](#)

This is far more appropriate and in line with the typical burden of a witness needing to make a meritorious objection or else needing to answer the question posed. As its currently drafted, the burden is improperly put on the deposing party who is handcuffed from continuing the deposition merely by the witness making an objection, whether its with or without merit, until the deposing party goes to court and gets an order allowing that category to be asked. This burden is backwards of how it should be. Don't require the deposing party go get a court order to allow questions to be asked. Instead, you need to require the objecting party to go file for a protective order under a Rule 37 process, or else answer the questions to be posed. This forces the objecting party to justify their objections to Rule 30(b)(6) topics.

Second, under the proposed amendments to Rule 37(b)(6), it strikes the court's discretion to treat a failure of a party to obey a discovery order as contempt of court. This should not occur. Disobedience with discovery orders is already problematic enough for plaintiff's enforcement of orders. We want to deter disobedience, not promote it. We want to add teeth to violation of court orders, not remove teeth. Especially because certain violations of discovery orders can be incredibly prejudicial to the party entitled to such discovery.

Clay Randle

December 17, 2024 at 6:40 pm

Rule 45(e) should also be clarified to state that a party to the lawsuit not subjected to the subpoena also has the ability to object to a subpoena. There are domestic commissioners who are denying objections to subpoenas made from named parties because they are not subjected to the subpoena and are not "non-parties"

Daniel Young

December 18, 2024 at 9:28 pm

I think the language "or those objections are waived" should be deleted from Rule 30(b)(6)(B). If a party objects to the the 30(b)(6) notice in accordance with Rule 30(b)(6)(A) and the opposing party does not initiate a meet and confer about the objections, I think the assumption should be that the opposing party agrees with the objections, not that the party now waives the objections it timely made.

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Axel Trumbo

December 19, 2024 at 10:39 am

I help a lot of non-parties respond to document subpoenas, and I have some suggested adjustments related to non-parties:

Rule 37:

It's good that the proposed amendment clarifies that the person subject to the subpoena has standing to respond to the statement of discovery issues. However, I don't like the requirement that the person must have first "filed" a timely objection under Rule 45(e)(4). This language should be stricken for two reasons.

First, Rule 45(e)(4) doesn't require a non-party to file its objection—the only requirement is that it raise its objection in writing and serve it on the subpoenaing party. There is good reason why the non-party should not be forced to file its objection in court, so Rule 45 should remain as is. Therefore, you should take out the "filed" language in Rule 37(a)(3).

Second, there are understandable reasons why a non-party may have failed to meet the subpoena deadline, so failure to timely object should not strip the non-party of standing to defend its actions before the court. In other words, the non-party should have standing to respond to a statement of discovery issues against it whether or not it timely served a written objection. Otherwise, a non-party would be treated more harshly than a litigating party who failed to timely respond to a discovery request, given that a non-responding party still has the ability to defend its actions by responding to a statement of discovery issues.

Rule 45:

I have encountered situations where the subpoenaed non-party is not raising an objection or making any privilege claim, but one of the litigating parties does raise those objections. In that situation, the subpoenaed non-party is placed in an awkward position wherein one party is demanding production and the other party is demanding the opposite. I would like language in the rule clarifying that, when any litigating party has objected to production, the subpoenaing party is not entitled to compliance by the non-party and must first resolve the other party's objection.

I acknowledge that there is already language in Rule 45 protecting the non-party when a litigating party has requested a protective order. But this language is ambiguous and does not help the non-party much. If the other litigating party has raised privilege, but it hasn't filed a statement of discovery issues, does the non-party subject to the subpoena merely ignore the privilege claim? If so, there must be language immunizing and protecting the non-party when it disregards the litigating

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party's objections. The best approach would be to allow the non-party to sit tight until the objection is resolved between the litigants.

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Rule 7. Pleadings allowed; motions, memoranda, hearings, orders.

(a) Pleadings. Only these pleadings are allowed:

- (1) a complaint;
- (2) an answer to a complaint;
- (3) an answer to a counterclaim designated as a counterclaim;
- (4) an answer to a crossclaim;
- (5) a third-party complaint;
- (6) an answer to a third-party complaint; and
- (7) a reply to an answer if ordered by the court.

(b) Motions. A request for an order must be made by motion. The motion must be in writing unless made during a hearing or trial, must state the relief requested, and must state the grounds for the relief requested. Except for the following, a motion must be made in accordance with this rule.

- (1) A motion, other than a motion described in paragraphs (b)(2), (b)(3) or (b)(4), made in proceedings before a court commissioner must follow Rule 101.
- (2) A request under Rule 26 for extraordinary discovery must follow Rule 37(a).
- (3) A request under Rule 37 for a protective order or for an order compelling disclosure or discovery – but not a motion for sanctions – must follow Rule 37(a).
- (4) A request for an order related to a subpoena under Rule 45 must follow Rule 37(a). A request under Rule 45 to quash a subpoena must follow Rule 37(a).
- (5) A motion for summary judgment must follow the procedures of this rule as supplemented by the requirements of Rule 56.

(c) Name and content of motion.

- (1) The rules governing captions and other matters of form in pleadings apply to motions and other papers.
- (2) **Caution language.** For all dispositive motions, the motion must include the following caution language at the top right corner of the first page, in bold type: **This motion requires you to respond. Please see the Notice to Responding Party.**
- (3) **Bilingual notice.** All motions must include or attach the bilingual Notice to Responding Party approved by the Judicial Council.
- (4) **Failure to include caution language and notice.** Failure to include the caution language in paragraph (c)(2) or the bilingual notice in paragraph (c)(3) may be

grounds to continue the hearing on the motion, or may provide the non-moving party with a basis under Rule 60(b) for excusable neglect to set aside the order resulting from the motion. Parties may opt out of receiving the notices set forth in paragraphs (c)(2) and (c)(3) while represented by counsel.

(5) **Title of motion.** The moving party must title the motion substantially as: "Motion [short phrase describing the relief requested]."

(6) **Contents of motion.** The motion must include the supporting memorandum. The motion must include under appropriate headings and in the following order:

(A) a concise statement of the relief requested and the grounds for the relief requested; and

(B) one or more sections that include a concise statement of the relevant facts claimed by the moving party and argument citing authority for the relief requested.

(7) If the moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the motion.

(d) Name and content of memorandum opposing the motion.

(1) A nonmoving party may file a memorandum opposing the motion within 14 days after the motion is filed. The nonmoving party must title the memorandum substantially as: "Memorandum opposing motion [short phrase describing the relief requested]." The memorandum must include under appropriate headings and in the following order:

(A) a concise statement of the party's preferred disposition of the motion and the grounds supporting that disposition;

(B) one or more sections that include a concise statement of the relevant facts claimed by the nonmoving party and argument citing authority for that disposition; and

(C) objections to evidence in the motion, citing authority for the objection.

(2) If the non-moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the memorandum.

(e) Name and content of reply memorandum.

(1) Within 7 days after the memorandum opposing the motion is filed, the moving party may file a reply memorandum, which must be limited to rebuttal of new matters

67 raised in the memorandum opposing the motion. The moving party must title the
68 memorandum substantially as "Reply memorandum supporting motion [short
69 phrase describing the relief requested]." The memorandum must include under
70 appropriate headings and in the following order:

71 (A) a concise statement of the new matter raised in the memorandum opposing
72 the motion;

73 (B) one or more sections that include a concise statement of the relevant facts
74 claimed by the moving party not previously set forth that respond to the opposing
75 party's statement of facts and argument citing authority rebutting the new matter;

76 (C) objections to evidence in the memorandum opposing the motion, citing
77 authority for the objection; and

78 (D) response to objections made in the memorandum opposing the motion, citing
79 authority for the response.

80 (2) If the moving party cites documents, interrogatory answers, deposition testimony,
81 or other discovery materials, relevant portions of those materials must be attached to
82 or submitted with the memorandum.

83 **(f) Objection to evidence in the reply memorandum; response.** If the reply
84 memorandum includes an objection to evidence, the nonmoving party may file a
85 response to the objection no later than 7 days after the reply memorandum is filed. If the
86 reply memorandum includes evidence not previously set forth, the nonmoving party
87 may file an objection to the evidence no later than 7 days after the reply memorandum is
88 filed, and the moving party may file a response to the objection no later than 7 days after
89 the objection is filed.

90 **(g) Request to submit for decision.** When briefing is complete or the time for briefing
91 has expired, either party may file a "Request to Submit for Decision," but, if no party files
92 a request, the motion will not be submitted for decision. The request to submit for
93 decision must state whether a hearing has been requested and the dates on which the
94 following documents were filed:

95 (1) the motion;

96 (2) the memorandum opposing the motion, if any;

97 (3) the reply memorandum, if any; and

98 (g)(4) the response to objections in the reply memorandum, if any.

99 **(h) Hearings.** The court may hold a hearing on any motion. A party may request a
100 hearing in the motion, in a memorandum or in the request to submit for decision. A

request for hearing must be separately identified in the caption of the document containing the request. The court must grant a request for a hearing on a motion under Rule [56](#) or a motion that would dispose of the action or any claim or defense in the action unless the court finds that the motion or opposition to the motion is frivolous or the issue has been authoritatively decided. A motion hearing may be held remotely, consistent with the safeguards in Rule 43(b).

(i) Notice of supplemental authority. A party may file notice of citation to significant authority that comes to the party's attention after the party's motion or memorandum has been filed or after oral argument but before decision. The notice must state the citation to the authority, the page of the motion or memorandum or the point orally argued to which the authority applies, and the reason the authority is relevant. Any other party may promptly file a response, but the court may act on the motion without waiting for a response.

(j) Orders.

(1) Decision complete when signed; entered when recorded. However designated, the court's decision on a motion is complete when signed by the judge. The decision is entered when recorded in the docket.

(2) Preparing and serving a proposed order. Within 14 days of being directed by the court to prepare a proposed order confirming the court's decision, a party must serve the proposed order on the other parties for review and approval as to form. If the party directed to prepare a proposed order fails to timely serve the order, any other party may prepare a proposed order confirming the court's decision and serve the proposed order on the other parties for review and approval as to form.

(3) Effect of approval as to form. A party's approval as to form of a proposed order certifies that the proposed order accurately reflects the court's decision. Approval as to form does not waive objections to the substance of the order.

(4) Objecting to a proposed order. A party may object to the form of the proposed order by filing an objection within 7 days after the order is served.

(5) Filing proposed order. The party preparing a proposed order must file it:

(A) after all other parties have approved the form of the order (The party preparing the proposed order must indicate the means by which approval was received: in person; by telephone; by signature; by email; etc.);

(B) after the time to object to the form of the order has expired (The party preparing the proposed order must also file a certificate of service of the proposed order.); or

(C) within 7 days after a party has objected to the form of the order (The party preparing the proposed order may also file a response to the objection.).

(6) Proposed order before decision prohibited; exceptions. A party may not file a proposed order concurrently with a motion or a memorandum or a request to submit for decision, but a proposed order must be filed with:

(A) a stipulated motion;

(B) a motion that can be acted on without waiting for a response;

(C) an ex parte motion;

(D) a statement of discovery issues under Rule [37\(a\)](#); and

(E) the request to submit for decision a motion in which a memorandum opposing the motion has not been filed.

(7) Orders entered without a response; ex parte orders. An order entered on a motion under paragraph (l) or (m) can be vacated or modified by the judge who made it with or without notice.

(8) Order to pay money. An order to pay money can be enforced in the same manner as if it were a judgment.

(k) Stipulated motions. A party seeking relief that has been agreed to by the other parties may file a stipulated motion which must:

(1) be titled substantially as: “Stipulated motion [short phrase describing the relief requested]”;

(2) include a concise statement of the relief requested and the grounds for the relief requested;

(3) include a signed stipulation in or attached to the motion and;

(4) be accompanied by a request to submit for decision and a proposed order that has been approved by the other parties.

(l) Motions that may be acted on without waiting for a response.

(1) The court may act on the following motions without waiting for a response:

(A) motion to permit an over-length motion or memorandum;

(B) motion for an extension of time if filed before the expiration of time;

(C) motion to appear pro hac vice;

(D) motion for Rule 16 conference;

(E) motion to strike a document filed by a vexatious litigant in violation of rule 83(d);

(F) motion to appear remotely; and

~~(E)~~ (G) other similar motions.

(2) A motion that can be acted on without waiting for a response must:

(A) be titled as a regular motion;

(B) include a concise statement of the relief requested and the grounds for the relief requested;

(C) cite the statute or rule authorizing the motion to be acted on without waiting for a response; and

(D) be accompanied by a request to submit for decision and a proposed order.

(m) Ex parte motions. If a statute or rule permits a motion to be filed without serving the motion on the other parties, the party seeking relief may file an ex parte motion which must:

(1) be titled substantially as: "Ex parte motion [short phrase describing the relief requested]";

(2) include a concise statement of the relief requested and the grounds for the relief requested;

(3) cite the statute or rule authorizing the ex parte motion;

(4) be accompanied by a request to submit for decision and a proposed order.

(n) Motion in opposing memorandum or reply memorandum prohibited. A party may not make a motion in a memorandum opposing a motion or in a reply memorandum. A party who objects to evidence in another party's motion or memorandum may not move to strike that evidence. Instead, the party must include in the subsequent memorandum an objection to the evidence.

(o) Overlength motion or memorandum. The court may permit a party to file an overlength motion or memorandum upon a showing of good cause. An overlength motion or memorandum must include a table of contents and a table of authorities with page references.

(p) Limited statement of facts and authority. No statement of facts and legal authorities beyond the concise statement of the relief requested and the grounds for the relief requested required in paragraph (c) is required for the following motions:

(1) motion to allow an over-length motion or memorandum;

(2) motion to extend the time to perform an act, if the motion is filed before the time to perform the act has expired;

(3) motion to continue a hearing;

(4) motion to appoint a guardian ad litem;

(5) motion to substitute parties;

(6) motion to refer the action to or withdraw it from alternative dispute resolution under Rule 4-510.05;

(7) motion for a conference under Rule 16; and

(8) motion to approve a stipulation of the parties.

(q) Length of Filings.

(1) Unless one of the following filings complies with the page limits set forth below, it must comply with the corresponding word limits:

Type of Filing	Page Limit	Word Limit
Motion for Relief Authorized by Rule 12(b), 12(c), 56, or 65A	25	9,000
All Other Motions	15	5,400
Memorandum Opposing Motion Authorized by Rule 12(b), 12(c), 56, or 65A	25	9,000
Memorandum Opposing All Other Motions	15	5,400
Reply Memorandum Supporting Motion for Relief Authorized by Rule 12(b), 12(c), 56, or 65A	15	5,400
Reply Memorandum Supporting All Other Motions	10	3,600
Objection and Response under Rule 7(f)	3	1,100
Notice of Supplemental Authority and Response under Rule 7(i)	2	700
Statement of Discovery Issues and Objection under Rule 37(a)(2) and 37(a)(3)	4	1,500

(2) The word and page limits in this rule exclude the following: caption, table of contents, table of authorities, signature block, certificate of service, certification, exhibits, and attachments.

215 (3) Any filer relying on the word limits in this rule must include a certification that
216 the document complies with the applicable word limit and must state the number of
217 words in the document.

218

219 Effective May 1, 2023

Rule 30. Depositions upon oral questions.

(a)When depositions may be taken; when leave required. A party may depose a party or witness by oral questions. A witness may not be deposed more than once in standard discovery. An expert who has prepared a report disclosed under Rule 26(a)(4)(B) may not be deposed.

(b)Notice of deposition; general requirements; special notice; non-stenographic recording; production of documents and things; deposition of organization; deposition by telephone.

~~(b)~~(1) The party deposing a witness ~~must~~shall give reasonable notice in writing to every other party. The notice ~~shall~~must state the date, time and place for the deposition and the name and address of each witness. If the name of a witness is not known, the notice ~~shall~~must describe the witness sufficiently to identify the person or state the class or group to which the person belongs. The notice ~~shall~~must designate any documents and tangible things to be produced by a witness. The notice ~~shall~~must designate the officer who will conduct the deposition.

~~(b)~~(2) The notice ~~shall~~must designate the method by which the deposition will be recorded. With prior notice to the officer, witness and other parties, any party may designate a recording method in addition to the method designated in the notice. Depositions may be recorded by sound, sound-and-visual, or stenographic means, and the party designating the recording method shall bear the cost of the recording. The appearance or demeanor of witnesses or attorneys ~~shall~~must not be distorted through recording techniques.

~~(b)~~(3) A deposition ~~shall~~must be conducted before an officer appointed or designated under Rule 28 and ~~shall~~must begin with a statement on the record by the officer that includes (A) the officer's name and business address; (B) the date, time and place of the deposition; (C) the name of the witness; (D) the administration of the oath or affirmation to the witness; and (E) an identification of all persons present. If the deposition is recorded other than stenographically, the officer

29 ~~must~~~~shall~~ repeat items (A) through (C) at the beginning of each unit of the recording
30 medium. At the end of the deposition, the officer ~~shall~~~~must~~ state on the record that
31 the deposition is complete and ~~shall~~ state any stipulations.

32 ~~(b)~~(4) The notice to a party witness may be accompanied by a request under
33 Rule 34 for the production of documents and tangible things at the deposition. The
34 procedure of Rule 34 ~~shall~~~~will~~ apply to the request. The attendance of a nonparty
35 witness may be compelled by subpoena under Rule 45. Documents and tangible
36 things to be produced ~~shall~~~~must~~ be stated in the subpoena.

37 ~~(b)~~(5) A deposition may be taken by remote electronic means. A deposition taken by
38 remote electronic means is considered to be taken at the place where the witness is
39 located.

40 ~~(b)~~(6) A party may name as the witness a corporation, a partnership, an association,
41 or a governmental agency, describe with reasonable particularity the matters on
42 which questioning is requested, and direct the organization to designate one or
43 more officers, directors, managing agents, or other persons to testify on its behalf.
44 The organization ~~shall~~~~must~~ state, for each person designated, the matters on which
45 the person will testify. A subpoena ~~shall~~~~must~~ advise a nonparty organization of its
46 duty to make such a designation. The person so designated ~~shall~~~~must~~ testify as to
47 matters known or reasonably available to the organization.

48 (A) Within 14 days of being served with a notice or subpoena, the
49 noticed organization may serve a written objection.

50 (B) Prior to the deposition, the serving party and the organization must confer
51 in good faith about the matters for examination regarding any objections, or
52 those objections are waived.

53 (C) If timely objections are not resolved prior to the deposition, any
54 party may seek resolution from the court in accordance with Rule 37, or if the
55 notice seeks a deposition of a non-party organization, the non-party organization

may seek resolution in accordance with Rule 45. The deposition may proceed only on the matters to which there has been no objection.

(c) Examination and cross-examination; objections during questioning.

~~(c)~~(1) Questioning of witnesses may proceed as permitted at the trial under the Utah Rules of Evidence, except Rules 103 and 615.

~~(c)~~(2) All objections ~~shall~~must be recorded, but the questioning ~~shall~~must proceed, and the testimony taken subject to the objections. Any objection ~~shall~~must be stated concisely and in a non-argumentative and non-suggestive manner. A person may instruct a witness not to answer only to preserve a privilege, to enforce a limitation on evidence directed by the court, or to present a motion for a protective order under Rule 37. Upon demand of the objecting party or witness, the deposition ~~shall~~be suspended for the time necessary to make a motion. The party taking the deposition may complete or adjourn the deposition before moving for an order to compel discovery under Rule 37.

(d) Limits. During standard discovery, oral questioning of a nonparty ~~shall~~must not exceed four hours, and oral questioning of a party ~~shall~~must not exceed seven hours.

(e) Submission to witness; changes; signing. Within 28 days after being notified by the officer that the transcript or recording is available, a witness may sign a statement of changes to the form or substance of the transcript or recording and the reasons for the changes. The officer ~~shall~~must append any changes timely made by the witness.

(f) Record of deposition; certification and delivery by officer; exhibits; copies.

~~(f)~~(1) The officer ~~shall~~must record the deposition or direct another person present to record the deposition. The officer ~~shall~~must sign a certificate, to accompany the record, that the witness was under oath or affirmation and that the record is a true record of the deposition. The officer ~~shall~~must keep a copy of the record. The officer ~~shall~~must securely seal the record endorsed with the title of the action and marked "Deposition of (name). Do not open." and ~~shall~~must promptly send the sealed

record to the attorney or the party who designated the recording method. An attorney or party receiving the record ~~shall~~must store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

~~(f)~~(2) Every party may inspect and copy documents and things produced for inspection and must have a fair opportunity to compare copies and originals. Upon the request of a party, documents and things produced for inspection ~~shall~~must be marked for identification and added to the record. If the witness wants to retain the originals, that person ~~shall~~must offer the originals to be copied, marked for identification and added to the record.

~~(f)~~(3) Upon payment of reasonable charges, the officer ~~shall~~must furnish a copy of the record to any party or to the witness.

(g) Failure to attend or to serve subpoena; expenses. If the party giving the notice of a deposition fails to attend or fails to serve a subpoena upon a witness who fails to attend, and another party attends in person or by attorney, the court may order the party giving the notice to pay to the other party the reasonable costs, expenses, and attorney fees incurred.

(h) Deposition in action pending in another state. Any party to an action in another state may take the deposition of any person within this state in the same manner and subject to the same conditions and limitations as if such action were pending in this state. Notice of the deposition ~~shall~~must be filed with the ~~clerk of the court~~ clerk of the county in which the person whose deposition is to be taken resides or is to be served. Matters required to be submitted to the court ~~shall~~must be submitted to the court in the county where the deposition is being taken.

(i) Stipulations regarding deposition procedures. The parties may by written stipulation provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

Rule 37. Statement of discovery issues; Sanctions; Failure to admit, to attend deposition or to preserve evidence.

Effective: 5/1/2021

(a) Statement of discovery issues.

(1) A party or the person from whom discovery is sought may request that the judge enter an order regarding any discovery issue, including:

(A) failure to disclose under Rule [26](#);

(B) extraordinary discovery under Rule [26](#);

(C) a subpoena under Rule [45](#);

(D) protection from discovery; or

(E) compelling discovery from a party who fails to make full and complete ~~discovery~~[disclosure](#).

(2) Statement of discovery issues length and content. The statement of discovery issues must be no more than [four](#)⁴ pages, not including permitted attachments, and must include in the following order:

(A) the relief sought and the grounds for the relief sought stated succinctly and with particularity;

(B) a certification that the requesting party has in good faith conferred or attempted to confer with the other affected parties in person or by telephone in an effort to resolve the dispute without court action;

(C) a statement regarding proportionality under Rule [26\(b\)\(3\)](#)~~26(b)(2)~~; ~~and~~

(D) if the statement requests extraordinary discovery, a statement certifying that the party has reviewed and approved a discovery budget; ~~and~~

(E) if objection was made under Rule 45(e)(4), a statement certifying that the statement of discovery issues has been served on the person subject to the subpoena or a non-party affected by the subpoena.

(3) Objection length and content. No more than seven⁷ days after the statement is filed, any other party may file an objection to the statement of discovery issues. If a person subject to a subpoena or a non-party affected by a subpoena timely filed an objection under Rule 45(e)(4), the person subject to the subpoena or the non-party affected by the subpoena may file an objection to the statement of discovery issues.

The objection must be no more than four⁴ pages, not including permitted attachments, and must address the issues raised in the statement.

(4) Permitted attachments. The party filing the statement must attach to the statement only a copy of the disclosure, request for discovery, or the response at issue.

(5) Proposed order. Each party, or a person subject to a subpoena or a non-party affected by a subpoena, must file a proposed order concurrently with its statement or objection.

(6) Decision. Upon filing of the objection or expiration of the time to do so, either party may and the party filing the statement must file a Request to Submit for Decision under Rule 7(g). The court will promptly:

(A) decide the issues on the pleadings and papers;

(B) conduct a hearing, preferably remotely and if remotely, then consistent with the safeguards in Rule 43(b); or

(C) order additional briefing and establish a briefing schedule.

(7) Orders. The court may enter orders regarding disclosure or discovery or to protect a party or person from discovery being conducted in bad faith or from annoyance, embarrassment, oppression, or undue burden or expense, or to achieve proportionality under Rule 26(b)(2), including one or more of the following:

- 51 (A) that the discovery not be had or that additional discovery be had;
- 52 (B) that the discovery may be had only on specified terms and conditions,
53 including a designation of the time or place;
- 54 (C) that the discovery may be had only by a method of discovery other than that
55 selected by the party seeking discovery;
- 56 (D) that certain matters not be inquired into, or that the scope of the discovery be
57 limited to certain matters;
- 58 (E) that discovery be conducted with no one present except persons designated
59 by the court;
- 60 (F) that a deposition after being sealed be opened only by order of the court;
- 61 (G) that a trade secret or other confidential information not be disclosed or be
62 disclosed only in a designated way;
- 63 (H) that the parties simultaneously deliver specified documents or information
64 enclosed in sealed envelopes to be opened as directed by the court;
- 65 (I) that a question about a statement or opinion of fact or the application of law to
66 fact not be answered until after designated discovery has been completed or until
67 a pretrial conference or other later time;
- 68 (J) that the costs, expenses and attorney fees of discovery be allocated among the
69 parties as justice requires; or
- 70 (K) that a party pay the reasonable costs, expenses, and attorney fees incurred on
71 account of the statement of discovery issues if the relief requested is granted or
72 denied, or if a party provides discovery or withdraws a discovery request after a
73 statement of discovery issues is filed and if the court finds that the party, witness,
74 or attorney did not act in good faith or asserted a position that was not
75 substantially justified.

(8) Request for sanctions prohibited. A statement of discovery issues or an objection may include a request for costs, expenses_z and attorney fees but not a request for sanctions.

(9) Statement of discovery issues does not toll discovery time. A statement of discovery issues does not suspend or toll the time to complete standard discovery.

(b) Motion for sanctions. Unless the court finds that the failure was substantially justified, the court, upon motion, may impose appropriate sanctions for the failure to follow its orders, including the following:

(1) deem the matter or any other designated facts to be established in accordance with the claim or defense of the party obtaining the order;

(2) prohibit the disobedient party from supporting or opposing designated claims or defenses or from introducing designated matters into evidence;

(3) stay further proceedings until the order is obeyed;

(4) dismiss all or part of the action, strike all or part of the pleadings, or render judgment by default on all or part of the action;

(5) order the party or the attorney to pay the reasonable costs, expenses, and attorney fees, caused by the failure;

~~(6) treat the failure to obey an order, other than an order to submit to a physical or mental examination, as contempt of court; and~~

~~(6)~~ instruct the jury regarding an adverse inference.

(c) Motion for costs, expenses_z and attorney fees on failure to admit. If a party fails to admit the genuineness of a document or the truth of a matter as requested under Rule [36](#), and if the party requesting the admissions_s proves the genuineness of the document or the truth of the matter, the party requesting the admissions_s may file a motion for an order requiring the other party to pay the reasonable costs, expenses_z and

attorney fees incurred in making that proof. The court must enter the order unless it finds that:

(1) the request was held objectionable pursuant to Rule [36\(a\)](#);

(2) the admission sought was of no substantial importance;

(3) there were reasonable grounds to believe that the party failing to admit might prevail on the matter;

(4) that the request was not proportional under Rule [26\(b\)\(3\)](#)~~[26\(b\)\(2\)](#)~~; or

(5) there were other good reasons for the failure to admit.

(d) Motion for sanctions for failure of party to attend deposition. If a party or an officer, director, or managing agent of a party or a person designated under Rule [30\(b\)\(6\)](#) to testify on behalf of a party fails to appear before the officer taking the deposition after service of the notice, any other party may file a motion for sanctions under paragraph (b). The failure to appear may not be excused on the ground that the discovery sought is objectionable unless the party failing to appear has filed a statement of discovery issues under paragraph (a).

(e) Failure to preserve evidence. Nothing in this rule limits the inherent power of the court to take any action authorized by paragraph (b) if a party destroys, conceals, alters, tampers with, or fails to preserve a document, tangible item, electronic data, or other evidence in violation of a duty. Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system.

Advisory Committee Notes

125 The 2011 amendments to Rule 37 make two principal changes. First, the amended Rule
126 37 consolidates provisions for motions for a protective order (formerly set forth in Rule
127 26(c)) with provisions for motions to compel.

128 Second, the amended Rule 37 incorporates the new Rule 26 standard of
129 "proportionality" as a principal criterion on which motions to compel or for a protective
130 order should be evaluated.

131 Paragraph (a) adopts the expedited procedures for statements of discovery issues
132 formerly found in Rule 4-502 of the Code of Judicial Administration. Statements of
133 discovery issues replace discovery motions, and paragraph (a) governs unless the judge
134 orders otherwise.

135

Rule 45. Subpoena.

(a) Form; issuance.

(1) Every subpoena ~~shall~~must:

(A) issue from the court in which the action is pending;

(B) state the title and case number of the action, the name of the court from which it is issued, and the name and address of the party or attorney responsible for issuing the subpoena;

(C) command each person to whom it is directed

(i) to appear and give testimony at a trial, hearing_z or deposition, or

(ii) to appear and produce for inspection, copying, testing_z or sampling documents, electronically stored information_z or tangible things in the possession, custody_z or control of that person, or

(iii) to copy documents or electronically stored information in the possession, custody_z or control of that person and mail or deliver the copies to the party or attorney responsible for issuing the subpoena before a date certain, or

(iv) to appear and to permit inspection of premises;

(D) if an appearance is required, give notice of the date, time, and place for the appearance and, if remote transmission is requested, instructions for participation and whom to contact if there are technical difficulties; and

(E) include a notice to persons served with a subpoena in a form substantially similar to the approved subpoena form. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(2) The clerk ~~shall~~must issue a subpoena, signed but otherwise in blank, to a party requesting it, who ~~must~~shall complete it before service. An attorney admitted to practice in Utah may issue and sign a subpoena as an officer of the court.

(b) **Service; fees; prior notice.**

(1) A subpoena may be served by any person who is at least 18 years of age and not a party to the case. Service of a subpoena upon the person to whom it is directed ~~shall~~must be made as provided in Rule 4(d).

(2) If the subpoena commands a person's appearance, the party or attorney responsible for issuing the subpoena must~~shall~~ tender with the subpoena the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States, or this state, or any officer or agency of either, fees and mileage need not be tendered.

(3) If the subpoena commands a person to copy and mail or deliver documents_z or electronically stored information, to produce documents, electronically stored information_z or tangible things for inspection, copying, testing_z or sampling_z or to permit inspection of premises, the party or attorney responsible for issuing the subpoena ~~shall~~must serve each party with the subpoena by delivery or other method of actual notice before serving the subpoena.

(c) **Appearance; resident; non-resident.**

(1) A person who resides in this state may be required to appear:

(A) at a trial or hearing in the county in which the case is pending; and

(B) at a deposition, or to produce documents, electronically stored information_z or tangible things, or to permit inspection of premises only in the county in which the person resides, is employed, or transacts business in person, or at such other place as the court may order.

(2) A person who does not reside in this state but who is served within this state may be required to appear:

(A) at a trial or hearing in the county in which the case is pending; and

(B) at a deposition, or to produce documents, electronically stored information, or tangible things, or to permit inspection of premises only in the county in which the person is served or at such other place as the court may order.

(d) Payment of production or copying costs. The party or attorney responsible for issuing the subpoena ~~shall~~must pay the reasonable cost of producing or copying documents, electronically stored information, or tangible things. Upon the request of any other party and the payment of reasonable costs, the party or attorney responsible for issuing the subpoena ~~shall~~must provide to the requesting party copies of all documents, electronically stored information, or tangible things obtained in response to the subpoena or ~~shall~~must make the tangible things available for inspection.

(e) Protection of persons subject to subpoenas; objection.

(1) The party or attorney responsible for issuing a subpoena ~~shall~~must take reasonable steps to avoid imposing an undue burden or expense on the person subject to the subpoena. The court ~~shall~~will enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney fee.

(2) A subpoena to copy and mail or deliver documents, or electronically stored information, to produce documents, electronically stored information, or tangible things, or to permit inspection of premises ~~shall~~must comply with Rule 34(a) and (b)(1), except that the person subject to the subpoena must be allowed at least 14 days after service to comply.

(3) The person subject to the subpoena or a non-party affected by the subpoena may object ~~under Rule 37~~ if the subpoena:

(A) fails to allow reasonable time for compliance;

(B) requires a resident of this state to appear at other than a trial or hearing in a county in which the person does not reside, is not employed, or does not transact

business in person;

(C) requires a non-resident of this state to appear at other than a trial or hearing in a county other than the county in which the person was served;

(D) requires the person to disclose privileged or other protected matter and no exception or waiver applies;

(E) requires the person to disclose a trade secret or other confidential research, development, or commercial information;

(F) subjects the person to an undue burden or cost;

(G) requires the person to produce electronically stored information in a form or forms to which the person objects;

(H) requires the person to provide electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost; or

(I) requires the person to disclose an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study that was not made at the request of a party.

(4) Timing and form of objections.

(A) If the person subject to the subpoena or a non-party affected by the subpoena objects, the objection must be ~~made~~ in writing and made before the date for compliance.

(B) The objection ~~shall~~ must be stated in a concise, non-conclusory manner.

(C) If the objection is that the information commanded by the subpoena is privileged or protected and no exception or waiver applies, or requires the person to disclose a trade secret or other confidential research, development, or commercial information, the objection ~~shall~~ must sufficiently describe the nature of the documents, communications, or things not produced to enable the party or

attorney responsible for issuing the subpoena to contest the objection.

(D) If the objection is that the electronically stored information is from sources that are not reasonably accessible because of undue burden or cost, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost.

(E) The objection ~~shall~~must be served on the party or attorney responsible for issuing the subpoena. The party or attorney responsible for issuing the subpoena ~~shall~~must promptly serve a copy of the objection on the other parties.

~~(5) If objection is made, or if a party requests a protective order, the party or attorney responsible for issuing the subpoena is not entitled to compliance but may request an order to compel compliance under Rule 37(a). The objection or request shall be served on the other parties and on the person subject to the subpoena. An order compelling compliance shall protect the person subject to or affected by the subpoena from significant expense or harm. The court may quash or modify the subpoena. If the party or attorney responsible for issuing the subpoena shows a substantial need for the information that cannot be met without undue hardship, the court may order compliance upon specified conditions.~~

(5) Response to objections and compliance.

(A) If an objection is made under this rule, or if a party requests a protective order, the party issuing the subpoena is not entitled to compliance on any topic for which an objection has been made but may request an order to compel compliance under Rule 37(a).

(B) ~~The objection or request~~ If a party requests a protective order, the party must serve the request for a protective order on the other parties and on the person subject to the subpoena.

(C) If the party issuing the subpoena seeks to obtain compliance with the subpoena through Rule 37(a), the person subject to the subpoena or a non-party

affected by the subpoena may respond as provided by Rule 37(a)(3).

(D) An order compelling compliance must protect the person subject to or affected by the subpoena from significant expense or harm. The court may quash or modify the subpoena. If the party shows a substantial need for the information sought by the subpoena that cannot be met without undue hardship, the court may order compliance upon specified conditions.

(b) Duties in responding to subpoena.

(1) A person commanded to copy and mail or deliver documents_z or electronically stored information_z or to produce documents, electronically stored information_z or tangible things ~~shall~~must serve on the party or attorney responsible for issuing the subpoena a declaration under penalty of law stating in substance:

(A) that the declarant has knowledge of the facts contained in the declaration;

(B) that the documents, electronically stored information_z or tangible things copied or produced are a full and complete response to the subpoena;

(C) that the documents, electronically stored information_z or tangible things are the originals or that a copy is a true copy of the original; and

(D) the reasonable cost of copying or producing the documents, electronically stored information or tangible things.

(2) A person commanded to copy and mail or deliver documents or electronically stored information or to produce documents, electronically stored information_z or tangible things ~~shall~~must copy or produce them as they are kept in the usual course of business_z or ~~shall~~must organize and label them to correspond with the categories in the subpoena.

(3) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in the form or forms in which the person ordinarily

maintains it or in a form or forms that are reasonably usable.

(4) If the information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party who received the information of the claim and the basis for it. After being notified, the party must promptly return, sequester, or destroy the specified information and any copies of it 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 the information. The person who produced the information must preserve the information until the claim is resolved.

(c) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person is punishable as contempt of court.

(d) Procedure when witness evades service or fails to attend. If a witness evades service of a subpoena or fails to attend after service of a subpoena, the court may issue a warrant to the sheriff of the county to arrest the witness and bring the witness before the court.

(e) Procedure when witness is an inmate. If the witness is an inmate as defined in Rule 6(e)(1), a party may move for an order to examine the witness in the institution or to produce the witness before the court or officer for the purpose of being orally examined.

(f) Subpoena unnecessary. A person present in court or before a judicial officer may be required to testify in the same manner as if the person were in attendance upon a subpoena.

Effective ~~May 1, 2021~~

Tab 3

UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

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LINKS

Posted: December 30, 2024

Utah Courts

Rules of Civil Procedure – Comment Period Closed February 13, 2025

URCP053A. Special masters for parenting disputes in domestic relations actions. NEW. This new rule is proposed to cover the court appointment of special masters specific to domestic relations actions. A separate rule is being drafted and will be proposed to cover the training and qualifications of a special master in domestic relations actions.

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7 thoughts on “Rules of Civil Procedure – Comment Period Closed February 13, 2025”

Kayla Quam
January 2, 2025 at 1:31 pm

The type of cases that needs Special Masters appointed are the ones in which one of the parties will not agree to the appointment of a Special Master. I would greatly prefer a version where the Court has the ability to appoint a Special Master. This Rule could be limited for “high-conflict cases” or for “exceptional cases where the Court determines a Special Master would greatly reduce high attorney fees or conflict that is harming the children.”

Eric K. Johnson
January 13, 2025 at 4:21 pm

I can sympathize with the reasons/circumstances underlying Kayla Quam’s proposal, but the problem with her proposal is that courts could abuse such sua sponte power by “finding” virtually every case to be a high-conflict case, so that the case gets off the court’s desk and into the hands of a special master who gets paid by the hour. In my experience, too many courts already classify most divorce and child custody cases as “high conflict” to justify treating the parties and counsel shabbily, and if given the opportunity to outsource work to someone else, few courts would resist.

Regardless, special masters are generally a bad idea. They tend not to be sufficiently attentive, responsive, analytical, neutral, humble, thick-skinned, or resourceful. Few parties take them seriously. I’ve never had a positive experience with a special master. They love the title, they love the billing, but the concept doesn’t match the real-world application. They don’t perform a valuable service.

Eric K. Johnson
January 13, 2025 at 4:36 pm

- [-Rules of Appellate Procedure](#)
- [-Rules of Civil Procedure](#)
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- [ADR101](#)
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- [CJA Appendix F](#)
- [CJA01-0201](#)
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- [CJA03-0104](#)
- [CJA03-0105](#)
- [CJA03-0106](#)

I can sympathize with the reasons/circumstances underling such a proposal, but I fear that granting courts a sua sponte right to appoint special masters in “high-conflict” cases would be too much of a temptation to treat virtually all cases as “high conflict” cases as an excuse for courts to outsource the work to a special master.

Regardless, special masters are generally a bad idea because they do not solve the problems for which they were created. I’ve never had a positive experience with a special master. They are insufficiently attentive, responsive, neutral, inquisitive, analytical, and resourceful. They love the title, they love to bill, but their work product does not justify their appointment. Parties don’t take them seriously because they are so often perceived as “not the judge” and thus “possessing no real power”.

Sara Pfrommer

January 9, 2025 at 11:11 am

I think that this is a move in the right direction. I would like to see more teeth in the section about dismissing a special master though – we’ve seen too many cases where special masters are favoring one party over another; failing to apply the law; taking too long to make time sensitive decisions, etc. It should be easier and quicker to ask for a different one.

Eric K. Johnson

January 13, 2025 at 4:24 pm

... because a different special master will solve those problems?

The problem with special masters lies not in the structure of a special master rule but in the implementation of a special master appointment itself. Special masters generally do a mediocre job that does not improve the situation as it existed before appointment of a special master.

Eric K. Johnson

January 13, 2025 at 4:25 pm

... because a different special master will solve those problems?

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The problem with special masters lies not in the structure of a special master rule but in the implementation of a special master appointment itself. Special masters generally do a mediocre job that does not improve the situation as it existed before appointment of a special master.

Catherine J. Hoskins

January 16, 2025 at 5:27 am

My concern is the language that they can modify the parenting plan. I think that exceeds their authority. Commissioner's are not allowed to modify the parenting plan. It has been my understanding that a special masters job is to interpret the areas where the parenting plan is unclear and assist the parties when they have disagreement. The problem is every special master case is different and it takes some time to figure out what each case needs and how to properly handle the parties. Many times the parties do not bring issues until they are emergencies and then they are frustrated with timely responses.

Special masters are not a silver bullet on every type of case, but they can be incredibly helpful when used properly. In regards to Mr. Johnson's comments he is right that there are some mediocre special masters, but that statement is applicable to every type of professional in our field, ie GAL's, custody evaluators, therapists, reunification therapists, mediators, attorneys(present company excluded :). Just because we have all of these professionals does not mean that they should not be used on every case. On this matter is there is currently a rule on Special Masters. The Rule does need to be clarified and revised from it's current format so that provides more guidance to the practioners for those who to chose to use it.

In regards to the issue of neutrality this is the same concern that comes up in every case with every commissioner, judge, mediator, as long as the rulings are explained in writing and both sides have an ability to object which they do then the parties are protected. The rule is helpful. I especially like the language and the end that the role can be expanded for other issues as the court and parties deem appropriate.

I appreciate all of the hard work that has gone into the drafting and revisions of the rule. The committee has done a great job with this rule.

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Rule 53A. Special masters for parenting disputes in domestic relations actions.

(a) **Scope.** This rule applies to domestic relations actions as defined in Rule 26.1.

(b) **Definitions.**

(1) “Special master” means an attorney or other professional appointed by the court to assist the court in managing parenting disputes that may arise during or after a divorce.

(2) “Parenting disputes” means disputes relating to any matter addressed in parenting plans or other related orders of the court including, without limitation, visitation or parent time, co-parenting, and child related expenses.

(c) **Time for appointment; Parties’ stipulation.** A court may appoint a special master by order after entry of a court ordered parenting plan, temporary order, or final order in a case. A court may appoint a special master only upon stipulation of the parties. If the parties stipulate to the appointment of a special master, the court may select the special master.

(d) **Compensation.** The court will fix the terms of the special master’s compensation, including how compensation will be apportioned between the parties. The court may incorporate by reference the terms of the special master’s fee agreement.

(e) **Term and scope of appointment.** The court will specify the length and scope of the special master’s appointment at the time of appointment. The court may modify the term or scope of the appointment for good cause upon its own motion, a motion of a party, or a request by the special master.

(f) **Powers and limitations.**

(1) **Directives.** The court may authorize the special master to resolve parenting disputes through directives. Directives are effective as orders when made and will continue to be effective unless modified or set aside by the court, the special master, or by written stipulation of the parties.

(2) **Sanctions.** A special master may issue sanctions only if specifically authorized by the court in the appointment order. A special master may not make a finding of contempt.

(3) **Existing orders.** Except as provided here, the court may not authorize a special master to issue directives that are contrary to or inconsistent with existing orders, judgments, or decrees. The court may authorize a special master to deviate from the parenting plan, but that authorization must be express and narrow in scope. Recognizing the special master's role may involve creating rules, clarifications, or additional requirements for the parties to follow to resolve disputes, the court may not authorize a special master to issue any decisions or modifications of orders that would otherwise require a judicial order.

(g) **Delivery and filing of decisions.** A special master must deliver all directives in writing to the parties. A special master must also file all directives with the court.

(h) **Objections and court review.**

(1) **Objections.** A party may object to a special master's directive by filing a written motion to modify or set aside a special master's directive within 14 days after the date of the special master's directive. A court may consider an untimely motion upon good cause shown.

(A) The motion must state succinctly and with particularity the directive challenged, the relief sought, and the grounds for the relief sought. Any evidence necessary to support the moving party's position must be presented by declaration.

(B) If the matter is assigned to a domestic commissioner, the requirements in Rule 101 relating to motions, responsive memoranda, counter motions, and documentation apply. Otherwise, the requirements in Rule 7 apply.

(2) **Court review.** The court will review the special master's directive de novo. In the event additional evidence is needed, the court may remand the matter to the special master for further proceedings.

(i) **Suspension or termination of special master's appointment.**

(1) **Suspension or termination by special master.** A special master may elect to suspend or terminate the special master's appointment by delivering a notice of suspension or resignation to all parties and filing the notice with the court. A special master may not suspend or terminate the appointment while an issue is pending before the special master.

(2) **Termination by the parties.** The parties may terminate the special master's appointment upon written stipulation filed with the court and served on the special master.

(3) **Termination by the court.** The court may suspend or terminate the special master's appointment on its own initiative or by motion of a party for good cause shown.

(4) **No unilateral termination.** Neither party may unilaterally terminate or modify the appointment of a special master by withdrawal of the party's stipulation to appoint the special master.

(j) **Use of special master for other issues.** This rule does not preclude the court from appointing a special master pursuant to Rule 53 for other issues outside of those listed in subparagraph (b)(2).

Effective Date --

Tab 4

1 **Rule 26.1. Disclosure and discovery in domestic relations actions.**

2 **(a) Scope.** This rule applies to the following domestic relations actions: divorce;
3 temporary separation; separate maintenance; parentage; custody; child support; and
4 modification. This rule does not apply to adoptions, enforcement of prior orders,
5 cohabitant abuse protective orders, child protective orders, civil stalking injunctions, or
6 grandparent visitation.

7 **(b) Time for disclosure.** ~~In addition to the Initial Disclosures required in Rule 26, in all~~
8 ~~domestic relations actions, the documents required in this rule~~ In all domestic relations
9 actions, the disclosures required by Rule 26 and this rule must be served on the other
10 parties within 14 days after filing of the first answer to the complaint.

11 **(c) Financial declaration.** Each party must serve on all other parties a fully completed
12 Financial Declaration, using the court-approved form, and attachments. Each party must
13 attach to the Financial Declaration the following:

14 (1) For every item and amount listed in the Financial Declaration, excluding monthly
15 expenses, copies of statements verifying the amounts listed on the Financial
16 Declaration that are reasonably available to the party.

17 (2) For the two tax years before the petition was filed, complete federal and state
18 income tax returns, including Form W-2 and supporting tax schedules and
19 attachments, filed by or on behalf of that party or by or on behalf of any entity in
20 which the party has a majority or controlling interest, including, but not limited to,
21 Form 1099 and Form K-1 with respect to that party.

22 (3) Pay stubs and other evidence of all earned and un-earned income for the 12 months
23 before the petition was filed.

24 (4) All loan applications and financial statements prepared or used by the party within
25 the 12 months before the petition was filed.

Commented [SH1]: This amendment was made based upon a request from the Supreme Court. After public comment period it was sent to the Forms Committee to address subparagraph (h) but we never heard back. Does the Committee still support this amendment?

(5) Documents verifying the value of all real estate in which the party has an interest, including, but not limited to, the most recent appraisal, tax valuation and refinance documents.

(6) All statements for the 3 months before the petition was filed for all financial accounts, including, but not limited to checking, savings, money market funds, certificates of deposit, brokerage, investment, retirement, regardless of whether the account has been closed including those held in that party's name, jointly with another person or entity, or as a trustee or guardian, or in someone else's name on that party's behalf.

(7) If the foregoing documents are not reasonably available or are in the possession of the other party, the party disclosing the Financial Declaration must estimate the amounts entered on the Financial Declaration, the basis for the estimation and an explanation why the documents are not available.

(d) Certificate of service. Each party must file a Certificate of Service with the court certifying that he or she has provided the Financial Declaration and attachments to the other party.

(e) Exemptions.

(1) Agencies of the State of Utah are not subject to these disclosure requirements.

(2) In cases where assets are not at issue, such as ~~paternity~~parentage, modification, and grandparents' rights, a party must only serve:

(A) the party's last three current paystubs and the previous year tax return;

(B) six months of bank and profit and loss statements if the party is self-employed; and

(C) proof of any other assets or income relevant to the determination of a child support award.

The court may require the parties to complete a full Financial Declaration for purposes of determining an attorney fee award or for any other reason. Any party may by motion or through the discovery process also request completion of a full Financial Declaration.

(f) Sanctions. Failure to fully disclose all assets and income in the Financial Declaration and attachments may subject the non-disclosing party to sanctions under Rule [37](#) including an award of non-disclosed assets to the other party, attorney's fees or other sanctions deemed appropriate by the court.

(g) Failure to comply. Failure of a party to comply with this rule does not preclude any other party from obtaining a default judgment, proceeding with the case, or seeking other relief from the court.

(h) Notice of requirements. Notice of the requirements of this rule must be served on the other party and all joined parties with the initial petition.

Effective November 1, 2021

Rule 109. Injunction in certain domestic relations cases.

Effective: 1/1/0021

(a) **Actions in which a domestic injunction enters.** Unless the court orders otherwise, in an action for divorce, annulment, temporary separation, custody, parent time, support, or ~~paternity~~parentage, the court will enter an injunction when the initial petition is filed. Only the injunction's applicable provisions will govern the parties to the action.

(b) General provisions.

(1) If the action concerns the division of property then neither party may transfer, encumber, conceal, or dispose of any property of either party without the written consent of the other party or an order of the court, except in the usual course of business or to provide for the necessities of life.

(2) Neither party may, through electronic or other means, disturb the peace of, harass, or intimidate the other party.

(3) Neither party may commit domestic violence or abuse against the other party or a child.

(4) Neither party may use the other party's name, likeness, image, or identification to obtain credit, open an account for service, or obtain a service.

(5) Neither party may cancel or interfere with telephone, utility, or other services used by the other party.

(6) Neither party may cancel, modify, terminate, change the beneficiary, or allow to lapse for voluntary nonpayment of premiums, any policy of health insurance, homeowner's or renter's insurance, automobile insurance, or life insurance without the written consent of the other party or pursuant to further order of the court.

(c) **Provisions regarding a minor child.** The following provisions apply when a minor child is a subject of the petition.

(1) Neither party may engage in non-routine travel with the child without the written consent of the other party or an order of the court unless the following information has been provided to the other party:

(A) an itinerary of travel dates and destinations;

(B) how to contact the child or traveling party; and

(C) the name and telephone number of an available third person who will know the child's location.

(2) Neither party may do the following in the presence or hearing of the child:

(A) demean or disparage the other party;

(B) attempt to influence a child's preference regarding custody or parent time; or

(C) say or do anything that would tend to diminish the love and affection of the child for the other party, or involve the child in the issues of the petition.

(3) Neither party may make parent time arrangements through the child.

(4) When the child is under the party's care, the party has a duty to use best efforts to prevent third parties from doing what the parties are prohibited from doing under this order or the party must remove the child from those third parties.

(d) **Service.** The court will serve the injunction on the petitioner at the time the petition is filed. The petitioner must provide the respondent with a copy of the injunction as entered by the court through any means reasonably calculated to give notice.

(e) **When the injunction is binding.** The injunction is binding

(1) on the petitioner upon filing the initial petition; and

(2) on the respondent after filing of the initial petition and upon receipt of a copy of the injunction as entered by the court.

(f) **When the injunction terminates.** The injunction remains in effect until the final decree is entered, the petition is dismissed, the parties otherwise agree in a writing signed by all parties, or further order of the court.

(g) **Modifying or dissolving the injunction.** A party may move to modify or dissolve the injunction.

(1) Prior to a responsive pleading being filed, the court shall determine a motion to modify or dissolve the injunction as expeditiously as possible. The moving party must serve the nonmoving party at least 48 hours before a hearing.

(2) After a responsive pleading is filed, a motion to modify or to dissolve the injunction is governed by Rule 7 or Rule 101, as applicable.

(h) **Separate conflicting order.** Any separate order governing the parties or their minor children will control over conflicting provisions of this injunction.

(i) **Applicability.** This rule applies to all parties other than the Office of Recovery Services.

Tab 5

1 **Rule 107. ~~Decree of adoption;~~ Petition to open adoption records.**

2 ~~(a) An adoptive parent or adult adoptee may obtain a certified copy of the adoption~~
3 ~~decree upon request and presentation of positive identification.~~

4 ~~(a)~~ A person may petition the court to open adoption records. A petition ~~to open the~~
5 ~~court's adoption records shall~~ must identify the type of information sought and ~~shall~~
6 state good cause for access, and, in the following circumstances, ~~shall~~ must provide the
7 information indicated below:

8 ~~(b)~~(1) If the petition seeks health, genetic, or social information, the petition ~~shall~~
9 must state why the health history, genetic history, or social history of ~~the Bureau of~~
10 ~~Vital~~ Office of Vital Records and Statistics is insufficient for the purpose.

11 ~~(b)~~(2) If the petition seeks identifying information, the petition ~~shall~~ must state why
12 the voluntary adoption registry of the ~~Bureau of Vital~~ Office of Vital Records and
13 Statistics is insufficient for the purpose.

14 ~~(b)~~ (e) The court may order the petition served on any person having an interest in the
15 petition, including the placement agency, the attorney handling a private placement, or
16 the birth parents. If the court orders the petition served on any person whose identity is
17 confidential, the court ~~shall~~ will proceed in a manner that gives that person notice and
18 the opportunity to be heard without revealing that person's identity or location.

19 ~~(c)~~ (d) The court ~~shall~~ will determine whether the petitioner has shown good cause and
20 whether the reasons for disclosure outweigh the reasons for non-disclosure.

21 ~~(d)~~ (e) If the court grants the petition, the court ~~shall~~ will permit the petitioner to inspect
22 and copy only those records that serve the purpose of the petition. The order ~~shall~~ will
23 expressly permit the petitioner to inspect and copy such records.

24 ~~(e)~~ (f) The court ~~clerk of the court~~ shall must reseal the records after the petitioner has
25 inspected and copied them.

26 Effective date:

Commented [SH1]: This is the new amendment to update the language for the Office of Vital Records and Statistics. This rule is going to the Supreme Court on March 5 for final approval and this amendment could be requested as it is not substantive.

Tab 6

Rule 108. Objection to court commissioner's recommendation.

Effective: 11/1/2023

(a) A recommendation of a court commissioner is the order of the court until modified by the court. A party may file a written objection to the recommendation within 14 days after the recommendation is made in open court or, if the court commissioner takes the matter under advisement, within 14 days after the minute entry of the recommendation is served. A judge's counter-signature on the commissioner's recommendation does not affect the review of an objection.

(b) The objection must identify succinctly and with particularity the findings of fact, the conclusions of law, or the part of the recommendation to which the objection is made and state the relief sought. The memorandum in support of the objection must explain succinctly and with particularity why the findings, conclusions, or recommendation are incorrect. The time for filing, length and content of memoranda, affidavits, and request to submit for decision are as stated for motions in Rule 7.

(c) If there has been a substantial change of circumstances since the commissioner's recommendation, the judge may, in the interests of judicial economy, consider new evidence. Otherwise, any evidence, whether by proffer, testimony or exhibit, not presented to the commissioner shall not be presented to the judge.

(d)(1) The judge may hold a hearing on any objection.

(d)(2) If the hearing before the commissioner was held under Utah Code Title 26B, Chapter 5, Part 3, Utah State Hospital and Other Mental Health Facilities, Utah Code Title 78B, Chapter 7, Protective Orders, or on an ~~order to show cause for the enforcement of a judgment~~order to attend hearing to respond to a motion to enforce order and for sanctions, any party has the right, upon request, to present testimony and other evidence on genuine issues of material fact.

(d)(3) If the hearing before the commissioner was in a domestic relations matter other than a cohabitant abuse protective order, any party has the right, upon request:

- 28 (d)(3)(A) to present testimony and other evidence on genuine issues of material fact
29 relevant to custody; and
- 30 (d)(3)(B) to a hearing at which the judge may require testimony or proffers of testimony
31 on genuine issues of material fact relevant to issues other than custody.
- 32 (e) If a party does not request a hearing, the judge may hold a hearing or review the
33 record of evidence, whether by proffer, testimony or exhibit, before the commissioner.
- 34 (f) The judge will make independent findings of fact and conclusions of law based on
35 the evidence, whether by proffer, testimony or exhibit, presented to the judge, or, if
36 there was no hearing before the judge, based on the evidence presented to the
37 commissioner.

38

Tab 7

Rule 62. Stay of proceedings to enforce a judgment or order.

(a) **Delay in execution.** No execution or other writ to enforce a judgment or an order to pay money under Rule 7(j)(8) may issue until the expiration of 28 days after entry of the judgment or order, unless the court in its discretion otherwise directs.

(b) **Stay by bond or other security; duration of stay.** At any time after judgment is entered, a party may obtain a stay by providing a bond or other security. ~~A party may obtain a stay of the enforcement of a judgment or order to pay money by providing a bond or other security, unless a stay is otherwise prohibited by law or these rules.~~

(1) The stay takes affect when the court approves the bond or other security and remains in effect for the time specified in the order that approves the bond or other security.

(2) In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay:

(A) an order that is certified as final under Rule 54(b) until the entry of a final judgment under Rule 58A;

(B) an order to pay money under Rule 7(j)(8) until the entry of a judgment under Rule 58A;

(C) a judgment until resolution of any motion made pursuant to Rule 50(b), Rule 52(b), Rule 59, Rule 60, or Rule 73; and

(D) a judgment until resolution of a motion made under this rule.

(c) **Injunction pending appeal.** When a party seeks an appeal from an interlocutory order, or takes an appeal from a judgment, granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of appellate proceedings upon such conditions for the security of the rights of the adverse party as are just.

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(d) **Stay in favor of the United States, the State of Utah, or political subdivision.** When an appeal is taken by the United States, the State of Utah, a political subdivision, or an officer of agency of any of those entities, or by direction of any department of any of those entities, and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security is required from the appellant.

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(e) **Stay in quo warranto proceedings.** Where the defendant is adjudged guilty of usurping, intruding into or unlawfully holding public office, civil or military, within this state, the execution of the judgment shall not be stayed on an appeal.

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(f) **Power of appellate court not limited.** The provisions in this rule do not limit any power of an appellate court or of a judge or justice of an appellate court.

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(g) **Form of bond; deposit in lieu of bond; stipulation on security; jurisdiction over sureties to be set forth in undertaking.**

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(1) A bond given under Subdivision (b) may be either a commercial bond having a surety authorized to transact insurance business under Title 31A, or a personal bond having one or more sureties who are residents of Utah having a collective net worth of at least twice the amount of the bond, exclusive of property exempt from execution. Sureties on personal bonds shall make and file a declaration setting forth in reasonable detail the assets and liabilities of the surety.

(2) The court may permit a deposit of money in court or other security to be given in lieu of giving a bond.

(3) The parties may by written stipulation agree to the form and amount of security.

(4) A bond shall provide that each surety submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as the surety's agent upon whom any papers affecting the surety's liability on the bond may be served, and that the surety's liability may be enforced on motion and upon such notice as the court may require without the necessity of an independent action.

52 (h) **Amount of bond or other security.**

53 (1) Except as provided in subsection (h)(2), a court shall set the bond or other security
54 in an amount that adequately protects the adverse party against loss or damage
55 occasioned by the stay and assures payment after the stay ends. In setting the amount,
56 the court may consider any relevant factor including:

57 (A) the debtor's ability to pay the judgment or order to pay money;

58 (B) the existence and value of other security;

59 (C) the debtor's opportunity to dissipate assets;

60 (D) the debtor's likelihood of success on appeal; and

61 (E) the respective harm to the parties from setting a higher or lower amount.

62 (2) Notwithstanding subsection (h)(1):

63 (A) the presumptive amount of a bond or other security for compensatory
64 damages is the amount of the compensatory damages plus costs and attorney fees;
65 as applicable, plus 3 years of interest at the applicable interest rate;

66 (B) the bond or other security for compensatory damages shall not exceed \$25
67 million in an action by the plaintiffs certified as a class under Rule 23 or in an action
68 by multiple plaintiffs in which compensatory damages are not proved for each
69 plaintiff individually; and

70 (C) no bond or other security shall be required for punitive damages.

71 (3) If the court permits a bond or other security that is less than the presumptive
72 amount in subsection (h)(2)(A), the court may enter such orders as are necessary to
73 protect the adverse party during the stay.

74 (4) If the court finds that the party seeking the stay has violated an order or has
75 otherwise dissipated assets, the court may set the amount of the bond or other security

without regard to the presumptive amount under subsection (h)(1) and limits in subsection (h)(2).

(i) **Objecting to sufficiency or amount of security.** Any party whose judgment or order to pay money is stayed or sought to be stayed pursuant to Subdivision (b) may object to the sufficiency of the sureties on a bond or the amount thereof, or to the sufficiency of amount of other security given to stay the judgment by filing and giving notice of such objection. Either party shall be entitled to a hearing on the objection upon five days notice or such shorter time as the court may order. The burden of justifying the sufficiency of the sureties or other security and the amount of the bond of other security, shall be borne by the party seeking the stay, unless the objecting party seeks a bond or other security in an amount greater than the presumed amount in subsection (h)(2)(A). The fact that a bond, its surety or other security is generally permitted under this rule shall not be conclusive as to its sufficiency or amount.

(j) Domestic relations actions. ~~Notwithstanding the above, nothing in this rule shall be construed to limit the equitable powers of the courts in domestic relations actions. In domestic relations actions (divorce, temporary separation, separate maintenance, parentage, custody, child support, and modification), courts should apply equitable principles in establishing fair circumstances for all parties for the duration of any appeal, as follows:~~

(1) Child custody and parent-time orders may not be stayed during for an appeal, but an order that a child relocate outside the state of Utah may be stayed if the court finds such a stay promotes the child's best interest.

(2) Ongoing alimony and child support obligations may not be stayed during for an appeal, but collection of alimony and child support arrearages may be stayed provided the appellant provide a bond or other security.

(3) Property distributions in a divorce may only be stayed to the extent necessary to protect those marital assets and debts from dissipation during the appeal.

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103 (4) If the court stays division of marital wealth, courts may:

104 (A) order the transfer of assets between the parties provided both parties have fair
105 use, possession, and enjoyment of an equitable share of the marital assets;

106 (B) enjoin the parties from selling, transferring, collateralizing, or otherwise
107 encumbering any such assets; and

108 (C) require the appellant to provide a bond or other security.

109 *Effective: 11/1/2021*

110

Tab 8

Rule 5. Service and filing of pleadings and other documents.

(a) When service is required.

(1) Documents that must be served. Unless otherwise permitted by statute, rule, or court order, every document filed with the court after the original complaint must be served by the party filing it on every party to the case. Ex parte motions may be filed without serving if permitted under Rule 7.

(2) Serving parties in default. No service is required on a party against whom ~~m-is-in~~ default judgment has been entered, except that:

(A) a party in default must be served with notice as ordered by the court;

~~(B) a party in default for any reason other than for failure to file and serve a responsive pleading or otherwise appear must be served as provided in paragraph (a)(1);~~

~~(C) a party in default for any reason must be served with notice of any hearing to determine the amount of damages to be entered against the defaulting party;~~

(D) a party in default for any reason must be served with notice of entry of judgment as provided in Rule 58A and

(E) a party in default for any reason must be served as provided in Rule 4 with pleadings asserting new or additional claims for relief against the party.

(3) Service in actions begun by seizing property. If an action is begun by seizing property and no person is or need be named as defendant, any service required before the filing of an answer, claim, or appearance must be made upon the person who had custody or possession of the property when it was seized.

(b) How service is made.

(1) Whom to serve. If a party is self-represented, service must be made upon the self-represented party. If a party is represented by an attorney, a document served under

26 this rule must be served upon the attorney unless the court orders service upon the
27 party. Service must be made upon the attorney and the party if:

28 (A) an attorney has filed a Notice of Limited Appearance as provided in Rule [75](#)
29 and the documents being served relate to a matter within the scope of the Notice;
30 or

31 (B) a final judgment has been entered in the action and more than 90 days has
32 elapsed from the date a document was last served on the attorney.

33 **(2) When to serve.** If a hearing is scheduled seven days or less from the date of service,
34 a party must serve a document related to the hearing by the method most likely to be
35 promptly received. Otherwise, a document that is filed with the court must be served
36 before or on the same day that it is filed.

37 **(3) Methods of service.** A document is served under this rule by:

38 (A) **Electronic filing.** Except in the juvenile court, a document is served by
39 submitting it for electronic filing, or the court submitting it to the electronic filing
40 service provider, if the person being served has an electronic filing account;

41 (B) **Email.** If the party serving or being served a document does not have an
42 electronic filing account, emailing it to:

43 (i) the most recent email address the person being served has provided to
44 the court as provided in [Rule 10](#) or [Rule 76](#); or

45 (ii) if service is to an attorney licensed in Utah, to the email address on the
46 attorney's most recent filing or on file with the Utah State Bar; or

47 (iii) if service is to an attorney not licensed in Utah, to the email address on
48 the attorney's most recent filing or on file with the attorney licensing entity
49 in the state where the attorney is licensed.

(C) **Mail and other methods.** If the party serving or being served with a document does not have an electronic filing account or email, a document may be served under this paragraph by:

(i) mailing it to the most recent address the person being served has provided to the court as provided in Rule 10 or Rule 76, or, if none, the person's last known address; and if unknown, the address at which they were served with the complaint and summons.

(ii) handing it to the person;

(iii) leaving it at the person's office with a person in charge or, if no one is in charge, leaving it in a receptacle intended for receiving deliveries or in a conspicuous place;

(iv) leaving it at the person's dwelling house or usual place of abode with a person of suitable age and discretion who resides there; or

(v) any other method agreed to in writing by the parties.

(4) When service is effective. Service by mail or electronic means is complete upon sending.

(5) Who serves. Unless otherwise directed by the court or these rules:

(A) every document required to be served must be served by the party preparing it, including subsequently signed orders and judgments; and

(B) every document initially prepared by the court must be served by the court;

(C) every document signed by the court that was initially prepared and filed by a party or attorney must be served on the other parties by the party or attorney who prepared it; and

(D) service under this rule does not alter the effectiveness of the document.

(c) Serving numerous defendants. If an action involves an unusually large number of defendants, the court, upon motion or its own initiative, may order that:

(1) a defendant's pleadings and replies to those pleadings do not need to be served on the other defendants;

(2) any cross-claim, counterclaim avoidance, or affirmative defense in a defendant's pleadings and replies to them are deemed denied or avoided by all other parties;

(3) filing a defendant's pleadings and serving them on the plaintiff constitutes notice of them to all other parties; and

(4) a copy of the order must be served upon the parties.

(d) Certificate of service. No certificate of service is required when a document is served through an electronic filing account under paragraph (b)(3)(A). When a document that is required to be served is served by email, mail, or other methods of service:

(1) if the document is filed with the court, a certificate of service showing the date and method of service, including the email or mailing address used, unless safeguarded, must be filed with it or within a reasonable time after service; and

(2) if the document is not filed with the court, a certificate of service need not be filed unless filing is required by rule or court order.

(e) Filing. Except as provided in Rule [7](#) and Rule [26](#), all documents after the complaint that are required to be served must be filed with the court. Attorneys with an electronic filing account must file a document electronically. A self-represented party who is not an attorney may file a document with the court using any of the following methods:

(1) email;

(2) mail;

(3) the court's MyCase interface, where applicable; or

(4) in person.

Filing is complete upon the earliest of acceptance by the electronic filing system or by the court.

(f) Filing an affidavit or declaration. If a person files an affidavit or declaration, the filer may:

(1) electronically file the original affidavit with a notary acknowledgment as provided by Utah Code section [46-1-16](#);

(2) electronically file a scanned image of the affidavit or declaration;

(3) electronically file the affidavit or declaration with a conformed signature; or

(4) if the filer does not have an electronic filing account, present the original affidavit or declaration to the court clerk, and the clerk will electronically file a scanned image and return the original to the filer.

The filer must keep an original affidavit or declaration of anyone other than the filer safe and available for inspection upon request until the action is concluded, including any appeal or until the time in which to appeal has expired.

Effective November 1, 2024

Advisory Committee Notes

Under paragraph (b)(3)(A), electronically filing a document has the effect of serving the document on parties who have an e-filing account. (Attorneys representing parties in the district court are required to have an account and electronically file documents. Code of Judicial Administration Rule 4-503.) The 2015 amendment excepts from this provision documents electronically filed in juvenile court.

Although electronic filing in the juvenile court presents to the parties the documents that have been filed, the juvenile court e-filing application (CARE), unlike that in the district court, does not deliver an email alerting the party to that fact. The Board of Juvenile Court Judges and the Advisory Committee on the Rules of Juvenile Procedure believe this difference renders electronic filing alone insufficient notice of a document having been filed. So in the juvenile court, a party electronically filing a document must serve that document by one of the other permitted methods.

127 *Note adopted 2015*

Tab 9

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, Judge Conklin	30, 45, 37, 7	Justin Toth	Rules back from 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, Judge Conklin, Tonya Wright, Keri Sargent, <i>Samantha Parmley</i>	101 7 26.1	Jim Hunnicutt	Rule going to Justice for approval 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 back from public comment.
Rule 62 (COA opinion)	Jim Hunnicutt, Judge Conklin, Laurel Hanks	62	Judge Conklin	On February agenda.
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, Judge Conklin, Judge Scott, Michael Stahler, Laurel Hanks	5	Laurel Hanks	On February agenda.
Rule 74	Michael Stahler, Rachel Sykes, Crystal Powell, Keri Sargent, Heather Lester, Loni Page	74, 76	Michael Stahler	Going to Justices for approval to go out for public comment.
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	Subcommittee continues to work on this rule.
Rule 73	Tonya Wright, Bryan Pattison, Heather Lester	73	Heather Lester	Subcommittee continues to work on this rule.
Child Protective Order Procedures	Jim Hunnicutt, Laurel Hanks, Crystal Powell, Judge Conklin	URCP & URJP		Awaiting members from URJP Committee.