

# Utah Rules of Juvenile Procedure Committee- Meeting Minutes

March 2, 2012  
MEETING DATE

11:00 a.m. to 1:00 p.m.  
TIME

Education Room  
LOCATION

MEMBERS:	Present	Absent	Excused	MEMBERS:	Present	Absent	Excused
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judge Larry Steele	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Narda Beas-Nordell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alan Sevison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Diane Abegglen	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pam Vickrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brent Bartholomew	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Paul Wake	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Joan Carroll	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sterling Corbett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Fureigh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AOC STAFF:	Present	Absent		GUESTS:	Present	Absent	
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
Alison Adams-Perlac	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	

## AGENDA TOPIC

<b>I. Welcome &amp; Approval of Minutes</b>	CHAIR: CAROL VERDOIA	
<p>Corrections to the Minutes: Judge Lindsley noted that the reference to Utah Rule of Evidence 11.01 should be changed to "1101" on page 2 section III of the minutes.</p>		
Motion: To approve the minutes of January 27, 2012 as correction.	By: Alan Sevison	Second: Narda Beas-Nordell
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: <span style="margin-left: 150px;">In Favor _____</span> <span style="margin-left: 50px;">Opposed _____</span>	

## AGENDA TOPIC

<b>II. Continued Discussion of Impact of New Civil Discovery Rules on URJP</b>	[PRESENTER] ALAN SEVISON AND BRENT HALL
<p>URCP 26.1 applies to financial disclosures in custody cases. It also applies to the following: divorce, temporary separation, separate maintenance, parentage, and child support modifications. The committee discussed the application of Rule 26.1 to juvenile court cases and why it might be problematic to mandate the application of Rule 26.1 to all juvenile court cases in which custody is an issue.</p> <p><b>MOTION #1:</b> Judge Lindsley made a motion that the committee adopt the concept that Rule 26.1 of the Rules of Civil Procedure does not apply in any juvenile proceedings unless there is a finding of good cause and it is ordered by the court, and further that the committee make a later decision as to where this language will be placed. Brent Bartholomew seconded the motion and it passed unanimously.</p> <p><b>MOTION #2:</b> Judge Lindsley made a motion that the Committee request that Katie Gregory discuss with Tim Shea the concept of not applying URCP 26.1 in juvenile proceedings and report back at the next meeting and at that time the committee will determine the location of the exact</p>	

language. Brent Bartholomew seconded the motion.

**FRIENDLY AMENDMENT:** Alan Sevison made the following amendment, which was accepted by Judge Lindsley: If after discussions with Tim Shea, the committee feels it is appropriate to insert the language discussed above in more than one Rule of Juvenile Procedure, than the language should be inserted in Rule 2, Rule 20 and Rule 20A of the URJP. The motion passed unanimously.

Brent Hall reported on his assignment to review URCP 26 and determine which provisions would apply to juvenile proceedings. He made the following observations:

- 1) URCP 26(a) (1) is now more specific than URJP 20A. Rule 20A governs if the two rules are "inconsistent."
- 2) URCP 26(a) (2) contains separate time lines for plaintiff and defendant to make initial disclosures, but URJP 20A does not specify a separate time frame for each party.
- 3) URJP 20A(h) has a separate section to identify experts and make disclosures regarding experts. In TPR cases, it requires summaries if ordered by the court. URCP 26 now requires that parties give summaries of expert witnesses regardless. A discussion followed on timing of discovery regarding experts in various types of hearings.
- 4) URCP 26(b) requires proportionality in discovery and must be applied in juvenile court. This represents a significant change in juvenile court practice. URJP 26 contains a chart with discovery tiers that limit the amount of discovery depending on the type of case. Currently URJP 20A states that the scope of discovery is governed by URCP 26, so the new URCP 26 applies.
- 5) URCP 26(c), 26(d), 26(e) and 26(f) will not impact the application of URJP 20A.

The committee decided against making further revisions to URJP 20(a), beyond those discussed at the last meeting and distributed in the redlined copy of the rule provided with today's meeting materials. Additional consideration of the new civil rules is needed and members will continue to consult with their respective groups.

**MOTION #3:** Alan Sevison made a motion to amend URJP 20A based on the redlined copy provided with today's materials as follows:

*(c) Depositions upon oral examinations questions. After the filing of the answer, a party may take the testimony of any person, including a party, by deposition upon oral examinations question without leave of the court. ~~The attendance of witnesses may be compelled by subpoena as provided in Utah R. Civ. P. 45.~~ Depositions shall be conducted pursuant to Utah R. Civ. P. 30 ~~(b), (c), (d) and (g)~~. The record of the deposition shall be prepared pursuant to Utah R. Civ. P. 30 ~~(e) and (f)~~ except the deponent will have seven days to review the transcript or recording under Utah R. Civ. P. 30(e). The use of depositions in court proceedings shall be governed by Utah R. Civ. P. 32.*

*(i) Protective orders. Any party or person from whom discovery is sought may request a protective order pursuant to Utah R. Civ. P. ~~26(e)~~37(b).*

*(j) Supplementation of responses. Parties have a duty to supplement responses and disclosures pursuant to Utah R. Civ. P. 26 ~~(e)~~(d).*

*(m) Subpoenas are governed by Utah R. Civ. P. 45.*

Brent Hall seconded the motion and it passed unanimous.

Action Item:	The committee directed Katie Gregory to send revised URJP 20A out for public comment.
--------------	---

<b>III. Update on Certification Hearing Research</b>	[PRESENTER] ALISON ADAMS-PERLAC
Alison Adams-Perlac researched how other states apply the rules of evidence in certification hearings and she provided a handout summarizing the results. The majority of states apply the rules of evidence in juvenile proceedings. The committee determined that a more extended review of case law is not necessary at this time.	
Action Item:	The committee will continue to monitor the issue.

**AGENDA TOPIC**

<b>IV. Revisions to URJP 23 and 23A regarding Use of Jail or Detention; Correction to Minutes of December 2, 2011</b>	[PRESENTER] KATIE GREGORY
Katie Gregory distributed final copies of URJP 23 and 23A containing the revisions made by the Committee at its December 2, 2011 meeting. She also asked the Committee to make a correction to the December minutes, which reflected that the wrong line of Rule 23(d) was amended.	
<b>Motion:</b> Judge Lindsley moved to amend her January motion to approve the minutes of Dec. 2, 2011. She moved to amend page 2 of the minutes to add the words "second to the last" so that the sentence reads "1) to remove the second to the last sentence in URJP 23(d)(1) and insert it at the end of subparagraph 23(e)." Joan Carroll seconded the motion and it passed unanimously.	
Action Item:	Katie Gregory will amend the minutes of December 2, 2011.

**AGENDA TOPIC**

<b>V. Admissibility of Hearsay Evidence in Child Protection Order Proceedings (Barnett v. Adams)</b>	[PRESENTER] CAROL VERDOIA
At the request of Judge Noonan, Carol Verdoia introduced the issues addressed by a recent ruling in <u>Barnett v. Adams</u> regarding evidence in child protective order proceedings. Judge Noonan asked the committee to consider any potential impact on the URJP. Discussion followed on the differences regarding how protective orders are handled by district court commissioners and juvenile court judges. The committee agreed to discuss the issue further at the next meeting.	
The next meeting was scheduled for <b>Friday, May 4, 2012 from Noon to 2:00 p.m.</b>	