AGENDA

Licensed Paralegal Practitioner Steering Committee

July 11, 2019 at 12:00 p.m.

Scott M. Matheson Courthouse

Judicial Council Room

450 South State Street, Salt Lake City UT

Welcome **ACTION –** Approval of draft June 20, 2019 meeting minutes	Tab 1	Justice Himonas
UPDATE – Updates on discussions with LPP students regarding enrollment for LPP exam.		Carrie Boren
DISCUSSION – Re-constituting the structure of the LPP Steering Committee and the LPP Executive Committee		Justice Himonas
DISCUSSION – Civil Rules and LPP's	Tab 2	Nancy Sylvester and Steve Johnson

Tab 1

LICENSED PARALEGAL PRACTITIONER
STEERING COMMITTEE
MEETING

Minutes
Thursday, June 20, 2019
12:00 p.m. to 1:30 p.m.
Judicial Council Room
Matheson Courthouse

Present	**Excused**
Justice Deno Himonas, Chair	Dixie Jackson
Julie Emery	Daniel O'Bannon
Rob Rice	Jim Jardine
Monte Sleight	Scott Jensen
Elizabeth Wright	Adam Caldwell
Dean Robert Adler	Dr. Thomas Clarke
Judge Kate Appleby	Terri Conaway
John Baldwin	Sue Crismon
Carrie Boren	Dean Benson Dastrup
Steve Johnson	James Dean
	Jacqueline Esty Morrison
	Dean Benson Dastrup

Staff	**Guests**
Nancy Sylvester	
Nancy Merrill-Recording secretary	

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1. Welcome and Minutes Review — Justice Deno Himonas

Motion: ***Dean Adler moved to approve the minutes from the previous meeting. Judge Appleby seconded the minutes. They passed unanimously.***

2. Proposed Amendment to Rule 15-701 and 15-703:

Monte Sleight and Elizabeth Wright discussed clarifying the meaning of an accredited program in the rule as it applies to the LPP Program. They added language in the rule

stating that if the program is ABA approved it meets the requirement for an accredited paralegal program. The Committee discussed the proposed edits to rules 15-701 and 15-703.
In addition to the amendment in the meeting materials, the Committee agreed to the following amendments Rule 15-701 (d):

- In the first sentence, strike the language "approved" and replace it with the language "accredited"
- The second sentence should read, "To qualify as approved, the law school must have been fully or provisionally ~~approved~~ "accredited" at the time of the Applicant's graduation,……..period of time."

Motion: A motion was made to approve Rules 15-701 and 15-703 including the amendments. Judge Appleby seconded the motion. The motion passed unanimously.

3. Curriculum Development, Test Development, and Enrollment:

Carrie Boren reported that the first application to take the Licensed Paralegal Practioner exam was submitted this week. The Committee is in favor of extending the test deadline to allow the fifteen enrolled applicants to submit their applications. Carrie agreed to email the enrolled applicants to find out what they need in order for them to get the test done. She will let the Committee know if they can help the applicants in anyway.

Julie Emery is appointed to chair the Admissions Committee, the seven committee members have met. In addition, Justice Himonas noted that Julie Emery has been recognized and the Paralegal of the Year, applications can be submitted to Julie who will chair the admissions committee. The curriculum is complete and they need to finish the particulars of the test.

Justice Himonas reported the following information to the Committee:

- The Washington Supreme Court voted 5 to 4 to allow paralegals to cross the Bar and appear in court. It has been controversial.
- Rule 7A of the Rules of Civil Procedure has been created to allow LPPs to enforce orders.

4. Reconstituting the structure of the LPP Steering Committee and the LPP Executive Committee:

The Committee discussed changing the structure of the LPP Steering Committee going forward. They discussed the following changes:

- Expanding the LPP practice to expungements and crossing the Bar
- Updating the rules and requirements to include the LPP Profession
- Restructuring the LPP Steering Committee to consist of nine members; keeping several existing members for institutional knowledge and bringing on several new members. The new members would include a person from the Federal Bar, a new LPP, a marketing person from the Bar, and a Bar Commissioner.

5. Training for TCE and Clerks of Court regarding LPPs and how to implement notice requirements in court cases; Implications for the URCP Advisory Committee:

The Committee recommends amending Rule 5 to ensure that LPP's are entitled to give and get notice electronically. Nancy Sylvester will work with Steve Johnson to draft the amendments and bring them to the Rules of Civil Procedure Committee to review. In addition, the Committee noted that there needs to be a form for LPP's to give notice of entry of appearance.

6. Other Business:

Julie Emery reported that she has been working with Matt Page on the first round of marketing. They are trying to get paralegals to participate in the LPP Program. A digital piece was recently shown on KSL and another marketing piece will be shown on channel 4 news. Justice Himonas asked Julie to invite Matt Page to attend the next meeting.

7. Next Meeting: July 11, 2019

The meeting was adjourned at 1:49 P.M.

Tab 2

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Hon. Mary T. Noonan
Interim State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

To: LPP Steering Committee
From: Nancy Sylvester
Date: July 9, 2019
Re: LPP's and Civil Rules

Attached to this memo are the Supreme Court's instructions to the Civil Rules Committee regarding LPP's along with a number of proposed rule amendments. Several questions remain to be answered based on these amendments:

1) Should a blanket term like "legal professionals" be used to describe attorneys and LPP's? Although that could be cleaner in some areas (see, e.g., Rule 73), it also doesn't do much to highlight the differences between the two license types and there are simply areas where LPP's need to be carved away from attorneys (see also Rule 73).

2) In a similar vein, how should we deal with the term "counsel?" Are LPP's counsel? Arguably they do act as legal counsel. I've attempted to deal with this in an amendment to Rule 1.

3) In Rule 75, appearance of limited counsel, can LPP's be involved in discovery? The Supreme Court's letter suggests yes and no. Arguably a carve-out in Rule 26 for LPP's would signal limited involvement in the discovery process.

4) Speaking of Rule 26, the Civil Rules Committee has had some limited discussions already on these carve-outs. One suggestion that has been made is to have a form LPP's could use to flag to the other party and the court when the initial disclosures required by Rules 26, 26.1, and 26.3 have not been provided. Another suggestion was made to better spell out the consequences of not providing the initial disclosures. Rule 26.1(f)-(h) already provides some version of this but perhaps an amendment would also be helpful in Rules 26 and 26.3. I've added in those amendments to the end of each rule and also added a requirement to Rule 26 regarding debt collection initial disclosures.

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Supreme Court of Utah

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Catherine J. Dupont
Appellate Court Administrator

Nicole I. Gray
Clerk of Court

November 26, 2018

Jonathan O. Hafen
Chair, Advisory Committee on Utah Rules of Civil Procedure
PARR BROWN GEE & LOVELESS
101 SOUTH 200 EAST SUITE 700
SALT LAKE CITY UTAH 84111

Dear Jonathan:

The rules regulating the practice for Licensed Paralegal Practitioners take effect November 1, 2018. We anticipate having Licensed Paralegal Practitioners practicing by fall of 2019. In anticipation of this new type of legal professional, we are asking our Advisory committees to review rules that may need to be amended to respond to the new legal professional. The LPP Steering Committee identified Rules of Civil Procedure that should be reviewed by your committee. The rules were identified because the rule includes the word "attorney", and the rule relates to one of the three areas of practice for Licensed Paralegal Practitioners: 1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, and custody and support; 2) forcible entry and detainer and unlawful detainer; and 3) debt collection matters. Your committee may identify other rules that should be amended.

The Court requests that your committee review the Rules of Civil Procedure and propose amendments to the rules that you think are appropriate to incorporate LPPs into the three practice areas and within the limited scope of practice authorized in Rule 14-802. As a starting point, the rules that were identified by the LPP Steering Committee are:

Rule 4	Process
Rule 5	Service and Filling of Pleadings and other papers
Rule 10	Form of Pleading and other paper
Rule 11	Signing of Pleadings, Motions and Affidavits and other papers
Rule 53	Masters
Rule 56	Summary Judgement
Rule 58B	Satisfaction of Judgement

Rule 65A	Injunctions
Rule 74	Withdrawal of Counsel
Rule 75	Limited Appearance (should an LPP always file this document to provide notice to the parties and the court that a LPP is involved in the case for limited legal representation?)
Rule 76	Notice of Contact Information change

We also request that you evaluate Rule 26 regarding required disclosures for debt collection and landlord tenant cases for which an LPP may represent a party. Rule 14-802 does not permit an LPP to conduct discovery. The Court is concerned that if appropriate documentation in debt collection or landlord tenant cases is not filed by the Plaintiff, the LPP will not be able to compel the disclosure of those documents through a discovery request. One solution suggested by the LPP Steering Committee is to amend Rule 26 to specifically require the disclosure of documents in debt collection and landlord tenant cases. The LPP Steering Committee suggested determining which documents are most commonly required and including those documents in Rule 26. We ask that your committee consider this issue.

Sincerely,

Matthew B. Durrant
Chief Justice

Copy: Nancy Sylvester, Staff

Rule 1. General provisions.

Scope of rules. These rules govern the procedure in the courts of the state of Utah in all actions of a civil nature, whether cognizable at law or in equity, and in all statutory proceedings, except as governed by other rules promulgated by this court or statutes enacted by the Legislature and except as stated in Rule 81. They shall be liberally construed and applied to achieve the just, speedy, and inexpensive determination of every action. These rules govern all actions brought after they take effect and all further proceedings in actions then pending. If, in the opinion of the court, applying a rule in an action pending when the rule takes effect would not be feasible or would be unjust, the former procedure applies. Licensed paralegal practitioners are included in the terms “attorney” and “counsel” in the practice areas for which licensed paralegal practitioners are authorized to practice. Those practice areas are set forth in Rule 14-802 of the Rules Governing the Utah State Bar.

Advisory Committee Notes

Rule 4. Process.

(a) Signing of summons. The summons must be signed and issued by the plaintiff or the plaintiff's attorney or licensed paralegal practitioner. Separate summonses may be signed and issued.

(b) Time of service. Unless the summons and complaint are accepted, a copy of the summons and complaint in an action commenced under Rule 3(a)(1) must be served no later than 120 days after the complaint is filed, unless the court orders a different period under Rule 6. If the summons and complaint are not timely served, the action against the unserved defendant may be dismissed without prejudice on motion of any party or on the court's own initiative.

(c) Contents of summons.

(c)(1) The summons must:

(c)(1)(A) contain the name and address of the court, the names of the parties to the action, and the county in which it is brought;

(c)(1)(B) be directed to the defendant;

(c)(1)(C) state the name, address and telephone number of the plaintiff's attorney or licensed paralegal practitioner, if any, and otherwise the plaintiff's address and telephone number;

(c)(1)(D) state the time within which the defendant is required to answer the complaint in writing;

(c)(1)(E) notify the defendant that in case of failure to answer in writing, judgment by default will be entered against the defendant; and

(c)(1)(F) state either that the complaint is on file with the court or that the complaint will be filed with the court within 10 days after service.

(c)(2) If the action is commenced under Rule 3(a)(2), the summons must also:

(c)(2)(A) state that the defendant need not answer if the complaint is not filed within 10 days after service; and

(c)(2)(B) state the telephone number of the clerk of the court where the defendant may call at least 14 days after service to determine if the complaint has been filed.

(c)(3) If service is by publication, the summons must also briefly state the subject matter and the sum of money or other relief demanded, and that the complaint is on file with the court.

(d) Methods of service. The summons and complaint may be served in any state or judicial district of the United States. Unless service is accepted, service of the summons and complaint must be by one of the following methods:

(d)(1) Personal service. The summons and complaint may be served by any person 18 years of age or older at the time of service and not a party to the action or a party's attorney or licensed paralegal practitioner. If the person to be served refuses to accept a copy of the summons and complaint, service is sufficient if the person serving them states the name of the process and offers to deliver them. Personal service must be made as follows:

(d)(1)(A) Upon any individual other than one covered by paragraphs (d)(1)(B), (d)(1)(C) or (d)(1)(D), by delivering a copy of the summons and complaint to the individual personally, or by leaving them at the individual's dwelling house or usual place of abode with a person of suitable

age and discretion who resides there, or by delivering them to an agent authorized by appointment or by law to receive process;

(d)(1)(B) Upon a minor under 14 years old by delivering a copy of the summons and complaint to the minor and also to the minor's father, mother, or guardian or, if none can be found within the state, then to any person having the care and control of the minor, or with whom the minor resides, or by whom the minor is employed;

(d)(1)(C) Upon an individual judicially declared to be incapacitated, of unsound mind, or incapable of conducting the individual's own affairs, by delivering a copy of the summons and complaint to the individual and to the guardian or conservator of the individual if one has been appointed; the individual's legal representative if one has been appointed, and, in the absence of a guardian, conservator, or legal representative, to the person, if any, who has care, custody, or control of the individual;

(d)(1)(D) Upon an individual incarcerated or committed at a facility operated by the state or any of its political subdivisions, by delivering a copy of the summons and complaint to the person who has the care, custody, or control of the individual, or to that person's designee or to the guardian or conservator of the individual if one has been appointed. The person to whom the summons and complaint are delivered must promptly deliver them to the individual;

(d)(1)(E) Upon a corporation not otherwise provided for in this rule, a limited liability company, a partnership, or an unincorporated association subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, a managing or general agent, or other agent authorized by appointment or law to receive process and by also mailing a copy of the summons and complaint to the defendant, if the agent is one authorized by statute to receive process and the statute so requires. If no officer or agent can be found within the state, and the defendant has, or advertises or holds itself out as having, a place of business within the state or elsewhere, or does business within this state or elsewhere, then upon the person in charge of the place of business;

(d)(1)(F) Upon an incorporated city or town, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the recorder;

(d)(1)(G) Upon a county, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the county clerk;

(d)(1)(H) Upon a school district or board of education, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the superintendent or administrator of the board;

(d)(1)(I) Upon an irrigation or drainage district, by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to the president or secretary of its board;

(d)(1)(J) Upon the state of Utah or its department or agency by delivering a copy of the summons and complaint to the attorney general and any other person or agency required by statute to be served; and

(d)(1)(K) Upon a public board, commission or body by delivering a copy of the summons and complaint as required by statute, or in the absence of a controlling statute, to any member of its governing board, or to its executive employee or secretary.

(d)(2) Service by mail or commercial courier service.

(d)(2)(A) The summons and complaint may be served upon an individual other than one covered by paragraphs (d)(1)(B) or (d)(1)(C) by mail or commercial courier service in any state or judicial district of the United States provided the defendant signs a document indicating receipt.

(d)(2)(B) The summons and complaint may be served upon an entity covered by paragraphs (d)(1)(E) through (d)(1)(I) by mail or commercial courier service in any state or judicial district of the United States provided defendant's agent authorized by appointment or by law to receive service of process signs a document indicating receipt.

(d)(2)(C) Service by mail or commercial courier service shall be complete on the date the receipt is signed as provided by this rule.

(d)(3) Acceptance of service.

(d)(3)(A) Duty to avoid expenses. All parties have a duty to avoid unnecessary expenses of serving the summons and complaint.

(d)(3)(B) Acceptance of service by party. Unless the person to be served is a minor under 14 years old or an individual judicially declared to be incapacitated, of unsound mind, or incapable of conducting the individual's own affairs, a party may accept service of a summons and complaint by signing a document that acknowledges receipt of the summons and complaint.

(d)(3)(C) Acceptance of service by attorney <u>or licensed paralegal practitioner</u> for party. An attorney <u>or licensed paralegal practitioner</u> may accept service of a summons and complaint on behalf of the attorney's <u>or licensed paralegal practitioner's</u> client by signing a document that acknowledges receipt of the summons and complaint.

(d)(3)(D) Effect of acceptance, proof of acceptance. A person who accepts service of the summons and complaint retains all defenses and objections, except for adequacy of service. Service is effective on the date of the acceptance. Filing the acceptance of service with the court constitutes proof of service under Rule 4(e).

(d)(4) Service in a foreign country. Service in a foreign country must be made as follows:

(d)(4)(A) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(d)(4)(B) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(d)(4)(B)(i) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction;

(d)(4)(B)(ii) as directed by the foreign authority in response to a letter of request issued by the court; or

(d)(4)(B)(iii) unless prohibited by the law of the foreign country, by delivering a copy of the summons and complaint to the individual personally or by any form of mail requiring a signed receipt, addressed and dispatched by the clerk of the court to the party to be served; or

(d)(4)(C) by other means not prohibited by international agreement as may be directed by the court.

(d)(5) Other service.

(d)(5)(A) If the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence, if service upon all of the individual parties is impracticable under the circumstances, or if there is good cause to believe that the person to be served is avoiding service, the party seeking service may file a motion to allow service by some other means. An affidavit or declaration supporting the motion must set forth the efforts made to identify, locate, and serve the party, or the circumstances that make it impracticable to serve all of the individual parties.

(d)(5)(B) If the motion is granted, the court will order service of the complaint and summons by means reasonably calculated, under all the circumstances, to apprise the named parties of the action. The court's order must specify the content of the process to be served and the event upon which service is complete. Unless service is by publication, a copy of the court's order must be served with the process specified by the court.

(d)(5)(C) If the summons is required to be published, the court, upon the request of the party applying for service by other means, must designate a newspaper of general circulation in the county in which publication is required.

(e) Proof of service.

(e)(1)The person effecting service must file proof of service stating the date, place, and manner of service, including a copy of the summons. If service is made by a person other than by an attorney, licensed paralegal practitioner, sheriff, constable, United States Marshal, or by the sheriff's, constable's or marshal's deputy, the proof of service must be by affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act.

(e)(2) Proof of service in a foreign country must be made as prescribed in these rules for service within this state, or by the law of the foreign country, or by order of the court.

(e)(3) When service is made pursuant to paragraph(d)(4)(C), proof of service must include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court.

(e)(4) Failure to file proof of service does not affect the validity of the service. The court may allow proof of service to be amended.

Advisory Committee Notes

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

(a) When service is required.

(a)(1) Papers that must be served. Except as otherwise provided in these rules or as otherwise directed by the court, the following papers must be served on every party:

(a)(1)(A) a judgment;

(a)(1)(B) an order that states it must be served;

(a)(1)(C) a pleading after the original complaint;

(a)(1)(D) a paper relating to disclosure or discovery;

(a)(1)(E) a paper filed with the court other than a motion that may be heard ex parte; and

(a)(1)(F) a written notice, appearance, demand, offer of judgment, or similar paper.

(a)(2) Serving parties in default. No service is required on a party who is in default except that:

(a)(2)(A) a party in default must be served as ordered by the court;

(a)(2)(B) a party in default for any reason other than for failure to appear must be served as provided in paragraph (a)(1);

(a)(2)(C) a party in default for any reason must be served with notice of any hearing to determine the amount of damages to be entered against the defaulting party;

(a)(2)(D) a party in default for any reason must be served with notice of entry of judgment under Rule 58A(d); and

(a)(2)(E) a party in default for any reason must be served under Rule 4 with pleadings asserting new or additional claims for relief against the party.

(a)(3) Service in actions begun by seizing property. If an action is begun by seizing property and no person is or need be named as defendant, any service required before the filing of an answer, claim or appearance must be made upon the person who had custody or possession of the property when it was seized.

(b) How service is made.

(b)(1) Whom to serve. If a party is represented by an attorney, a paper served under this rule must be served upon the attorney unless the court orders service upon the party. If a party is represented by a licensed paralegal practitioner, a paper served under this rule must be served upon the party and the licensed paralegal practitioner. Service must be made upon the attorney and the party if

(b)(1)(A) an attorney has filed a Notice of Limited Appearance under Rule 75 and the papers being served relate to a matter within the scope of the Notice; or

(b)(1)(B) a final judgment has been entered in the action and more than 90 days has elapsed from the date a paper was last served on the attorney.

(b)(2) When to serve. If a hearing is scheduled 7 days or less from the date of service, a party must serve a paper related to the hearing by the method most likely to be promptly received. Otherwise, a paper that is filed with the court must be served before or on the same day that it is filed.

(b)(3) Methods of service. A paper is served under this rule by:

(b)(3)(A) except in the juvenile court, submitting it for electronic filing, or the court submitting it to the electronic filing service provider, if the person being served has an electronic filing account;

(b)(3)(B) emailing it to the email address provided by the person or to the email address on file with the Utah State Bar, if the person has agreed to accept service by email or has an electronic filing account;

(b)(3)(C) mailing it to the person's last known address;

(b)(3)(D) handing it to the person;

(b)(3)(E) leaving it at the person's office with a person in charge or, if no one is in charge, leaving it in a receptacle intended for receiving deliveries or in a conspicuous place;

(b)(3)(F) leaving it at the person's dwelling house or usual place of abode with a person of suitable age and discretion who resides there; or

(b)(3)(G) any other method agreed to in writing by the parties.

(b)(4) When service is effective. Service by mail or electronic means is complete upon sending.

(b)(5) Who serves. Unless otherwise directed by the court:

(b)(5)(A) every paper required to be served must be served by the party preparing it; and

(b)(5)(B) every paper prepared by the court will be served by the court.

(c) Serving numerous defendants. If an action involves an unusually large number of defendants, the court, upon motion or its own initiative, may order that:

(c)(1) a defendant's pleadings and replies to them do not need to be served on the other defendants;

(c)(2) any cross-claim, counterclaim avoidance or affirmative defense in a defendant's pleadings and replies to them are deemed denied or avoided by all other parties;

(c)(3) filing a defendant's pleadings and serving them on the plaintiff constitutes notice of them to all other parties; and

(c)(4) a copy of the order must be served upon the parties.

(d) Certificate of service. A paper required by this rule to be served, including electronically filed papers, must include a signed certificate of service showing the name of the document served, the date and manner of service and on whom it was served. Except in the juvenile court, this paragraph does not apply to papers required to be served under paragraph (b)(5)(B) when service to all parties is made under paragraph (b)(3)(A).

(e) Filing. Except as provided in Rule 7(j) and Rule 26(f), all papers after the complaint that are required to be served must be filed with the court. Parties with an electronic filing account must file a paper electronically. A party without an electronic filing account may file a paper by delivering it to the clerk of the court or to a judge of the court. Filing is complete upon the earliest of acceptance by the electronic filing system, the clerk of court or the judge.

(f) Filing an affidavit or declaration. If a person files an affidavit or declaration, the filer may:

(f)(1) electronically file the original affidavit with a notary acknowledgment as provided by Utah Code Section 46-1-16(7);

(f)(2) electronically file a scanned image of the affidavit or declaration;

(f)(3) electronically file the affidavit or declaration with a conformed signature; or

(f)(4) if the filer does not have an electronic filing account, present the original affidavit or declaration to the clerk of the court, and the clerk will electronically file a scanned image and return the original to the filer.

The filer must keep an original affidavit or declaration of anyone other than the filer safe and available for inspection upon request until the action is concluded, including any appeal or until the time in which to appeal has expired.

Advisory Committee Notes

Rule 10. Form of pleadings and other papers.

(a) Caption; names of parties; other necessary information.

(a)(1) All pleadings and other papers filed with the court must contain a caption setting forth the name of the court, the title of the action, the file number, if known, the name of the pleading or other paper, and the name, if known, of the judge (and commissioner if applicable) to whom the case is assigned. A party filing a claim for relief, whether by original claim, counterclaim, cross-claim or third-party claim, must include in the caption the discovery tier for the case as determined under Rule 26.

(a)(2) In the complaint, the title of the action must include the names of all the parties, but other pleadings and papers need only state the name of the first party on each side with an indication that there are other parties. A party whose name is not known must be designated by any name and the words "whose true name is unknown." In an action in rem, unknown parties must be designated as "all unknown persons who claim any interest in the subject matter of the action."

(a)(3) Every pleading and other paper filed with the court must state in the top left hand corner of the first page the name, address, email address, telephone number and bar number of the attorney, licensed paralegal practitioner, or party filing the paper, and, if filed by an attorney or licensed paralegal practitioner, the party for whom it is filed.

(a)(4) A party filing a claim for relief, whether by original claim, counterclaim, cross-claim or third-party claim, must also file a completed cover sheet substantially similar in form and content to the cover sheet approved by the Judicial Council. The clerk may destroy the coversheet after recording the information it contains.

(b) Paragraphs; separate statements. All statements of claim or defense must be made in numbered paragraphs. Each paragraph must be limited as far as practicable to a single set of circumstances; and a paragraph may be adopted by reference in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials must be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

(c) Adoption by reference; exhibits. Statements in a paper may be adopted by reference in a different part of the same or another paper. An exhibit to a paper is a part thereof for all purposes.

(d) Paper format. All pleadings and other papers, other than exhibits and court-approved forms, must be 8½ inches wide x 11 inches long, on white background, with a top margin of not less than 1½ inches and a right, left and bottom margin of not less than 1 inch . All text or images must be clearly legible, must be double spaced, except for matters customarily single spaced, must be on one side only and must not be smaller than 12-point size.

(e) Signature line. The name of the person signing must be typed or printed under that person’s signature. If a proposed document ready for signature by a court official is electronically filed, the order must not include the official’s signature line and must, at the end of the document, indicate that the signature appears at the top of the first page.

(f) Non-conforming papers. The clerk of the court may examine the pleadings and other papers filed with the court. If they are not prepared in conformity with paragraphs (a) -(e), the clerk must accept the filing but may require counsel to substitute properly prepared papers for nonconforming papers. The clerk or the court may waive the requirements of this rule for parties appearing pro se. For good cause shown, the court may relieve any party of any requirement of this rule.

(g) Replacing lost pleadings or papers. If an original pleading or paper filed in any action or proceeding is lost, the court may, upon motion, with or without notice, authorize a copy thereof to be filed and used in lieu of the original.

(h) No improper content. The court may strike and disregard all or any part of a pleading or other paper that contains redundant, immaterial, impertinent or scandalous matter.

(i) Electronic papers.

(i)(1) Any reference in these rules to a writing, recording or image includes the electronic version thereof.

(i)(2) A paper electronically signed and filed is the original.

(i)(3) An electronic copy of a paper, recording or image may be filed as though it were the original. Proof of the original, if necessary, is governed by the Utah Rules of Evidence.

(i)(4) An electronic copy of a paper must conform to the format of the original.

(i)(5) An electronically filed paper may contain links to other papers filed simultaneously or already on file with the court and to electronically published authority.

Advisory Committee Notes

Rule 11. Signing of pleadings, motions, affidavits, and other papers; representations to court; sanctions.

(a) Signature.

(a)(1) Every pleading, written motion, and other paper must be signed by at least one attorney or licensed paralegal practitioner of record, or, if the party is not represented, by the party.

(a)(2) A person may sign a paper using any form of signature recognized by law as binding. Unless required by statute, a paper need not be accompanied by affidavit or have a notarized, verified or acknowledged signature. If a rule requires an affidavit or a notarized, verified or acknowledged signature, the person may submit an unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act. If an affidavit or a paper with a notarized, verified or acknowledged signature is filed, the party must comply with Rule 5(f).

(a)(3) An unsigned paper will be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney, licensed paralegal practitioner, or party.

(b) Representations to court. By presenting a pleading, written motion, or other paper to the court (whether by signing, filing, submitting, or advocating), an attorney, licensed paralegal practitioner, or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,

(b)(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(b)(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(b)(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(b)(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(c) Sanctions. If, after notice and a reasonable opportunity to respond, the court determines that paragraph (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, licensed paralegal practitioners, law firms, or parties that have violated paragraph (b) or are responsible for the violation.

(c)(1) How initiated.

(c)(1)(A) By motion. A motion for sanctions under this rule must be made separately from other motions or requests and must describe the specific conduct alleged to violate paragraph (b). It must be served as provided in Rule 5, but may not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney or licensed paralegal practitioner fees incurred in

presenting or opposing the motion. In appropriate circumstances, a law firm may be held jointly responsible for violations committed by its partners, members, and employees.

(c)(1)(B) On court's initiative. On its own initiative, the court may enter an order describing the specific conduct that appears to violate paragraph (b) and directing an attorney, licensed paralegal practitioner, law firm, or party to show cause why it has not violated paragraph (b) with respect thereto.

(c)(2) Nature of sanction; limitations. A sanction imposed for violation of this rule must be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in paragraphs (c)(2)(A) and (c)(2)(B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney or licensed paralegal practitioner fees and other expenses incurred as a direct result of the violation.

(c)(2)(A) Monetary sanctions may not be awarded against a represented party for a violation of paragraph (b)(2).

(c)(2)(B) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys or licensed paralegal practitioners are, to be sanctioned.

(c)(3) Order. When imposing sanctions, the court will describe the conduct determined to constitute a violation of this rule and explain the basis for the sanction imposed.

Advisory Committee Notes

Rule 26. General provisions governing disclosure and discovery.

(a) Disclosure. This rule applies unless changed or supplemented by a rule governing disclosure and discovery in a practice area.

(a)(1) Initial disclosures. Except in cases exempt under paragraph (a)(3), a party shall, without waiting for a discovery request, serve on the other parties:

(a)(1)(A) the name and, if known, the address and telephone number of:

(a)(1)(A)(i) each individual likely to have discoverable information supporting its claims or defenses, unless solely for impeachment, identifying the subjects of the information; and

(a)(1)(A)(ii) each fact witness the party may call in its case-in-chief and, except for an adverse party, a summary of the expected testimony;

(a)(1)(B) a copy of all documents, data compilations, electronically stored information, and tangible things in the possession or control of the party that the party may offer in its case-in-chief, except charts, summaries and demonstrative exhibits that have not yet been prepared and must be disclosed in accordance with paragraph (a)(5);

(a)(1)(C) a computation of any damages claimed and a copy of all discoverable documents or evidentiary material on which such computation is based, including materials about the nature and extent of injuries suffered;

(a)(1)(D) a copy of any agreement under which any person may be liable to satisfy part or all of a judgment or to indemnify or reimburse for payments made to satisfy the judgment; and

(a)(1)(E) a copy of all documents to which a party refers in its pleadings, including in debt collection actions a copy or proof of the agreement giving rise to the action and an itemized calculation of collection costs incurred;.

(a)(2) Timing of initial disclosures. The disclosures required by paragraph (a)(1) shall be served on the other parties:

(a)(2)(A) by the plaintiff within 14 days after filing of the first answer to the complaint; and

(a)(2)(B) by the defendant within 42 days after filing of the first answer to the complaint or within 28 days after that defendant's appearance, whichever is later.

(a)(3) Exemptions.

(a)(3)(A) Unless otherwise ordered by the court or agreed to by the parties, the requirements of paragraph (a)(1) do not apply to actions:

(a)(3)(A)(i) for judicial review of adjudicative proceedings or rule making proceedings of an administrative agency;

(a)(3)(A)(ii) governed by Rule 65B or Rule 65C;

(a)(3)(A)(iii) to enforce an arbitration award;

(a)(3)(A)(iv) for water rights general adjudication under Title 73, Chapter 4, Determination of Water Rights.

(a)(3)(B) In an exempt action, the matters subject to disclosure under paragraph (a)(1) are subject to discovery under paragraph (b).

(a)(4) Expert testimony.

(a)(4)(A) Disclosure of expert testimony. A party shall, without waiting for a discovery request, serve on the other parties the following information regarding any person who may be used at trial to present evidence under Rule 702 of the Utah Rules of Evidence and who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony: (i) the expert's name and qualifications, including a list of all publications authored within the preceding 10 years, and a list of any other cases in which the expert has testified as an expert at trial or by deposition within the preceding four years, (ii) a brief summary of the opinions to which the witness is expected to testify, (iii) all data and other information that will be relied upon by the witness in forming those opinions, and (iv) the compensation to be paid for the witness's study and testimony.

(a)(4)(B) Limits on expert discovery. Further discovery may be obtained from an expert witness either by deposition or by written report. A deposition shall not exceed four hours and the party taking the deposition shall pay the expert's reasonable hourly fees for attendance at the deposition. A report shall be signed by the expert and shall contain a complete statement of all opinions the expert will offer at trial and the basis and reasons for them. Such an expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the report. The party offering the expert shall pay the costs for the report.

(a)(4)(C) Timing for expert discovery.

(a)(4)(C)(i) The party who bears the burden of proof on the issue for which expert testimony is offered shall serve on the other parties the information required by paragraph (a)(4)(A) within seven days after the close of fact discovery. Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within 28 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted.

(a)(4)(C)(ii) The party who does not bear the burden of proof on the issue for which expert testimony is offered shall serve on the other parties the information required by paragraph (a)(4)(A) within seven days after the later of (A) the date on which the election under paragraph (a)(4)(C)(i) is due, or (B) receipt of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(i). Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within 28 days after

the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted.

(a)(4)(C)(iii) If the party who bears the burden of proof on an issue wants to designate rebuttal expert witnesses it shall serve on the other parties the information required by paragraph (a)(4)(A) within seven days after the later of (A) the date on which the election under paragraph (a)(4)(C)(ii) is due, or (B) receipt of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(ii). Within seven days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition shall occur, or the report shall be served on the other parties, within 28 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert shall be permitted.

(a)(4)(D) Multiparty actions. In multiparty actions, all parties opposing the expert must agree on either a report or a deposition. If all parties opposing the expert do not agree, then further discovery of the expert may be obtained only by deposition pursuant to paragraph (a)(4)(B) and Rule 30.

(a)(4)(E) Summary of non-retained expert testimony. If a party intends to present evidence at trial under Rule 702 of the Utah Rules of Evidence from any person other than an expert witness who is retained or specially employed to provide testimony in the case or a person whose duties as an employee of the party regularly involve giving expert testimony, that party must serve on the other parties a written summary of the facts and opinions to which the witness is expected to testify in accordance with the deadlines set forth in paragraph (a)(4)(C). A deposition of such a witness may not exceed four hours.

(a)(5) Pretrial disclosures.

(a)(5)(A) A party shall, without waiting for a discovery request, serve on the other parties:

(a)(5)(A)(i) the name and, if not previously provided, the address and telephone number of each witness, unless solely for impeachment, separately identifying witnesses the party will call and witnesses the party may call;

(a)(5)(A)(ii) the name of witnesses whose testimony is expected to be presented by transcript of a deposition and a copy of the transcript with the proposed testimony designated; and

(a)(5)(A)(iii) a copy of each exhibit, including charts, summaries and demonstrative exhibits, unless solely for impeachment, separately identifying those which the party will offer and those which the party may offer.

(a)(5)(B) Disclosure required by paragraph (a)(5) shall be served on the other parties at least 28 days before trial. At least 14 days before trial, a party shall serve and file counter designations of deposition testimony, objections and grounds for the objections to the use of a deposition and

to the admissibility of exhibits. Other than objections under Rules 402 and 403 of the Utah Rules of Evidence, objections not listed are waived unless excused by the court for good cause.

(b) Discovery scope.

(b)(1) In general. Parties may discover any matter, not privileged, which is relevant to the claim or defense of any party if the discovery satisfies the standards of proportionality set forth below. Privileged matters that are not discoverable or admissible in any proceeding of any kind or character include all information in any form provided during and created specifically as part of a request for an investigation, the investigation, findings, or conclusions of peer review, care review, or quality assurance processes of any organization of health care providers as defined in the Utah Health Care Malpractice Act for the purpose of evaluating care provided to reduce morbidity and mortality or to improve the quality of medical care, or for the purpose of peer review of the ethics, competence, or professional conduct of any health care provider.

(b)(2) Proportionality. Discovery and discovery requests are proportional if:

(b)(2)(A) the discovery is reasonable, considering the needs of the case, the amount in controversy, the complexity of the case, the parties' resources, the importance of the issues, and the importance of the discovery in resolving the issues;

(b)(2)(B) the likely benefits of the proposed discovery outweigh the burden or expense;

(b)(2)(C) the discovery is consistent with the overall case management and will further the just, speedy and inexpensive determination of the case;

(b)(2)(D) the discovery is not unreasonably cumulative or duplicative;

(b)(2)(E) the information cannot be obtained from another source that is more convenient, less burdensome or less expensive; and

(b)(2)(F) the party seeking discovery has not had sufficient opportunity to obtain the information by discovery or otherwise, taking into account the parties' relative access to the information.

(b)(3) Burden. The party seeking discovery always has the burden of showing proportionality and relevance. To ensure proportionality, the court may enter orders under Rule 37.

(b)(4) Electronically stored information. A party claiming that electronically stored information is not reasonably accessible because of undue burden or cost shall describe the source of the electronically stored information, the nature and extent of the burden, the nature of the information not provided, and any other information that will enable other parties to evaluate the claim.

(b)(5) Trial preparation materials. A party may obtain otherwise discoverable documents and tangible things prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials and that the party is unable without undue hardship to obtain substantially equivalent materials by other means. In ordering discovery of such materials, the court shall protect against disclosure of the

mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party.

(b)(6) Statement previously made about the action. A party may obtain without the showing required in paragraph (b)(5) a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement about the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order under Rule 37. A statement previously made is (A) a written statement signed or approved by the person making it, or (B) a stenographic, mechanical, electronic, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(b)(7) Trial preparation; experts.

(b)(7)(A) Trial-preparation protection for draft reports or disclosures. Paragraph (b)(5) protects drafts of any report or disclosure required under paragraph (a)(4), regardless of the form in which the draft is recorded.

(b)(7)(B) Trial-preparation protection for communications between a party's attorney and expert witnesses. Paragraph (b)(5) protects communications between the party's attorney and any witness required to provide disclosures under paragraph (a)(4), regardless of the form of the communications, except to the extent that the communications:

(b)(7)(B)(i) relate to compensation for the expert's study or testimony;

(b)(7)(B)(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(b)(7)(B)(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(b)(7)(C) Expert employed only for trial preparation. Ordinarily, a party may not, by interrogatories or otherwise, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. A party may do so only:

(b)(7)(C)(i) as provided in Rule 35(b); or

(b)(7)(C)(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(b)(8) Claims of privilege or protection of trial preparation materials.

(b)(8)(A) Information withheld. If a party withholds discoverable information by claiming that it is privileged or prepared in anticipation of litigation or for trial, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced in a manner that, without revealing the information itself, will enable other parties to evaluate the claim.

(b)(8)(B) Information produced. If a party produces information that the party claims is privileged or prepared in anticipation of litigation or for trial, the producing party may notify any receiving party of the claim and the basis for it. After being notified, a receiving party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The producing party must preserve the information until the claim is resolved.

(c) Methods, sequence and timing of discovery; tiers; limits on standard discovery; extraordinary discovery.

(c)(1) Methods of discovery. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; requests for admission; and subpoenas other than for a court hearing or trial.

(c)(2) Sequence and timing of discovery. Methods of discovery may be used in any sequence, and the fact that a party is conducting discovery shall not delay any other party's discovery. Except for cases exempt under paragraph (a)(3), a party may not seek discovery from any source before that party's initial disclosure obligations are satisfied.

(c)(3) Definition of tiers for standard discovery. Actions claiming $50,000 or less in damages are permitted standard discovery as described for Tier 1. Actions claiming more than $50,000 and less than $300,000 in damages are permitted standard discovery as described for Tier 2. Actions claiming $300,000 or more in damages are permitted standard discovery as described for Tier 3. Absent an accompanying damage claim for more than $300,000, actions claiming non-monetary relief are permitted standard discovery as described for Tier 2.

(c)(4) Definition of damages. For purposes of determining standard discovery, the amount of damages includes the total of all monetary damages sought (without duplication for alternative theories) by all parties in all claims for relief in the original pleadings.

(c)(5) Limits on standard fact discovery. Standard fact discovery per side (plaintiffs collectively, defendants collectively, and third-party defendants collectively) in each tier is as follows. The days to complete standard fact discovery are calculated from the date the first defendant's first disclosure is due and do not include expert discovery under paragraphs(a)(4)(C) and (D).

Tier	Amount of Damages	Total Fact Deposition Hours	Rule 33 Interrogatories including all discrete subparts	Rule 34 Requests for Production	Rule 36 Requests for Admission	Days to Complete Standard Fact Discovery
1	$50,000 or less	3	0	5	5	120
2	More than	15	10	10	10	180

	$50,000 and less than $300,000 or non-monetary relief					
3	$300,000 or more	30	20	20	20	210

(c)(6) Extraordinary discovery. To obtain discovery beyond the limits established in paragraph (c)(5), a party shall file:

(c)(6)(A) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, a stipulated statement that extraordinary discovery is necessary and proportional under paragraph (b)(2) and that each party has reviewed and approved a discovery budget; or

(c)(6)(B) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, a request for extraordinary discovery under Rule 37(a).

(d) Requirements for disclosure or response; disclosure or response by an organization; failure to disclose; initial and supplemental disclosures and responses.

(d)(1) A party shall make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(d)(2) If the party providing disclosure or responding to discovery is a corporation, partnership, association, or governmental agency, the party shall act through one or more officers, directors, managing agents, or other persons, who shall make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(d)(3) A party is not excused from making disclosures or responses because the party has not completed investigating the case or because the party challenges the sufficiency of another party's disclosures or responses or because another party has not made disclosures or responses.

(d)(4) If a party fails to disclose or to supplement timely a disclosure or response to discovery, that party may not use the undisclosed witness, document or material at any hearing or trial unless the failure is harmless or the party shows good cause for the failure.

(d)(5) If a party learns that a disclosure or response is incomplete or incorrect in some important way, the party must timely serve on the other parties the additional or correct information if it has not been made known to the other parties. The supplemental disclosure or response must state why the additional or correct information was not previously provided.

(e) Signing discovery requests, responses, and objections. Every disclosure, request for discovery, response to a request for discovery and objection to a request for discovery shall be in writing and signed by at least one attorney of record or by the party if the party is not represented. The signature of the attorney or party is a certification under Rule 11. If a request or response is not signed, the receiving party does not need to take any action with respect to it. If a certification is made in violation of

the rule, the court, upon motion or upon its own initiative, may take any action authorized by Rule 11 or Rule 37(b).

(f) Filing. Except as required by these rules or ordered by the court, a party shall not file with the court a disclosure, a request for discovery or a response to a request for discovery, but shall file only the certificate of service stating that the disclosure, request for discovery or response has been served on the other parties and the date of service.

(g) Failure to comply. Failure of a party to comply with this rule does not preclude any other party from obtaining a default judgment, proceeding with the case, or seeking other relief from the court.

(h) Notice of requirements. Notice of the requirements of this rule must be served on the defendant and all joined parties with the initial petition.

Advisory Committee Notes

Legislative Note

Rule 26.3. Disclosure in unlawful detainer actions.

(a) Scope. This rule applies to all actions for eviction or damages arising out of an unlawful detainer under Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer.

(b) Plaintiff's disclosures.

(b)(1) Disclosures served with complaint and summons. Instead of the disclosures and timing of disclosures required by Rule 26(a), and unless included in the complaint, the plaintiff must serve on the defendant with the summons and complaint:

(b)(1)(A) any written rental agreement;

(b)(1)(B) the eviction notice that was served;

(b)(1)(C) an itemized calculation of rent past due, damages, costs and attorney fees at the time of filing;

(b)(1)(D) an explanation of the factual basis for the eviction; and

~~(b)(1)(E) notice to the defendant of the defendant's obligation to serve the disclosures required by paragraph (c).~~

(b)(2) Disclosures for evidentiary hearing.

(b)(2)(A) If the plaintiff requests an evidentiary hearing under Section 78B-6-810, the plaintiff must serve on the defendant with the request:

(b)(2)(A)(i) any document not yet disclosed that the plaintiff will offer at the hearing; and

(b)(2)(A)(ii) the name and, if known, the address and telephone number of each fact witness the plaintiff may call at the evidentiary hearing and, except for an adverse party, a summary of the expected testimony.

(b)(2)(B) If the defendant requests an evidentiary hearing under Section 78B-6-810, the plaintiff must serve the disclosures required by paragraph (b)(2)(A) on the defendant no less than 2 days before the hearing. The plaintiff must serve the disclosures by the method most likely to be promptly received.

(c) Defendant's disclosures for evidentiary hearing.

(c)(1) If the defendant requests an evidentiary hearing under Section 78B-6-810, the defendant must serve on the plaintiff with the request:

(c)(1)(A) any document not yet disclosed that the defendant will offer at the hearing; and

(c)(1)(B) the name and, if known, the address and telephone number of each fact witness the defendant may call at the evidentiary hearing and, except for an adverse party, a summary of the expected testimony.

(c)(2) If the plaintiff requests an evidentiary hearing under Section 78B-6-810, the defendant must serve the disclosures required by paragraph (c)(1) on the plaintiff no less than 2 days before the hearing. The defendant must serve the disclosures by the method most likely to be promptly received.

(d) Pretrial disclosures; objections. No later than 14 days before trial, the parties must serve the disclosures required by Rule 26(a)(5)(A). No later than 7 days before trial, each party must serve and file counter designations of deposition testimony, objections and grounds for the objections to the use of a deposition and to the admissibility of exhibits.

(e) Failure to comply. Failure of a party to comply with this rule does not preclude any other party from obtaining a default judgment, proceeding with the case, or seeking other relief from the court.

(f) Notice of requirements. Notice of the requirements of this rule must be served on the defendant with the summons and complaint.

Rule 53. Masters.

(a) Appointment and compensation. Any or all of the issues in an action may be referred by the court to a master upon the written consent of the parties, or the court may appoint a master in an action, in accordance with the provisions of Subdivision (b) of this rule. As used in these rules the word "master" includes a referee, an auditor, and an examiner. The compensation to be allowed to a master shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action, which is in the custody and control of the court as the court may direct. The master shall not retain his report as security for his compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.

(b) Reference. A reference to a master shall be the exception and not the rule. In actions to be tried by a jury, a reference shall be made only when the issues are complicated; in actions to be tried without a jury, save in matters of account, a reference shall, in the absence of the written consent of the parties, be made only upon a showing that some exceptional condition requires it.

(c) Powers. The order of reference to the master may specify or limit his powers and may direct him to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order. ~~He~~ The master may require the production before him of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. ~~He~~ The master may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may ~~himself~~ examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in the Utah Rules of Evidence for a court sitting without a jury.

(d) Proceedings.

(d)(1) Meetings. When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys, or the parties and their licensed paralegal practitioners, ~~-~~to be held within 21 days after the date of the order of reference and shall notify the parties or their attorneys or the parties and their licensed paralegal practitioners. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the court for an order requiring the master to speed the proceedings and to make his report. If a party fails to appear at the time and place

appointed, the master may proceed ex parte or, in his discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(d)(2) Witnesses. The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, ~~he~~ the witness may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45.

(d)(3) Statement of accounts. When matters of accounting are in issue before the master, ~~he~~ the master may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as ~~he~~ the master directs.

(e) Report.

(e)(1) Contents and filing. The master shall prepare a report upon the matters submitted to him by the order of reference and, if required to make findings of fact and conclusions of law, ~~he~~ the master shall set them forth in the report. ~~He~~ The master shall file the report with the clerk of the court and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it a transcript of the proceedings and of the evidence and the original exhibits. The clerk shall forthwith mail to all parties notice of the filing.

(e)(2) In non-jury actions. In an action to be tried without a jury the court shall accept the master's findings of fact unless clearly erroneous. Within 14 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in Rule 6(d). The court after hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

(e)(3) In jury actions. In an action to be tried by a jury the master shall not be directed to report the evidence. ~~His~~ The master's findings upon the issues submitted to him are admissible as evidence of the matters found and may be read to the jury, subject to the ruling of the court upon any objections in point of law which may be made to the report.

(e)(4) Stipulation as to findings. The effect of a master's report is the same whether or not the parties have consented to the reference; but, when the parties stipulate that a master's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.

(e)(5) Draft report. Before filing ~~his~~ the report, a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.

(f) Objections to appointment of master. A party may object to the appointment of any person as a master on the same grounds as a party may challenge for cause any prospective trial juror in the trial of a civil action. Such objections must be heard and disposed of by the court in the same manner as a motion.

Rule 54. Judgments; costs.

(a) Definition; form. "Judgment" as used in these rules includes a decree or order that adjudicates all claims and the rights and liabilities of all parties or any other order from which an appeal of right lies. A judgment should not contain a recital of pleadings, the report of a master, or the record of prior proceedings.

(b) Judgment upon multiple claims and/or involving multiple parties. When an action presents more than one claim for relief—whether as a claim, counterclaim, cross claim, or third party claim—and/or when multiple parties are involved, the court may enter judgment as to one or more but fewer than all of the claims or parties only if the court expressly determines that there is no just reason for delay. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties, and may be changed at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

(c) Demand for judgment. A default judgment must not differ in kind from, or exceed in amount, what is demanded in the pleadings. Every other judgment should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings.

(d) Costs.

(d)(1) To whom awarded. Unless a statute, these rules, or a court order provides otherwise, costs should be allowed to the prevailing party. Costs against the state of Utah, its officers and agencies may be imposed only to the extent permitted by law.

(d)(2) How assessed. The party who claims costs must not later than 14 days after the entry of judgment file and serve a verified memorandum of costs. A party dissatisfied with the costs claimed may, within 7 days after service of the memorandum of costs, object to the claimed costs.

(d)(3) Memorandum filed before judgment. A memorandum of costs served and filed after the verdict, or at the time of or subsequent to the service and filing of the findings of fact and conclusions of law, but before the entry of judgment, is deemed served and filed on the date judgment is entered.

(e) Amending the judgment to add costs, ~~or~~ attorney, or licensed paralegal practitioner fees. If the court awards costs under paragraph (d) or attorney or licensed paralegal practitioner fees under Rule 73 after the judgment is entered, the prevailing party must file and serve under Rule 5 an amended judgment including the costs or attorney or licensed paralegal practitioner fees. The court will enter the amended judgment unless another party objects within 7 days after the amended judgment is filed.

Advisory Committee Notes

Rule 56. Summary judgment.

(a) Motion for summary judgment or partial summary judgment. A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court shall grant summary judgment if the moving party shows that there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion. The motion and memoranda must follow Rule 7 as supplemented below.

(a)(1) Instead of a statement of the facts under Rule 7, a motion for summary judgment must contain a statement of material facts claimed not to be genuinely disputed. Each fact must be separately stated in numbered paragraphs and supported by citing to materials in the record under paragraph (c)(1) of this rule.

(a)(2) Instead of a statement of the facts under Rule 7, a memorandum opposing the motion must include a verbatim restatement of each of the moving party's facts that is disputed with an explanation of the grounds for the dispute supported by citing to materials in the record under paragraph (c)(1) of this rule. The memorandum may contain a separate statement of additional materials facts in dispute, which must be separately stated in numbered paragraphs and similarly supported.

(a)(3) The motion and the memorandum opposing the motion may contain a concise statement of facts, whether disputed or undisputed, for the limited purpose of providing background and context for the case, dispute and motion.

(a)(4) Each material fact set forth in the motion or in the memorandum opposing the motion under paragraphs (a)(1) and (a)(2) that is not disputed is deemed admitted for the purposes of the motion.

(b) Time to file a motion. A party seeking to recover upon a claim, counterclaim or cross-claim or to obtain a declaratory judgment may move for summary judgment at any time after service of a motion for summary judgment by the adverse party or after 21 days from the commencement of the action. A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may move for summary judgment at any time. Unless the court orders otherwise, a party may file a motion for summary judgment at any time no later than 28 days after the close of all discovery.

(c) Procedures.

(c)(1) Supporting factual positions. A party asserting that a fact cannot be genuinely disputed or is genuinely disputed must support the assertion by:

(c)(1)(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(c)(1)(B) showing that the materials cited do not establish the absence or presence of a genuine dispute.

(c)(2) Objection that a fact is not supported by admissible evidence. A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(c)(3) Materials not cited. The court need consider only the cited materials, but it may consider other materials in the record.

(c)(4) Affidavits or declarations. An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, must set out facts that would be admissible in evidence, and must show that the affiant or declarant is competent to testify on the matters stated.

(d) When facts are unavailable to the nonmoving party. If a nonmoving party shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

(d)(1) defer considering the motion or deny it without prejudice;

(d)(2) allow time to obtain affidavits or declarations or to take discovery; or

(d)(3) issue any other appropriate order.

(e) Failing to properly support or address a fact. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by paragraph (c), the court may:

(e)(1) give an opportunity to properly support or address the fact;

(e)(2) consider the fact undisputed for purposes of the motion;

(e)(3) grant summary judgment if the motion and supporting materials—including the facts considered undisputed—show that the moving party is entitled to it; or

(e)(4) issue any other appropriate order.

(f) Judgment independent of the motion. After giving notice and a reasonable time to respond, the court may:

(f)(1) grant summary judgment for a nonmoving party;

(f)(2) grant the motion on grounds not raised by a party; or

(f)(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) Failing to grant all the requested relief. If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact—including an item of damages or other relief—that is not genuinely in dispute and treating the fact as established in the case.

(h) Affidavit or declaration submitted in bad faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court—after notice and a reasonable time to respond—may order the submitting party to pay the other party the reasonable expenses, including attorney's or licensed paralegal practitioner's fees, it incurred as a result. The court may also hold an offending party or attorney or licensed paralegal practitioner in contempt or order other appropriate sanctions.

Advisory Committee Notes

Rule 58B. Satisfaction of judgment.

(a) Satisfaction by acknowledgment. Within 28 days after full satisfaction of the judgment, the owner or the owner's attorney or licensed paralegal practitioner must file an acknowledgment of satisfaction in the court in which the judgment was entered. If the owner is not the original judgment creditor, the owner or owner's attorney or licensed paralegal practitioner must also file proof of ownership. If the satisfaction is for part of the judgment or for fewer than all of the judgment debtors, it must state the amount paid or name the debtors who are released.

(b) Satisfaction by order of court. The court in which the judgment was first entered may, upon motion and satisfactory proof, enter an order declaring the judgment satisfied.

(c) Effect of satisfaction. Satisfaction of a judgment, whether by acknowledgement or order, discharges the judgment, and the judgment ceases to be a lien as to the debtors named and to the extent of the amount paid. A writ of execution or a writ of garnishment issued after partial satisfaction must include the partial satisfaction and must direct the officer to collect only the balance of the judgment, or to collect only from the judgment debtors remaining liable.

(d) Filing certificate of satisfaction in other counties. After satisfaction of a judgment, whether by acknowledgement or order, has been entered in the court in which the judgment was first entered, a certificate by the clerk showing the satisfaction may be filed with the clerk of the district court in any other county where the judgment has been entered.

Rule 65A. Injunctions.

(a) **Preliminary injunctions.**

(a)(1) **Notice.** No preliminary injunction shall be issued without notice to the adverse party.

(a)(2) **Consolidation of hearing.** Before or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible at the trial on the merits becomes part of the trial record and need not be repeated at the trial. This subdivision (a)(2) shall be so construed and applied as to save to the parties any rights they may have to trial by jury.

(b) **Temporary restraining orders.**

(b)(1) **Notice.** No temporary restraining order shall be granted without notice to the adverse party or that party's attorney, or to the adverse party and the adverse party's licensed paralegal practitioner, unless

(b)(1)(A) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney or licensed paralegal practitioner can ~~be~~ respond ~~heard~~ in opposition, and

(b)(1)(B) the applicant or the applicant's attorney or licensed paralegal practitioner certifies to the court in writing as to the efforts, if any, that have been made to give notice and the reasons supporting the claim that notice should not be required.

(b)(2) **Form of order.** Every temporary restraining order shall be endorsed with the date and hour of issuance and shall be filed forthwith in the clerk's office and entered of record. The order shall define the injury and state why it is irreparable. The order shall expire by its terms within such time after entry, not to exceed 14 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record.

(b)(3) **Priority of hearing.** If a temporary restraining order is granted, the motion for a preliminary injunction shall be scheduled for hearing at the earliest possible time and takes precedence over all other civil matters except older matters of the same character. When the motion comes on for hearing, the party who obtained the temporary restraining order shall have the burden to show entitlement to a preliminary injunction; if the party does not do so, the court shall dissolve the temporary restraining order.

(b)(4) **Dissolution or modification.** On 48 hours' notice to the party who obtained the temporary restraining order without notice, or on such shorter notice to that party as the court may prescribe, the

adverse party may appear and move its dissolution or modification. In that event the court shall proceed to hear and determine the motion as expeditiously as the ends of justice require.

(c) **Security.**

(c)(1) **Requirement.** The court shall condition issuance of the order or injunction on the giving of security by the applicant, in such sum and form as the court deems proper, unless it appears that none of the parties will incur or suffer costs, attorney or licensed paralegal practitioner fees, or damage as the result of any wrongful order or injunction, or unless there exists some other substantial reason for dispensing with the requirement of security. No such security shall be required of the United States, the State of Utah, or of an officer, agency, or subdivision of either; nor shall it be required when it is prohibited by law.

(c)(2) **Amount not a limitation.** The amount of security shall not establish or limit the amount of costs, including reasonable attorney or licensed paralegal practitioner fees incurred in connection with the restraining order or preliminary injunction, or damages that may be awarded to a party who is found to have been wrongfully restrained or enjoined.

(c)(3) **Jurisdiction over surety.** A surety upon a bond or undertaking under this rule submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall forthwith mail copies to the persons giving the security if their addresses are known.

(d) **Form and scope.** Every restraining order and order granting an injunction shall set forth the reasons for its issuance. It shall be specific in terms and shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained. It shall be binding only upon the parties to the action, their officers, agents, servants, employees, ~~and~~ attorneys, and licensed paralegal practitioners, and upon those persons in active concert or participation with them who receive notice, in person or through counsel, licensed paralegal practitioner, or otherwise, of the order. If a restraining order is granted without notice to the party restrained, it shall state the reasons justifying the court's decision to proceed without notice.

(e) **Grounds.** A restraining order or preliminary injunction may issue only upon a showing by the applicant that:

(e)(1) The applicant will suffer irreparable harm unless the order or injunction issues;

(e)(2) The threatened injury to the applicant outweighs whatever damage the proposed order or injunction may cause the party restrained or enjoined;

(e)(3) The order or injunction, if issued, would not be adverse to the public interest; and

(e)(4) There is a substantial likelihood that the applicant will prevail on the merits of the underlying claim, or the case presents serious issues on the merits which should be the subject of further litigation.

(f) **Domestic relations cases.** Nothing in this rule shall be construed to limit the equitable powers of the courts in domestic relations cases.

Advisory Committee Notes

Rule 73. ~~Attorney~~ [Legal professional] [Attorney or licensed paralegal practitioner] fees.

[(a) **Definitions.** For purposes of this rule, legal professional means an attorney or licensed paralegal practitioner.] **[Alternative: no definition here]**

(~~a~~b) **Time in which to claim.** [Attorney or licensed paralegal practitioner] [Legal professional fees must be claimed by filing a motion for[~~attorney~~] [legal professional] fees no later than 14 days after the judgment is entered, except as provided in paragraph (f) of this rule, or in accordance with Utah Code § 75-3-718, and no objection to the fee has been made.

(~~b~~c) **Content of motion.** The motion must:

(~~b~~c)(1) specify the judgment and the statute, rule, contract, or other basis entitling the party to the award;

(~~b~~c)(2) disclose, if the court orders, the terms of any agreement about fees for the services for which the claim is made;

(~~b~~c)(3) specify factors showing the reasonableness of the fees, if applicable;

(~~b~~c)(4) specify the amount of [~~attorney~~] [legal professional] fees claimed and any amount previously awarded; and

(~~b~~c)(5) disclose if the [~~attorney~~] [legal professional] fees are for services rendered to an assignee or a debt collector, the terms of any agreement for sharing the fee and a statement that the [attorney or licensed paralegal practitioner] [legal professional] will not share the fee in violation of Rule of Professional Conduct 5.4.

(~~c~~d) **Supporting affidavit.** The motion must be supported by an affidavit or declaration that reasonably describes the time spent and work performed, including for each item of work the name, position (such as attorney, licensed paralegal practitioner, paralegal, administrative assistant, etc.) and hourly rate of the persons who performed the work, and establishes that the claimed fee is reasonable.

(~~d~~e) **Liability for fees.** The court may decide issues of liability for fees before receiving submissions on the value of services. If the court has established liability for fees, the party claiming them may file an affidavit and a proposed order. The court will enter an order for the claimed amount unless another party objects within 7 days after the affidavit and proposed order are filed.

(~~e~~f) **Fees claimed in complaint.** If a party claims attorney or licensed paralegal practitioner fees under paragraphs (~~f~~g)(1) and (3), or attorney fees under paragraph (g)(2), the complaint must state the basis for the ~~attorney~~ fees, cite the law or attach a copy of the contract authorizing the award, and state that the [attorney or licensed paralegal practitioner] [legal professional] will not share the fee in violation of Rule of Professional Conduct 5.4.

(~~f~~g) **Fees.** [~~Attorney~~] [Legal professional] ~~f~~Fees awarded under this rule may be augmented upon submission of a motion and supporting affidavit meeting the requirements of paragraphs (b) and (c) within a reasonable time after the fees were incurred, except as provided in paragraphs (~~f~~g)(1), (~~f~~g)(2) and (~~f~~g)(3), and only where the augmented fees sought exceed those already awarded.

(~~f~~g)(1) **Fees upon entry of uncontested judgment.** When a party seeks a judgment, the responding party does not contest entry of judgment by presenting at a hearing either evidence or argument, and the party seeking the judgment has complied with paragraph (~~e~~f) of this rule, the

request for judgment may include a request for [attorney or licensed paralegal practitioner] [legal professional] fees, and the clerk or the court shall allow any amount requested up to $350.00 for such [~~attorney~~] [legal professional] fees without a supporting affidavit.

(~~f~~g)(2) **Fees upon entry of judgment after contested proceeding.** When a party seeks a judgment, the responding party contests the judgment by presenting at a hearing either evidence or argument, and the party seeking the judgment has established its right to attorney fees, the request for judgment may include a request for attorney fees, and the clerk or the court shall allow any amount requested up to $750 for such attorney fees without a supporting affidavit.

(~~f~~g)(3) **Post Judgment Collections.** When a party has established its entitlement to [~~attorney~~] [legal professional] fees under any paragraph of this rule, and subsequently:

(~~f~~g)(3)(A) applies for any writ pursuant to Rules 64, 64A, 64B, 64C, 64D, or 64E; or

(~~f~~g)(3)(B) files a motion pursuant to Rules 64(c)(2) or 58C or pursuant to Utah Code § 35A-4-314,

the party may request as part of its application for a writ or its motion that the party's judgment be augmented according to the following schedule, and the clerk or the court shall allow such augmented [attorney or licensed paralegal practitioner] [legal professional] fees request without a supporting affidavit if it approves the writ or motion:

Action	[Attorney or Licensed Paralegal Practitioner] [Legal Professional] Fees Allowed
Application for any writ under Rules 64, 64A, 64B, 64C, or 64E, and first application for a writ under Rule 64D to any particular garnishee;	$75.00
Any subsequent application for a writ under Rule 64D to the same garnishee;	$25.00
Any motion filed with the court under Rule 64(c)(2), Utah Code § 35A-4-314, or Rule 58C;	$75.00
Any subsequent motion under Rule 64(c)(2), Utah Code § 35A-4-314, or Rule 58C filed within 6 months of the previous motion.	$25.00

(~~f~~g)(4) **Fees in excess of the schedule.** If a party seeks attorney or licensed paralegal practitioner fees in excess of the amounts set forth in paragraphs (~~f~~g)(1), (~~f~~g)(~~2~~3), or attorney fees in excess of the amounts set forth in paragraphs (g~~f~~)(~~3~~2), the party shall comply with paragraphs (a) through (c) of this rule.

(~~f~~g)(5) **Objections.** Nothing in this paragraph shall be deemed to eliminate any right a party may have to object to any claimed [attorney or licensed paralegal practitioner] [legal professional] fees.

Advisory Committee Notes

Rule 74. Withdrawal of [counsel] [legal professional].

[(a) **Definitions.** For purposes of this rule, legal professional means an attorney or licensed paralegal practitioner.] [For purposes of this rule, "counsel" means an attorney or licensed paralegal practitioner.]

(~~a~~b) **Notice of withdrawal.** [An attorney or licensed paralegal practitioner] [A legal professional] may withdraw from the case by filing with the court and serving on all parties a notice of withdrawal. The notice of withdrawal shall include the address of the [attorney's or licensed paralegal practitioner] [legal professional]'s client and a statement that no motion is pending and no hearing or trial has been set. If a motion is pending or a hearing or trial has been set, [an attorney or licensed paralegal practitioner] [a legal professional] may not withdraw except upon motion and order of the court. The motion to withdraw shall describe the nature of any pending motion and the date and purpose of any scheduled hearing or trial.

(~~b~~c) **Withdrawal of limited appearance.** [An attorney or licensed paralegal practitioner] [A legal professional] who has entered a limited appearance under Rule 75 shall withdraw from the case upon the conclusion of the purpose or proceeding identified in the Notice of Limited Appearance:

(~~b~~c)(1) by filing and serving a notice of withdrawal; or

(~~b~~c)(2) if permitted by the judge, by the attorney orally announcing the attorney's withdrawal on the record in a proceeding.

[An attorney or licensed paralegal practitioner] [A legal professional] who seeks to withdraw before the conclusion of the purpose or proceeding shall proceed under subdivision (a).

(~~c~~d) **Notice to Appear or Appoint Counsel.** If [an attorney or licensed paralegal practitioner] [a legal professional] withdraws other than under ~~subdivision~~ paragraph (b), dies, is suspended from the practice of law, is disbarred, or is removed from the case by the court, the opposing party shall serve a Notice to Appear or Appoint Counsel on the unrepresented party, informing the party of the responsibility to appear personally or appoint counsel. A copy of the Notice to Appear or Appoint Counsel must be filed with the court. No further proceedings shall be held in the case until 21 days after filing the Notice to Appear or Appoint Counsel unless the unrepresented party waives the time requirement or unless otherwise ordered by the court.

(~~d~~e) **Substitution of counsel.** [An attorney or licensed paralegal practitioner] [A legal professional] may replace the [attorney or licensed paralegal practitioner] ~~counsel~~ [legal professional] of record by filing and serving a notice of substitution of [attorney or licensed paralegal practitioner] ~~counsel~~ [legal professional] signed by the former [attorney or licensed paralegal practitioner] ~~counsel~~[legal professional], the new [attorney or licensed paralegal practitioner] ~~counsel~~ [legal professional], and the client. Court approval is not required if the new [attorney or licensed paralegal practitioner] ~~counsel~~ [legal professional] certifies in the notice of substitution that [they] ~~counsel~~ [the legal professional] will comply with the existing hearing schedule and deadlines.

Rule 75. Limited appearance.

(a) **Purposes.** An attorney or licensed paralegal practitioner acting pursuant to an agreement with a party for limited representation that complies with the Utah Rules of Professional Conduct and the limits of the licensed paralegal practitioner's license may enter an appearance limited to one or more of the following purposes:

(a)(1) filing a pleading or other paper;

(a)(2) acting as legal counsel for a specific motion;

(a)(3) acting as legal counsel for a specific discovery procedure;

(a)(4) acting as legal counsel for a specific hearing, including a trial, pretrial conference, or an alternative dispute resolution proceeding; or

(~~a~~b)(5) any other purpose with leave of the court.

(b) **Notice.** Before commencement of the limited appearance the attorney or licensed paralegal practitioner shall file a Notice of Limited Appearance signed by the attorney or licensed paralegal practitioner and the party or, if permitted by the judge, the attorney may orally announce the attorney's limited appearance on the record in a proceeding. The Notice shall specifically describe the purpose and scope of the appearance and state that the party remains responsible for all matters not specifically described in the Notice. The clerk shall enter on the docket the attorney's or licensed paralegal practitioner's name and a brief statement of the limited appearance. The Notice of Limited Appearance and all actions taken pursuant to it are subject to Rule 11.

(c) **Motion to clarify.** Any party may move to clarify the description of the purpose and scope of the limited appearance.

(d) **Party remains responsible.** A party on whose behalf an attorney or licensed paralegal practitioner enters a limited appearance remains responsible for all matters not specifically described in the Notice.

(e) **Entry of appearance not required for preparation of pleadings or papers only.** An attorney or licensed paralegal practitioner whose agreement with a party is limited to the preparation, but not the filing, of a pleading or other paper is not required to enter an appearance.

Rule 76. Notice of contact information change.

An attorney, ~~and~~ unrepresented party, licensed paralegal practitioner, or a party represented on a limited basis must promptly notify the court in writing of any change in that person's address, e-mail address, phone number, or fax number.

Rule 81. Applicability of rules in general.

(a) **Special statutory proceedings**. These rules shall apply to all special statutory proceedings, except insofar as such rules are by their nature clearly inapplicable. Where a statute provides for procedure by reference to any part of the former Code of Civil Procedure, such procedure shall be in accordance with these rules.

(b) **Probate and guardianship.** These rules shall not apply to proceedings in uncontested probate and guardianship matters, but shall apply to all proceedings subsequent to the joinder of issue therein, including the enforcement of any judgment or order entered.

(c) **Application to small claims.** These rules shall not apply to small claims proceedings except as expressly incorporated in the Small Claims Rules.

(d) **On appeal from or review of a ruling or order of an administrative board or agency.** These rules shall apply to the practice and procedure in appealing from or obtaining a review of any order, ruling or other action of an administrative board or agency, except insofar as the specific statutory procedure in connection with any such appeal or review is in conflict or inconsistent with these rules.

(e) **Application in criminal proceedings.** These rules of procedure shall also govern in any aspect of criminal proceedings where there is no other applicable statute or rule, provided, that any rule so applied does not conflict with any statutory or constitutional requirement.

(f) **Application to licensed paralegal practitioners.** To the extent consistent with their limited license, licensed paralegal practitioners must be treated in the same manner as attorneys for purposes of interpreting and implementing these rules. If a rule permits or requires an attorney to sign or file a document, a licensed paralegal practitioner may do so only if there is an applicable court-approved form available and the practice is consistent with the scope of their license. References to attorney fees in these rules include, as applicable, fees charged by licensed paralegal practitioners.