

Utah Rules of Juvenile Procedure Committee- Meeting Minutes

May 5, 2017

Noon to 2:00 p.m.

Conference Room A

MEETING DATE				TIME				LOCATION			
MEMBERS:				Present	Absent	Excused		MEMBERS:			
Carol Verdoia				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Maybell Romero			
Judge Elizabeth Lindsley				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Alan Sevison			
Judge Mary Manley				<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		Pam Vickrey			
Kristin Fadel				<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		Mikelle Ostler			
David Fureigh				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Chris Yannelli			
Brent Hall				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
Debra Jensen				<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>					
Trish Cassell (by telephone)				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
AOC STAFF:				Present	Excused			GUESTS:			
Katie Gregory (by telephone)				<input checked="" type="checkbox"/>	<input type="checkbox"/>						
Adrienne Nash				<input checked="" type="checkbox"/>	<input type="checkbox"/>						
James Ishida				<input type="checkbox"/>	<input checked="" type="checkbox"/>						

AGENDA TOPIC

I. Welcome & Approval of Minutes		CHAIR: CAROL VERDOIA	
Carol Verdoia welcomed members and called for approval of the minutes of April 7, 2017.			
Motion to approve the minutes of April 7, 2017.	By: Trish Cassell		Second: Mikelle Ostler
Approval	<input checked="" type="checkbox"/> Unanimous		<input type="checkbox"/> Vote: In Favor _____ Opposed _____

AGENDA TOPIC

II. URJP 18-Request for Clarification from Supreme Court		CAROL VERDOIA	
<p>Carol Verdoia reported to the committee that the Supreme Court recently reviewed the proposed amendments to URJP 18. The Court asked for additional clarification at lines 86-88, which state "except that service to the email address on file with the Utah State Bar is sufficient service to an attorney under this rule, whether or not an attorney agrees to accept service by email." The committee included this language because Juvenile Court does not have an eFiling service provider like the district court. In addition, URCP 5 sets up a default procedure that requires mailing of all pleadings unless an attorney agrees to receive service by email. By including the new provision in Rule 18, it eliminates the need for an attorney to obtain individual approval from each attorney to allow email service in juvenile court. Parents and pro se parties do not have email addresses on file with the bar and must still agree to service by email.</p>			
Action Item:	Carol Verdoia will discuss the committee's rationale with the Supreme Court at a meeting on June 7, 2017.		

AGENDA TOPIC

III. Continued Discussion of Revisions to URJP 4 and URJP 48

BRENT HALL AND PAM VICKREY

Brent Hall reviewed a handout containing the revisions he proposed to URJP 4, which incorporate time frames contained in URCP 6. He did not add the provisions of URCP 6(a)(2) related to hours since the juvenile rules generally do not address hours and would still incorporate these provisions by default if needed. Judge Lindsley mentioned the 72 hour requirement for shelters and 48 hours for detention hearings. The committee compared the hour requirements of URCP 2 and URCP 6 and considered whether the requirements should be clarified in URJP 4.

The committee also considered the placement of the first sentence of URJP 4(c) and whether it is better placed in the revised motion rule, Rule 19A. If the placement of this language can be resolved at the June 2nd meeting, Carol and Katie will bring this to the Supreme Court at its June 7 meeting.

Motion #1:

After discussion, Judge Lindsley made a motion to amend Rule 19A(a) to add a new sentence at the end of the existing language which states: " A written motion, other than one which may be heard ex parte and notice of the hearing shall be served not later than five days before the time specified for hearing, unless a different period is fixed by these rules or by court order." Brent Hall made a friendly amendment to change the time to seven days and Judge Lindsley accepted the friendly amendment. David Fureigh seconded the motion and it passed unanimously.

Motion #2:

Brent Hall made a motion to make the following revisions to the draft of URJP 4 which was distributed by email before the meeting:

- Add a new paragraph (a) as follows: "The following rules apply in computing any time period specified in these rules, any local rule or court order, or in any statute that does not specify a method of computing time."
- Renumber paragraph (a) to (b) and change references to (i) through (iii) to (b)(1) through (b)(3).
- Renumber paragraph (b) to (c).
- Strike previous paragraph (c).
- Insert a new paragraph (d) as follows: (d) Unless a different time is set by a statute or court order, filing on the last day means: (d)(1) for electronic filing, before midnight; and (d)(2) for filing by other means, the filing must be made before the clerk's office is scheduled to close.
- Renumber existing paragraph (d) to (e) and change the reference from subsection (a) to subsection (b) at the end of the first sentence

Judge Lindsley seconded the motion and it passed unanimously.

Motion #3:

Carol Verdoia addressed a second time issue related to URJP 48, which provides that new hearings are available pursuant to URCP 52, 59 and 60. The Civil Rules committee changed the time periods from "within ten days of judgment" to "28 days." These timeframes are now too long to work with expedited child welfare appeals. Brent Hall suggested that 14 days is a more appropriate standard related to Rules 52 and 59. Judge Lindsley made a motion to amend Rule 48 by striking the title "New hearings" and replacing it with "Post judgment motions." She further moved to add "Except as provided in paragraph (c), " to the beginning of paragraph (a) and then add a new paragraph (c) "motions filed under URCP 52 and/or URCP 59 must be filed no later than 14 days after entry of the judgment." Brent Hall seconded the motion and it passed unanimously.

AGENDA TOPIC

IV. URJP 3-Style of Pleadings	JUDGE LINDSLEY AND KRISTA AIRAM
This item was not ready for discussion and will be taken up at a future meeting because Judge Lindsley will not be available to attend the June 2, 2017 meeting.	

AGENDA TOPIC

V. Review of Child Welfare Expedited Appeals Rules	CAROL VERDOIA
<p>Carol Verdoia introduced the topic and explained that the Court of Appeals asked the URJP Committee to review URAP Rules 52 through 59 since they have not been reviewed in some time. Carol also reviewed the related provisions of URJP 52 related to appeals. She asked members to read through all of the related rules to discuss at the next meeting.</p> <p>Carol Verdoia addressed an issue which has arisen regarding Rule 55 of the Rules of Appellate Procedure and the proposal of the URAP Committee to change the wording from "shall" to "may" in the provision of Rule 55(a) that states "If a petition on appeal is not timely filed, the appeal shall be dismissed." While the provision was included to expedite permanency for children, it may work a disservice in cases in which the attorney fails to file a timely petition. Amending Rule 55 to allow the Court of Appeals discretion not to dismiss cases would help to ensure that clients who wish to appeal do not bear the consequences of the attorney's failure to file without justification. This may lead to claims of ineffective assistance of counsel, which in turn, may actually delay the case further.</p> <p>Members discussed recent cases in which the parties stipulated to reinstating dismissed appeals. The proposed amendment would only impact the filing of the petition in the Court of Appeals and not the untimely filing of a Notice of Appeal in the juvenile court. Most likely a case would still be dismissed if a timely petition is not filed, but parties would then be able to file a Motion to Reinstate. Carol Verdoia will also review these issues with committee members from the Office of Guardian ad Litem who were unable to be present today. Members also discussed access to transcripts and audio records.</p>	
Action Item:	Members to review URAP 52-59 and URJP 52 for discussion at the June 2, 2017 meeting.

AGENDA TOPIC

VI. Old Business/New Business	ALL
<p>David Fureigh mentioned the need to address several rules pertaining to H.B. 239. Katie Gregory asked members to send her an email with any requests to revise rules pertaining to H.B. 239 and she will maintain a list.</p> <p>Brent Hall addressed some confusion regarding discovery rules and if discovery is closed after adjudication. He requested that the committee consider clarifications to discovery rules at a future meeting.</p> <p>The committee will review priorities at the next meeting if time allows. Judge Lindsley encouraged members to bring proposed language if they wish to discuss an issue.</p> <p><u>Future Meetings:</u> The Committee set the following dates for future meetings: June 2, August 4, September 22, October 27 and December 1, 2017.</p>	
Action Item:	Members to email Katie Gregory with any requests to change rules pertaining to H.B. 239 issues.