

Rule 3. Style of pleadings and forms.

(a) Pleadings in the juvenile court include, but are not limited to, petitions, motions, and responsive pleadings. Pleadings and other papers filed with the juvenile court shall comply with Utah R. Civ. P 10. Pleadings and other papers in cases ~~certified~~transferred from the district court shall show the juvenile court case number and the district court case number.

(b) Matters filed in the court shall be captioned as follows:

(b)(1) In minors' cases or private petition cases: "State of Utah, in the interest of _____, a minor under _____ years of age."

(b)(2) In cases of adults charged with any crime: "State of Utah, Plaintiff, vs. _____, Defendant."

(b)(3) In cases requesting protective orders: "_____, Plaintiff, vs. _____, Defendant."

(b)(4) In adoptions: "In the matter of the adoption of _____."

(b)(5) In cases ~~certified~~transferred from district court involving issues of custody, support and ~~visitation~~parent time: "State of Utah, in the interest of _____. In the matter of _____, Plaintiff, vs. _____, Defendant."

(c) Forms used in the juvenile court shall be those standardized and adopted by the Board of Juvenile Court Judges or the Judicial Council, and may be single spaced when so authorized.

Rule 36. Cases ~~certified from~~ coordinated with the district court.

(a) Pleadings and hearings before juvenile court.

(a)(1) When an issue of support, custody or ~~visitation~~ parent time has been ~~certified~~ transferred by the district court to the juvenile court pursuant to Section 78A-6-104, and/or a conference under Rule 100 of the Utah Rules of Civil Procedure, the juvenile court shall schedule the matter for a pre-trial hearing and notify all parties. At such hearing, the juvenile court shall consider issues relating to discovery, custody evaluations and interim orders and shall schedule a trial hearing on all issues to be tried.

(a)(2) The party filing documents raising the issue of support, custody or parent time shall inform the court and all parties of any outstanding custody and/or parent time orders from any other court.

(a)(2)(3) All pleadings and orders prepared subsequent to the ~~certification~~ transfer shall contain the caption for the case in both courts.

(a)(3)(4) ~~The~~ rules concerning discovery, admissibility of evidence and standard of proof applicable to such proceedings in the district court shall be followed in the juvenile court.

(a)(4)(5) The juvenile court may appoint a guardian ad litem for the child in such proceedings and assess the cost to one or both parties.

(b) Modification of prior district court decrees and orders.

(b)(1) Orders and decrees entered by the juvenile court in proceedings ~~certified~~ transferred from the district court for a determination of issues regarding custody, support and ~~visitation~~ parent time shall constitute a modification of any prior district court order or decree concerning such issues involving the same minor. Certified copies of such juvenile court orders and decrees shall contain the captions of both courts and be filed by the prevailing party, or as otherwise directed by the court, with the clerk of the district court for inclusion in the district court file.

(b)(2) In cases where a support, custody or ~~visitation~~ parent time determination has been made by the district court and jurisdiction of the district court is continuing, and an order has been entered in a subsequent juvenile court proceeding that is inconsistent with the prior district court order, on motion of any party or upon the juvenile court's own motion, a certified copy of the juvenile court's order shall be filed with the clerk of the district court. Certified copies of such juvenile court orders and decrees shall contain the captions of both courts and be filed by the prevailing party, or as otherwise directed by the court, with the clerk of the district court for inclusion in the district court file.

From: Tim Shea
To: Brent Bartholomew; Brent Johnson; Carol Verdoia; Katie Gregory
Date: 10/27/2009 7:58 AM
Subject: Fwd: Re: Legal Question from URJP

So much for process being governed by supreme court rule . But I did not see anything in the statute that would change my earlier opinion. Putting Section 78A-6-109 and URCP 4 side by side adds a few things, but still enables the approach I suggested earlier.

Subsection (3) requires that a published summons include a statement "that a proceeding concerning the minor is pending in the court; and an adjudication will be made." I don't know whether those are magic words. They are in essence the same concept as URCP 4(c)(1), which requires the summons to state "that the complaint is on file with the court" and that "in case of failure to [answer], judgment by default will be rendered" In either event, it's boilerplate.

Subsection (13) adds particulars about the method of publication but does not speak to the content of the summons. The reference to 45-1-101 adds electronic publication to the traditional newsprint.

Subsection (2) is interesting in that it sets up a direct conflict with URCP 4(c)(3). The rule requires a published summons to "briefly state the subject matter [of the action]." (A personally served summons can omit this presumably because the petition will be in the respondent's hands.) But the statute is opposite: "except for a published summons, a brief statement of the substance of the allegations in the petition." I'll leave to better minds than mine how to get around that one.

Personally, I recommend repealing 90% of -109. You need part of it as a long-arm jurisdiction statute, and there are probably a few other provisions that give the judge this or that authority, but all of the process is already governed - and probably better governed - in URCP 4.

In my earlier email I recommended identifying the child by initials and month and year of birth. That's the protocol of Rule 4-202.09(9), and that should be enough to meet a due process standard of notice to the respondent of what the case is about. I'm not sure of the case naming conventions in the juvenile court. It's probably something like "In the matter of termination of parental rights to XYZ" (using the child's initial) or "In the matter of the termination of the parental rights of Timothy Shea" (using the parent's name). Either could be published as the case name.

I think using the conventions I've suggested can be done under the existing statutes and rules.

Tim

>>> Carol Verdoia 10/26/2009 5:27 PM >>>

Sorry, let me try this again. I forgot the citation and forgot to copy Brent.

There is also a juvenile court statute that deals with some aspects of publication -- 78A-6-109 -- thus the question of whether we can change it by rule or whether a statutory change is necessary.

>>> Katie Gregory 10/26/2009 5:08 PM >>>

Brent,

I remembered that the URJP had asked me to contact Tim Shea and get his opinion about the publication question. I've attached the response that he sent to Carol and me.

Katie

> Tim Shea 10/26/2009 9:15 AM >>>

Katie,

I recommend publishing the child's initials and month and year of birth, but in the end, the summons will have to include whatever the judge says.

I did not see a service or summons rule in the juvenile procedures, so URCP 4 (<http://www.utcourts.gov/resources/rules/urcp/urcp004.html>) will govern. That rule describes the content of the summons generally, URCP 4(c)(1), and [i]f service is made by publication, the summons shall briefly state the subject matter and the ... relief demanded, and that the complaint is on file with the court. URCP 4(c)(3).

If you're looking for a standardized form or protocol, I think that termination of parental rights in XYZ, born March 2008 would be sufficient notice of the relief demanded. Typically, the petition itself is not published under Rule 4, although we are working towards a method of electronic publication that would include the petition. However, that is for the future, and I wouldn't worry about it.

Rule 4(d)(4)(B) goes on to say: The court's order [directing publication] shall also specify the content of the process to be served and the event or events as of which service shall be deemed complete. So that's why I conclude that whatever the judge says, goes.

This is just a plain reading of the rules. I have not researched any of the caselaw mentioned in the minutes. So if that comes back with a different result, I stand to be corrected.

Tim

>>> Katie Gregory 10/22/2009 12:20 PM >>>
Brent and Tim:

I'm not sure which one of you to approach with this question, so I'm sending it to both of you. The URJP is discussing issues related to whether we must include a child's name when publishing notice on a parent to terminate parental rights, or whether the child's initials are sufficient. Attached is a portion of the discussion from URJP minutes. At the end of the discussion you will see where the committee "asked for a legal opinion from Tim Shea regarding whether publication by the child's initials is sufficient in juvenile court" and whether the question could be addressed by rule or required a statutory change.

Carol Verdoia and I were directed to address this with you and report back. We meet again on Friday, November 6th. Please let me know what you think on this issue.

Katie

Katie Gregory - Faxed Reference from Juvenile Board

From: Jody Gonzales
To: Katie Gregory
Date: 2/2/2010 1:55 PM
Subject: Faxed Reference from Juvenile Board

Katie:

Here is the reference to faxed documents as suggested by Judge Andrus at the Juvenile Board meeting.

Let me know if you need anything else.

Jody

Judge Andrus suggested that the Juvenile Court Rules Committee re-examine the legal position relative to faxed documents. There is a need for a uniform rule regarding faxed documents. He mentioned that the Supreme Court has a rule relative to faxed documents. Ms. Gregory provided background on a past discussion relative to handling of faxed documents. Another aspect of faxed documents in regards to signing a warrant dealt with when to file the document. It was mentioned that the document should be filed when the original document is received. Discussion took place.

Motion: Judge Nolan moved to have Ms. Gregory ask the Juvenile Court Rules Committee to redraft a rule relative to faxed documents. Judge Van Dyke seconded the motion, and it passed unanimously.

Katie Gregory - fax rules

From: Judge Mark Andrus
To: Katie Gregory
Date: 1/19/2010 1:11 PM
Subject: fax rules
Attachments: Sup Ct Fax Rules.wpd

Katie,

Attached is a copy of the Utah Supreme Court's rules regarding the use of fax filings. This is taken from a letter sent by the Supreme Court's Judicial Services Manager, Susan Willis, to one of the litigants in a case that had been appealed. I don't know if there is an underlying rule, or if this is written down in more detail somewhere else.

At any rate, I thought it was a starting point.

Mark A.

UTAH SUPREME COURT'S RULES REGARDING FAX FILINGS

"This court will permit documents of up to 10 pages (including attachments) that do not require a filing fee to be filed by fax. The faxed document, which must bear a facsimile of the required signature, will be accepted as an "original" document until the true original and any required copies are received by the court. The original must be received by this court within 5 business days from the date of the transmission by fax. If the original is not received within that period, the court will treat the filing as void. A faxed filing is considered "received" when stamped by the clerk's office. The time for stamping is limited to regular office hours (weekdays, 8:00 a.m. to 5:00 p.m.). All risks associated with the filing by fax are borne by the sender."

Rule 10-1-302. Limits on fax filing.

Intent:

To establish policy regarding acceptance of filings by facsimile machine.

Applicability:

This rule shall apply to the Third District Court.

Statement of the Rule:

(1) Except as provided in (2), no filings transmitted by facsimile machine are accepted. For purposes of this policy, "filing" means any document intended to be placed in the court file or the receipt of which needs to be indicated on the Court's docket.

(2) Stay reports, revocation requests, and presentence reports may be filed by facsimile machine.

Rule 10-1-801

Page 1 of 1

Rule 10-1-801. Fax filings.

Intent:

To establish policy regarding acceptance of filings by facsimile machine.

Applicability:

This rule shall apply to the Eighth District Court.

Statement of the Rule:

(1) Except as provided in (2), no filings transmitted by facsimile machine are accepted. For purposes of this policy, "filing" means any document intended to be placed in the court file or the receipt of which needs to be indicated on the court's docket.

(2) Stay reports, revocation requests, and presentence reports may be filed by facsimile machine.

Rule 60. Judicial bypass appeals.

(a) Scope. This rule applies to an appeal from an order denying or dismissing a petition filed by a minor to bypass parental consent to an abortion under Utah Code Ann. § 76-7-304.5. In such appeals, this rule supercedes the other appellate rules to the extent they may be inconsistent with this rule.

(b) Jurisdictional limitation. This rule does not permit an appeal to be taken in any circumstances in which an appeal would not be permitted by Rule 3.

(c) Notice of appeal.

(c)(1) A minor may appeal an order denying or dismissing a petition to bypass parental consent by filing a notice of appeal in the juvenile court within the time allowed under Rule 4. The notice of appeal may be filed in person, by mail, or by fax, and must be accompanied by a copy of the order from which the appeal is taken. No filing fee will be charged. The clerk of the juvenile court shall immediately notify the clerk of the court of appeals that the appeal has been filed. *

(c)(2) The notice of appeal must indicate that the appeal is being filed pursuant to this rule, but the court will apply this rule to cases within its scope whether they are so identified or not.

(c)(3) Blank notice of appeal forms will be available at all juvenile court locations and will be mailed or faxed to a minor upon request. No fee will be charged for this service or other services provided to a minor in an appeal under this rule.

(d) Record on appeal. The record on appeal consists of the juvenile court file, including all papers and exhibits filed in the juvenile court, and a recording or transcript of the proceedings before the juvenile court. The clerk of the court of appeals shall request the record immediately upon receiving notice that the appeal has been filed. Upon receiving this request, the clerk of the juvenile court shall immediately transmit the record to the court of appeals by overnight mail or in another manner that will cause it to arrive within 48 hours after the notice of appeal is filed.

(e) Brief. A brief is not required. However, the minor may file a typewritten memorandum in support of the appeal. The memorandum shall be submitted within two judicial days after the notice of appeal is filed.

(f) Oral argument. If ordered by the court, oral argument will be held within three judicial days after the notice of appeal is filed. The court of appeals clerk will immediately notify the minor of the date and time for oral argument. Upon request, the minor will be allowed to participate telephonically at court system expense.

(g) Disposition. The court shall enter an order stating its decision immediately after oral argument or, if oral argument is not held, within three judicial days after the date the notice of appeal is filed. The clerk shall immediately notify the minor of the decision. The court may issue an opinion explaining the decision at any time following entry of the order. The opinion shall be written to ensure the confidentiality of the minor.

(h) Confidentiality. Documents and proceedings in an appeal under this rule are confidential. Court personnel are prohibited from notifying the minor's parents, guardian, or custodian that the minor is pregnant or wants to have an abortion, or from disclosing this information to any member of the public.

(i) Attorney. If the minor is not represented by an attorney, the court shall consider appointing an attorney or the Office of Guardian ad Litem to represent the minor in the appeal. If an attorney or the Office of Guardian ad Litem was appointed to represent the minor in the trial court, the appointment continues through appeal.

URCP 5.**Advisory Committee Notes**

Rule 5(d) is amended to give the trial court the option, either on an ad hoc basis or by local rule, of ordering that discovery papers, depositions, written interrogatories, document requests, requests for admission, and answers and responses need not be filed unless required for specific use in the case. The committee is of the view that a local rule of the district courts on the subject should be encouraged.

The 1999 amendment to subdivision (b)(1)(B) does not authorize the court to conduct a hearing with less than 5 days notice, but rather specifies the manner of service of the notice when the court otherwise has that authority.

2001 amendments

Paragraph (b)(1)(A) has been changed to allow service by means other than U.S. Mail and hand delivery if consented to in writing by the person to be served, i.e. the attorney of the party. Electronic means include facsimile transmission, e-mail and other possible electronic means.

While it is not necessary to file the written consent with the court, it would be advisable to have the consent in the form of a stipulation suitable for filing and to file it with the court.

Paragraph (b)(1)(B) establishes when service by electronic means, if consented to in writing, is complete. The term "normal business hours" is intended to mean 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays. If a fax or e-mail is received after 5:00 p.m., the service is deemed complete on the next business day.

Rule 8. Rights of minor while in detention.

(a) A minor shall be advised of the right to telephone the minor's parent, guardian or custodian and an attorney immediately after being admitted to a detention facility.

(b) A minor has a right to confer in private at any time with an attorney, cleric, parent, guardian or custodian. After the initial visit, the minor may visit such persons at reasonably established visiting hours, or at other times when special circumstances so warrant.

(c) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a child under 14 years of age held in the facility regarding an offense chargeable against the child without the child's parent, guardian or custodian present, unless:

(c)(1) the parent, guardian or custodian has given written permission for the interview to be held outside the presence of the child's parent, guardian, or custodian;

(c)(2) the parent, guardian or custodian had been advised of the child's constitutional rights as provided in Rule 26(a) and has knowingly and voluntarily waived such rights; and

(c)(3) the child had been advised of the child's constitutional rights as provided in Rule 26(a) and has knowingly and voluntarily waived such rights.

(d) No person other than a probation officer or a staff member of a detention facility shall be permitted to interview a child 14 years of age or older in a detention facility regarding an offense chargeable against the child without the consent of the child and the child's parent, guardian or custodian after first advising said child of constitutional rights as described in Rule 26 and such rights having been knowingly and voluntarily waived by the child.

Rule 27A. Admissibility of statements given by minors.

(a) If a minor is in custody for the alleged commission of an offense that would be a crime if committed by an adult, any statement given by a minor in response to questions asked by a police officer is inadmissible unless the police officer informed the minor of the minor's rights before questioning begins.

(a)(1) If the child is under 14 years of age, the child is presumed not adequately mature and experienced to knowingly and voluntarily waive or understand a child's rights unless a parent, guardian, or legal custodian is present during waiver.

(a)(2) If the minor is 14 years of age or older, the minor is presumed capable of knowingly and voluntarily waiving the minor's rights without the benefit of having a parent, guardian, or legal custodian present during questioning.

(b) The presumptions outlined in paragraphs (a)(1) and (a)(2) may be overcome by a preponderance of the evidence showing the ability or inability of a minor to comprehend and waive the minor's rights.

Rule 8 seems a little awkward in that it speaks of written permission for interrogations of kids under 14 without the parent present, but implies that such written permission also includes waiver of the right to have an attorney present; technically the rule seems to make waiver of the right to counsel something that the child agrees to apart from the parent's decision that the police can interview the child without the parent being present.

Rule 27A seems a little awkward in that when it talks of kids under 14 it talks of whether parental presence is necessary during waiver of rights, but when it talks of kids 14 and older, it talks of whether parental presence is necessary during actual questioning. Those aren't the same thing (and there's case law saying parents don't have to be present during questioning).

It seems that Rule 8 allows written waiver by a parent of the "right" to have a parent present during questioning of a child under 14, and implies that written permission extends to waiver of the right to have an attorney present, but that Rule 27A does not allow written waiver with regard to a child on the street. It is odd that it is easier to interview kids in detention than kids on the street. Apart from perhaps cleaning up both rules someday, there might be an argument for adding to 27A(a)(1) something like " , or has given written permission for the interview to be held."

Regarding the waiver forms used at detention, all the versions I have seen describe the relevant rights as being Miranda rights, which is incorrect—the rights in question are Rule 26(a) rights, which include rights under both federal and state law (more than Miranda). Typically they have check boxes but they do not make clear which boxes must be checked for the law to be complied with. The JJS form that differentiates between "interviews" and "interrogations" makes a good conceptual distinction, but Rule 8 uses the word "interview" for all kinds of questioning.

11/6/09

Scan + distribute
with materials
for 2/5/10
mtg.

P.W.

distributed by Paul

11/6/09

Katie Gregory - re: URJP meeting tomorrow

From: Joan Carroll
To: Katie Gregory
Date: 2/5/2010 9:33 AM
Subject: re: URJP meeting tomorrow

We have not accepted faxed filings because of the problem with the hard to read and incomplete faxes coming through. Also, with the budget crunch we are very aware of the amount of paper used when faxes come to the court. We have requested that agencies not fax their reports to the court but send in the originals. Thanks,
Joan

Joan Carroll
Clerk of Court
2nd District Juvenile Court
joanfc@email.utcourts.gov

>>> Katie Gregory 2/4/2010 4:24 PM >>>

I will mark you as excused. We are going to be discussing the creation of a fax filing rule for juvenile court-- which will impact clerks. Do you know if 2nd District Juvenile has any type of local rule that allows fax filings?
Katie

>>> Joan Carroll 2/4/2010 4:16 PM >>>

Katie, is there a possibility I could be excused from the meeting tomorrow. I have been ill and off most of the week. Please let me know. Thanks, Joan

Joan Carroll
Clerk of Court
2nd District Juvenile Court
joanfc@email.utcourts.gov

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Matthew B. Durrant
Justice

Jill N. Parrish
Justice

Ronald E. Nehring
Justice

MEMORANDUM

TO: Tim Shea
FROM: Matty Branch MB
DATE: November 10, 2004
RE: Fax Filing Rule Amendment

The Supreme Court considered your memo of November 3, 2004, concerning a fax filing rule amendment at its court conference today. The court agrees that a uniform fax filing policy should be incorporated into the procedural rules but believes that the rule should not only be located in the civil rules but also in the criminal, juvenile, and appellate rules, and possibly the rules of small claims procedure, if appropriate. Several of the justices feel that the rule needs to clarify whether the time for date-stamping of fax filed documents is limited to regular business hours (8:00 a.m. to 5:00 p.m., weekdays). For example, will a fax bearing a filing time of 11:45 p.m. be stamped as received on the next business day?

By copy of this memo sent to the chairs of the four advisory procedural rule committees, the court is requesting that each of these committees review the proposed amendment and provide input to you as to suggested changes or additions. In connection with this review, the court asks that you schedule presentations with each of these committees at one of their upcoming meetings. Thank you for your assistance.

cc w/attached amendment: Fran Wikstrom, Carol Verdoia, Todd Utzinger, Michael Wims,
Brent Johnson, Rick Schwermer, and Katie Gregory



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: Supreme Court
From: Tim Shea *TS*
Date: November 3, 2004
Re: Fax filing

The Judicial Council recommends a rule amendment to regulate filing documents by fax. All or nearly all of the courts accept faxed documents. Indeed, the genesis of this draft is a written policy proposed by the Fifth District Court. The Judicial Council recommends a statewide policy.

Since the amendment will affect how parties and lawyers process their cases, The Council recommends using the Rules of Procedure, rather than the Code of Judicial Administration as the vehicle for the change. This change to URCP 5 should be sufficient to include criminal and juvenile cases. URCP 81(e); URJP 2. If you agree that a statewide policy is sound, but conclude that the criminal and juvenile rules should contain an express provision, I can prepare similar amendments to the other rules.

This proposal has circulated among the Board of District Court Judges, Trial Court Executives and Clerks of Court, as well as the Policy and Planning Committee of the Judicial Council and the Council itself. It has not been reviewed by your advisory committees, nor has it been published for comment.

I will be happy to meet with the Court or to present this proposal to your advisory committees.

Encl. URCP 5

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.

450 South State Street / P.O. Box 140241 / Salt Lake City, Utah 84114-0241 / 801-578-3808 / Fax: 801-578-3843 / email: tims@email.utcourts.gov

1 Rule 5. Service and filing of pleadings and other papers.

2 (a) Service: When required.

3 (a)(1) Except as otherwise provided in these rules or as otherwise directed by the court, every
4 judgment, every order required by its terms to be served, every pleading subsequent to the
5 original complaint, every paper relating to discovery, every written motion other than one heard
6 ex parte, and every written notice, appearance, demand, offer of judgment, and similar paper
7 shall be served upon each of the parties.

8 (a)(2) No service need be made on parties in default for failure to appear except as provided
9 in Rule 55(a)(2)(default proceedings). Pleadings asserting new or additional claims for relief
10 against a party in default shall be served in the manner provided for service of summons in Rule
11 4.

12 (a)(3) In an action begun by seizure of property, whether through arrest, attachment,
13 garnishment or similar process, in which no person need be or is named as defendant, any service
14 required to be made prior to the filing of an answer, claim or appearance shall be made upon the
15 person having custody or possession of the property at the time of its seizure.

16 (b) Service: How made and by whom.

17 (b)(1) Whenever under these rules service is required or permitted to be made upon a party
18 represented by an attorney, the service shall be made upon the attorney unless service upon the
19 party is ordered by the court. Service upon the attorney or upon a party shall be made by
20 delivering a copy or by mailing a copy to the last known address or, if no address is known, by
21 leaving it with the clerk of the court.

22 (b)(1)(A) Delivery of a copy within this rule means: Handing it to the attorney or to the
23 party; or leaving it at the person's office with a clerk or person in charge thereof; or, if there is no
24 one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to
25 be served has no office, leaving it at the person's dwelling house or usual place of abode with
26 some person of suitable age and discretion then residing therein; or, if consented to in writing by
27 the person to be served, delivering a copy by electronic or other means.

28 (b)(1)(B) Service by mail is complete upon mailing. If the paper served is notice of a hearing
29 and if the hearing is scheduled 5 days or less from the date of service, service shall be by
30 delivery or other method of actual notice. Service by electronic means is complete on

transmission if transmission is completed during normal business hours at the place receiving the service; otherwise, service is complete on the next business day.

(b)(2) Unless otherwise directed by the court:

(b)(2)(A) an order signed by the court and required by its terms to be served or a judgment signed by the court shall be served by the party preparing it;

(b)(2)(B) every other pleading or paper required by this rule to be served shall be served by the party preparing it; and

(b)(2)(C) an order or judgment prepared by the court shall be served by the court.

(c) Service: Numerous defendants. In any action in which there is an unusually large number of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) Filing. All papers after the complaint required to be served upon a party shall be filed with the court either before or within a reasonable time after service. The papers shall be accompanied by a certificate of service showing the date and manner of service completed by the person effecting service. Rule 26(i) governs the filing of papers related to discovery.

(e) Filing with the court defined.

(e)(1) The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may accept the papers, note thereon the filing date and forthwith transmit them to the office of the clerk.

(e)(2) A party may transmit by fax a pleading or other paper intended for filing. Fax transmissions are limited to 10 pages, excluding the cover page, unless otherwise permitted by the clerk of the court. A document transmitted by fax is the equivalent of the original document, including a signed original, for all purposes under these rules. Courtesy copies may not be transmitted by fax unless permitted by the judge. Transmitting a document by fax is not filing; filing is complete upon acceptance by the clerk of the court. If the clerk determines that there has been an error in transmission or failure to comply with this rule or that the fax is of poor quality.

Draft: September 23, 2004

62 the clerk shall notify the sender of the error as soon as practical. The clerk shall issue a receipt
63 for fees paid, but is not required to notify a party of receipt of a fax or acceptance for filing. A
64 party transmitting a document by fax:

65 (e)(2)(A) shall keep the original document safe, in good condition and available for
66 production until completion of all appeals or until the time to appeal has expired;

67 (e)(2)(B) shall send the document to the fax number designated by the clerk of the court;

68 (e)(2)(C) shall include on a fax cover page the information required by Rule 10(a), the
69 sender's fax number, the credit card number to be billed if there is a fee for filing the pleading or
70 other paper, and the number of pages being faxed; and

71 (e)(2)(D) assumes all risk of failure of the transmission.

72 (e)(3) The clerk shall destroy the fax cover page after charging the fees and recording the
73 transaction.
74

**SUMMARY MINUTES (DRAFT)
SUPREME COURT'S ADVISORY COMMITTEE
ON THE
RULES OF JUVENILE PROCEDURE
Administrative Office of the Courts
450 South State Street
Board Room
Salt Lake City, Utah
January 7, 2005**

Present

Carol Verdoia
Judge Lindsley
Judge Steele
Alan Sevison
Kristin Brewer
Narda Beas Nardell
Paul Wake
Adam Trupp
Brent Bartholomew
Ed Peterson
Jeff Noland

Excused

Pam Vickery
Nelson Abbott
Marty Olsen
Matty Branch
Pam Vickery
Jeanette Gibbons

Staff

Katie Gregory

I. Minutes and Welcome

Judge Lindsley moved that the minutes of 12/03/04 be approved as written. Narda seconded the motion, and it was approved unanimously.

II. Rule 4-201; Access to Recordings

Katie updated the committee on developments related to the request of the Attorney General's office and others to access digital and audio recordings from hearings where a court reporter is also present. In these instances, the Third District Juvenile Court Judges have treated the recording as part of the judges notes, rather than the official record. The recording has been made available to AGs for the purpose of preparing an order. Mark May, Division Chief for the Child Protection Division, brought the matter to the Board of Juvenile Court Judges meeting in October, 2004, and the Board asked the URJP Committee to consider a rule change to accommodate the AG's use of the recording.

Katie reported that following the Committee's directive at the last meeting, she had drafted a proposed amendment to CJA 4-201 to allow the court to make recordings available even if a court reporter was present. The court reporters transcription, would however, be considered the official record. Katie presented this proposal to the Board of Juvenile Court Judges on December 10, 2004, and the Board declined to support the concept due to concern over having more than one version of the record in existence. The Board suggested instead that those needing immediate access to the record utilize the

court's "CAT" technology to obtain a computer draft of the court reporter's transcription. Katie reported that the cost of obtaining the draft was \$25 for one-half day based on CJA 4-202.08(3). Discussion followed on the negative aspects of requiring state entities such as the AG and DCFS to regularly pay the \$25 fee. Concern was also expressed that the court rooms are not equipped with appropriate computer and printing equipment to allow the court reporters to make a copy available immediately after a ruling. Ed mentioned that CJA 4-202.08(8)(c) contemplates a fee waiver for governmental entities if the fee is "minimal." Katie agreed to obtain more information for the Committee regarding 1) whether the \$25 fee was considered "minimal" and therefore, could be waived for governmental entities; and 2) how CAT printouts are obtained by parties in District Court.

III. Fax Filing Rule.

Carol explained a memo she received from Matty Branch requesting the committee review a proposed amendment to Rule 5: Service and Filing of Pleadings and Other Papers. Lengthy discussion followed regarding the appropriateness of fax filing and potential obstacles to establishing a uniform policy in this area.

Some of the areas discussed included:

1. The fact that the change contemplated by the memo is to the Rules of Civil Procedure. Judge Lindsley noted that a new rule should apply specifically to juvenile court, since juvenile court hears both civil and criminal matters.
2. Judge Steele noted that the use of "send" in line 67 could be problematic.
3. Who should bear the burden to insure that a fax was fully and correctly transmitted? Current wording provides that the clerk will notify the faxing party if the clerk observes a problem with the transmission or the transmission is incomplete. The committee discussed the policy behind line 71, which states that the faxing party assumes all risk of failure related to the fax transmission. Discussion followed regarding why this could be inappropriate in juvenile court. Specifically, the failure to provide evidence that a fax transmittal was completed could result in parties losing rights to their children, or other negative outcomes for children not considered in other civil matters.
4. The new rule contemplates only regulation of faxes to the court and not the service of notice to other parties by fax.
5. Concerns that existing fax capability at the juvenile court is not adequate and additional equipment may be needed to accommodate the rule. Judge Lindsley noted that parties in her courtroom are faxing reports five days before hearings as required by statute, but some reports are not received.
6. Concerns that the new rule should be thoroughly discussed with the Clerks of Court to consider how it will impact their workload.

7. Concerns that credit card information should not be sent to a shared fax machine and a dedicated machine should be designated.

Judge Lindsley made a motion to table and refer the issue to the Clerks of Court for comments. No second was forthcoming. Discussion followed and centered on the fact that insufficient time existed to obtain the input of the Clerks and still have a rule change completed by November 2005 as indicated in the memo. The memo also indicated that the fax filing concept had previously been presented to the Clerks of Court.

An amended motion was made to have Katie check with the rules of civil procedure committee to see how they are approaching the issue. The motion did not proceed and Judge Lindsley withdrew her original motion.

Alan made a motion to adopt URCP 5(e) as a draft rule today, draft modifications as needed, and circulate to all committee members to complete a final version by the next meeting. Ed seconded the motion. The motion passed unanimously. Alan noted that a new subsection, URJP 18(f) must be created. The committee asked Katie to check with the following rules committees to see how they are approaching the timing issue: 1) civil; 2) criminal and 3) appellate. The committee noted that it was leaning towards a midnight filing deadline and would like to know if the other committees had timing concerns as well.

Alan made a motion to adopt as the filing date the date the fax was received by the fax machine at the courthouse and that the document be dated stamped to match the time the fax was received. Considerable discussion followed regarding the merits of trying to match the fax machine timing. Alan withdrew the motion. The committee agreed that the faxed pleading would not be "accepted" until it was received by the clerk (which in some instances could be the next day).

Brent made a motion that the fax must be received by the court no later than 4:00 p.m. to be considered as a fax filing on that date. Ed seconded the motion. Discussion followed and Judge Lindsley expressed concern that some clerks work later and would be available to enter the document as filed. An amendment was made to amend the time to 3:00 p.m. and Ed seconded the amended motion. A vote was taken and the amended motion failed on a vote of 5 to 3. Alan made an alternate motion to leave the language as written and treat faxed documents the same as documents received by U.S. Mail. Ed seconded the motion. Alan amended the motion to leave the rule as is with line 60 reflecting that the filing is complete upon acceptance by the clerk of the court. Judge Steele seconded the motion and it passed unanimously.

V. Next Meeting and Adjourn

The next meeting was set for Friday, March 4, 2005 from noon to 2:00 p.m. There being further business, but inadequate time remaining to address all agenda items, the meeting was adjourned.

From: Tim Shea
To: Tim Shea
Date: 1/28/2010 8:33 AM
Subject: Notice of Proposed Amendments to Utah Court Rules and Proposed Increase in Bar Licensing Fees

The Supreme Court and the Judicial Council invite comments to proposed amendments to the following court rules. The comment period expires March 16, 2010.

Summary of proposed amendments

Utah State Bar

Petition to Increase Licensing Fees. This petition does not involve any rule amendments, but the Supreme Court invites comments about this proposal.

Rules of Civil Procedure

URCP 058B. Satisfaction of judgment. Amend. Simplify and clarify the process for entering a satisfaction of judgment. Provide the judgment debtor with a process to raise the issue.

URCP 064D. Writ of garnishment. Amend. Eliminate the requirement that the garnishee file answers to interrogatories with the court. Establishes deadline for hearing on objection to a writ.

URCP 64E. Writ of execution. Establishes deadline for hearing on objection to a writ.

Rules of Juvenile Procedure

URJP 03 Style of pleadings and forms. Amend. Makes technical amendments.

URJP 36. Cases certified from the district court. Amend. Requires the party raising the issue of support, custody or parent time to inform the court and parties of any orders from any other court. Requires that a juvenile court order be filed by the prevailing party in any related district court case and contain the captions of both courts.

Code of Judicial Administration

CJA 03-0404. Public information program. Amend. Clarifies the purpose of the public information program.

CJA 04-0202.08 Fees for records, information, and services. Amend. Adjusts the fees for Xchange to include downloading documents. Adds a per-use fee for those who do not subscribe.

CJA 04-0701. Failure to appear. Amend. Clarify that the bail increase applies to each case rather than to each charge in the case.

How to view redline text of the proposed amendments

To see proposed rule amendments and submit comments, click on this link to:
<http://www.utcourts.gov/resources/rules/comments/>. Then click on the rule number.

How to submit comments

You can comment and view the comments of others by clicking on the "comments" link associated with each body of rules. It's more efficient for us if you submit comments through the website, and we encourage you to do so. After clicking on the comment link, you will be prompted for your name, which we request, and your email address and URL, which are optional. This is a public site. If you do not want to disclose your email address, omit it. Time does not permit us to acknowledge comments, but all will be considered.

Submit comments directly through the website or to:

Tim Shea
Email: tims@email.utcourts.gov Please include the comment in the message text, not in an attachment.
Fax: 801-578-3843