


Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

To: Katie Gregory, Asst. Juvenile Court Administrator
From:  Brent Johnson, General Counsel
Re: Amendment to Rule 34, Utah Rules of Juvenile Procedure
Date: December 21, 2004

I recently had a telephone conversation with Judge Stephen Van Dyke about Rule 34 of the Utah Rules of Juvenile Procedure. After this discussion, Judge Van Dyke asked me to pass on a request for a rule change. Judge Van Dyke is concerned about the language in Rule 34(e) which requires a judge to accept all allegations not specifically denied by the respondent. Judge Van Dyke would like to see the word "shall" changed to the word "may." Judge Van Dyke feels that a judge should have discretion as to whether to accept a respondent's silence as a denial.

From my perspective, I don't know if a change is warranted or not. A respondent is not required to answer by admitting or denying the allegations. A respondent may decline to admit or deny the allegations. However, if a respondent does not specifically deny allegations those allegations are deemed admitted. This may be a trap for the unwary. I understand this follows the traditional civil model, but maybe the model is ill-suited for abuse cases. In any event, I simply convey Judge Van Dyke's request.

If you have any questions about this, please let me know.

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

Katie Gregory - Re: URJP 29A

From: Tim Shea
To: Katie Gregory
Date: 12/16/04 8:35AM
Subject: Re: URJP 29A

Katie,

The paragraph numbering is different from all of the other rules so, I've brought that into conformity as well. A couple of questions: Under (a) [the old (1)] any reason why the recording has to be before the petition? Also, what does (c) [the old (3)] add? It repeats a lot of (b) and adds from (a) that the parties have the chance to review the recording. The conditions for and the resulting use of the recording are much the same as the other two paragraphs.

Changing the paragraph numbers and deleting the committee note can be done w/o comments with the Court's approval. If you're working on further changes, that will require comments, I recommend holding off on these and combining it into one effort.

Let me know how you want to proceed.
Tim

>>> Katie Gregory 12/15/04 05:22PM >>>

Tim,
Attached is a memo regarding a request by the URJP to remove the advisory committee note from Rule 29A. Please see me if you have questions regarding the Committee's actions.

Thanks!
Katie

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