

AGENDA TOPIC

III. URJP 4 and URJP 48-Final Review of May 5, 2017 Revisions	CAROL VERDOIA
Carol Verdoia reviewed amendments to Rules 4 and 48, which were made at the last meeting and are included in Tab 3 of the packet. The committee made a final review of the revisions to both rules. The committee accepted the drafts as written.	
Action Item:	Katie Gregory and Carol Verdoia will move the proposed rules forward to the Supreme Court for consideration.

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IV. URJP 19 and URJP 34-Discussion of reference to URJP 34 in URJP 19	CAROL VERDOIA
Carol Verdoia discussed differences in the ability to enter a default pursuant to Rule 34(f) and Rule 19(a). While Rule 19(a) references Rule 34, the two rules differ as to whether an answer must be filed prior to entering a default. Rule 34(f) allows a default to be taken at pretrial without reference to whether or not an answer has been filed. However, Rule 19 states that a default against a party who fails to appear in person or by counsel at pretrial, or who fails to file an answer may be entered pursuant to Utah R. Juv. P. 34. The provisions of Rule 34 may require a party to file an answer earlier than the requirements of Rule 19(a) since Rule 19 gives a party an opportunity to answer 10 days after pretrial or 25 days after service of the petition.	
Carol asked the committee to consider making the two rules consistent by adding to the end of the first sentence in 34(f) the following after the reference to Rule 18: ", or who fails to file an answer." The committee discussed whether a default may be entered if counsel appears, but the party does not, and the impact on whether the petition may be deemed true in the situation in which counsel is present without their client.	
Motion #1: Chris Yannelli made a motion to revise the first sentence of Rule 34(f) to read "Except in cases where the petitioner is seeking a permanent deprivation of parental rights, the court may enter the default of any respondent who fails to file an answer, or who fails to appear either in person or by counsel after having been served with a summons or notice pursuant to Rule 18." Mikelle Ostler seconded the motion. Brent Hall offered a friendly amendment to substitute the word "termination" for "permanent deprivation." Chris Yannelli accepted the friendly amendment and Mikelle Ostler renewed her second of the motion as amended. A vote was called and the amended motion passed unanimously.	
Motion #2: The committee looked at Rule 19, line 8 and determined that the word "either" should also be added to Rule 19. Brent Hall made a motion to add the word "either" to the last sentence of Rule 19, paragraph (a), between the words "appear" and "in." Chris Yannelli seconded the motion and it passed unanimously.	
Action Item:	Prepare amendments to Rule 19(a) and Rule 34(f) for presentation to the Supreme Court.

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V. Review of Child Welfare Expedited Appeals Rules	CAROL VERDOIA
<p>Carol Verdoia explained that the Court of Appeals asked the committee to review the Appellate Rules related to child welfare to make sure they are still working well. The rules in question are URAP 52-59. Carol Verdoia outlined the steps and timing in filing a child welfare appeal and noted that a concern raised by a defense attorney was that attorneys are not getting the transcript prior to the time for filing the petition on appeal. However, the attorney can receive an audio recording of the proceeding quickly and in many cases within 24 hours. An attorney is also entitled to request a 10 day extension pursuant to URAP 59, provided the request is made within the 15 day time to file.</p> <p>The committee discussed a variety of issues impacting appeals and appellate time frames and specifically considered whether the trial attorney should file the appeal and the impact of indigent defense representation. While allowing additional time of one to two weeks to the time to file a petition on appeal might be favorably received by parents’ defense counsel, it may not be more beneficial over all. Problems may also exist with trial attorneys filing the cases and claims of ineffective assistance of counsel. The indigent defense representation committee is considering a proposal that would make appellate attorneys available to assist trial counsel in every county.</p> <p>Since juvenile judge members were not available for today’s meeting, the Committee elected to hold the issue over to the next meeting to obtain judicial input. Other members were asked to seek comments from their respective constituencies. The committee will work through the appellate rules one at a time at the August meeting.</p>	
Action Item:	This agenda item will be place on this agenda again for August 4. Katie Gregory will ask Judge Lindsley and Judge Manley if they have any input regarding the appellate rules.

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VI. Old or New Business	ALL
<p>Carol Verdoia reviewed a list of eleven issues that the URJP Committee has been asked to address and lead a discussion on prioritizing the list. At the next meeting the committee will continue to address agenda items related to Rule 3 and also its review of the appellate rules.</p> <p><u>The following are also on the list of issues:</u></p> <p>A request from a private individual to consider a rule addressing delay in termination of parental rights following a determination that reunification services are terminated.</p> <p>URJP 8: Concerns about law enforcement interviewing kids in detention and whether counsel is present during the interview or whether the child has the ability to consult with counsel.</p> <p>A request by the AG Child Protection Division Director to create a new rule regarding the ability of tribes and tribal representatives to participate in hearings.</p> <p>Rules regarding implementation of HB 239. The legislation may impact Rules 7, 9, 11, 14, 15, 17, 31, and 45.</p> <p>Rule 3 and a request from a defense attorney to accommodate a request to withdraw as counsel when the juvenile is also present in the courtroom.</p> <p>Rule 37(e) of the Rules of Civil Procedure regarding electronically stored information will impact URJP 20.</p>	

A series of GAL proposals from Martha Pierce pertaining to Rules 3, 5 (definition of ungovernability), Rule 18 (service of both parents in dependency proceeding), and Rule 41 (post-adjudication dispositions such as transfer of custody should be based on a preponderance of evidence and potential burden shifting in reasonable discipline defense). Ms. Pierce also requested a new rule to endorse all the procedural and evidentiary rules that are currently included in statute in the Juvenile Court Act.

The committee set the following items for the August 4, 2017 agenda:

- 1) Rule 3: Style of Pleadings.
- 2) Review of the Appellate rules pertaining to expedited child welfare appeals, including any comments from judges.
- 3) Discussion of rules impacted by HB 239.

After these items are resolved, the committee will revisit the priority list.