

Agenda

Advisory Committee on Rules of Civil Procedure

September 18, 2013
4: 00 to 6:00 p.m.

Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Judicial Council Room, Suite N31

Approval of minutes	Tab 1	Jonathan Hafen
Comments to Rules: Rule 007. Pleadings allowed; motions, memoranda, hearings, orders. Rule 058A. Entry of judgment; abstract of judgment. Rule 058B. Satisfaction of judgment. Rule 064D. Writ of garnishment.	Tab 2	Tim Shea
How should we do business?	Tab 3	Jonathan Hafen

Committee Web Page: <http://www.utcourts.gov/committees/civproc/>

Meeting Schedule: Matheson Courthouse, Judicial Council Room, 4:00 to 6:00 unless otherwise stated.

October 23, 2013
November 20, 2013
January 22, 2014
February 26, 2014
March 26, 2014
April 23, 2014

May 28, 2014
September 24, 2014
October 22, 2014
November 19, 2014

Tab 1

MINUTES

**UTAH SUPREME COURT ADVISORY COMMITTEE
OF THE RULES OF CIVIL PROCEDURE**

MAY 22, 2013

PRESENT: Francis M. Wikstrom, Chair, Trystan B. Smith,
Terrie T. McIntosh, Francis J. Carney,
Honorable Kate Toomey, W. Cullen Battle,
W. Leslie Slaugh, Jonathan O. Hafen,
Honorable Todd Shaughnessy, Barbara L. Townsend

TELEPHONE: Lori Woffinden, Honorable Lyle R. Anderson,
David W. Scofield, Honorable Derek Pullan

STAFF: Tim Shea, Sammi Anderson, Diane Abegglen

EXCUSED: Professor Lincoln Davies

GUESTS: Chief Justice Matthew B. Durrant,
Justice Thomas R. Lee, Troy Booher

I. RECOGNITION OF MR. WIKSTROM'S INCREDIBLE SERVICE.

Chief Justice Durrant attended and spoke to commemorate Mr. Wikstrom's 24, remarkable years of service on the committee -- 14 years of which Mr. Wikstrom served as Chair. Chief Justice Durrant noted that the discovery rules have improved the practice of law and made the Utah Bar a leader in the nation. The Chief also recognized Mr. Wikstrom's service to so many other important committees. Justice Lee also attended and expressed his own admiration for Mr. Wikstrom's professionalism, civility and leadership abilities.

Mr. Wikstrom took a moment to talk about the dedicated committee members who devote themselves so fully to improving the Rules of Civil Procedure and to express pride in the achievements of the committee. Mr. Wikstrom expressed appreciation for support from the Supreme Court, which support further energized the committee to try something innovative in rethinking the discovery rules. Mr. Wikstrom also expressed appreciation for support from the committee's staff, most notably Mr. Shea, who Mr. Wikstrom personally thanked. The committee expressed its general thanks and good wishes on Mr. Wikstrom's departure. Jonathan O. Hafen will serve as the new Chair of the committee.

II. WELCOME TO JUDGE FURSE.

Mr. Wikstrom welcomed the Honorable Eva Furse to the committee. Judge Furse serves as Magistrate Judge in the Utah federal district court. She replaces the Honorable Robert Shelby. The committee looks forward to working with Judge Furse. Additional changes to the committee membership include that Sammi Anderson will move from the Secretary position to full membership on the committee, and Nathan Whittaker will serve as the new Secretary.

III. APPROVAL OF MINUTES.

Mr. Wikstrom entertained comments from the committee concerning the April 24, 2013 minutes. The committee unanimously approved the minutes.

IV. REVISIONS TO RULE 7.

Judge Toomey led a discussion regarding importing into Rule 7 the expedited procedures governing discovery motions. Originally adopted as an interim rule, the procedures have since been moved into the Code of Judicial Conduct. Judge Toomey expressed anticipation that moving the procedure into Rule 7 would enhance the judiciary's and counsel's willingness to adhere to the new processes. Judge Toomey stated that feedback from the Bar and bench regarding the new procedures has been generally positive. The judges on the committee acknowledged that the parties' ability to adhere to the expedited discovery time frames will require expedited action on discovery disputes.

Mr. Slauch inquired as to how motions for sanctions will be addressed in light of the expedited process for resolving discovery disputes. Judges Toomey and Shaughnessy expressed their understanding that the intention was for motions for sanctions to be filed only where an expedited discovery order from the Court was disregarded or not followed.

Judge Furse raised two additional items warranting the committee's attention: 1) Whether an additional deadline should be added governing the filing of expedited discovery motions so that a ruling can be expected prior to the discovery cutoff?; and, 2) whether the committee should define the substance of "meet and confer," *ie*, meet in person, discuss by telephone, etc.? The committee considered that because the state rules are different from the federal rules in terms of the tight time frames already existing, no additional deadline is necessary. The committee discussed adding language to the rule or to the committee note, explaining that "confer" means discussion by telephone at a minimum, and that an in-person meeting is preferable. No consensus was reached.

The committee discussing whether the word "promptly" should be added to the expedited discovery rule, or whether a time frame should be included in the rule or comment to the rule. The judges on the committee opined that resolution on discovery motions appears to be happening within a few days following the conference with parties. Judge Shaughnessy also noted that occasionally disputes

are more complicated and require a series of hearings. The committee's conclusion was to add language to the committee note, stating that “promptly” means, in the ordinary course, within 7 days of a Notice to Submit. A motion was made for approval of Rule 7 as revised, with additional language for the comment to follow. So moved, seconded and approved.

V. TROY BOOHER FROM THE APPELLATE RULES COMMITTEE REGARDING FINALITY ISSUES RAISED BY *Central Utah Water Conservancy District v. King*.

Troy Booher, a member of the Supreme Court Advisory Committee on the Rules of Appellate Procedure, attended the meeting to discuss finality issues and the implications of *Central Utah Water*, a March 2013 decision by the Utah Supreme Court. Mr. Booher explained that Rule 54(a) defines “judgment” to mean any order from which an appeal lies. Under *Central Water*, the problem is there is no final judgment in place where post-trial motions have been filed and there is no Order denying the post-trial motions. But the rule governing post-trial motions presupposes entry of judgment – parties are required to post-trial motions within 10 days of judgment. *Central Water* seems to say that filing of post-trial motions negates a final judgment. Rule 58(a) also treats judgments different than orders; *Central Water* seems to conflate the two. Mr. Booher raised the issue of e-filing and queried whether the committees should now change the state rules to match the federal rules? *Central Water* also seems to change the *Gusti* test inasmuch as it requires the court to enter an order submitted under Rule 7.

Mr. Booher suggested that revisions to rules affecting finality and appeal will require a broad view. The implications will be significant and it will not be an easy fix. Mr. Booher suggested reviewing the 2002 federal committee notes to Federal Rule 58.

Judge Shaughnessy opined that, intuitively, it makes more sense that “finality” should be defined in the Appellate Rules. The Civil Rules should govern trial-level litigation. They should not be contorted to fit the small segment of cases that are appealed. Mr. Wikstrom explained that, originally, the state rules parted ways with the federal rules governing entry of judgment because while federal court clerks have the resources to enter the judgment themselves, state courts simply don’t have the same resources, making it imprudent to entrust entry of the judgment to state court clerks. There were also cost issues related to postage, but perhaps that could be resolved through e-filing.

Messrs. Booher and Shea discussed additional implications of problems from the Court's ruling. Judge Shaughnessy expressed that Rule 7 was never intended to carry the water *Central Utah* attributes to it. It is a mechanism to do the business of litigation.

Mr. Shea introduced discussion regarding amendments to Rule 7 that may help address these issues. The irony is that most people simply file successive notices of appeal to ensure that they are filing timely appeal notices where it is not clear whether different orders are really final judgments. The committee and Mr. Booher agreed the issues and related undertaking will be complex – there are mine fields everywhere. Mr. Carney suggested that a joint subcommittee from the committee and the Appellate Rules committee present the issues to the Court and seek guidance. Mr. Wikstrom suggested that a detailed presentation be made. Judge Furse noted the difficulty with ensuring that such a presentation does not happen simultaneously to the Court deciding a similar issue. Messrs. Battle and Slauch agreed to serve on the proposed subcommittee. The committee thanked Mr. Booher for attending and for his thoughtful discussion regarding the finality issues.

VI. PROPOSED REVISIONS TO RULE 7 AND RULE 58A.

In light of the extensive discussion regarding finality and related appeal deadlines, Mr. Shea suggested removing any proposed revisions to Rules 7 and 58A that impact the finality issues. Those changes can be considered by the aforementioned subcommittee in the context of the overarching finality issues. The committee agreed. Changes to 58A(c) and 7(f) were tabled. The committee agreed to send for public comment previously approved changes to subpart (d) of Rule 58A, impacting notice requirements.

VII. PROPOSED REVISIONS TO RULE 7 REQUIREMENTS FOR MOTIONS AND MEMORANDUMS.

Mr. Shea began a discussion of the proposed Rule 7 revisions governing the contents and requirements for motions and supporting memoranda. The committee expressed reluctance in considering action on extensive and substantive changes without the full committee present. Mr. Hafen expressed interest in further reviewing what the local federal court has done with revisions to the rules governing summary judgment briefing. The committee discussed at length whether to implement the change requiring a consolidated motion and memorandum now, along with the changes implementing the expedited discovery procedure, or to wait for a complete overhaul of Rule 7. The committee decided to table for further consideration and discussion any changes affecting Rule 7 motion practice, with the limited exception of revisions incorporating the procedure for expedited resolution of discovery disputes into Rule 7. The expedited resolution process should be sent for comment.

VIII. FREQUENTLY ASKED QUESTIONS.

The committee approved Frequently Asked Question No. 1 regarding the 3-day mailing rule as written, except that it should be revised to say “only if the pleading or other paper” is served by mail.

IX. SEPTEMBER 2013 MEETING.

Mr. Hafen requested that September's meeting be moved up one week due to a prior conflict in his schedule. The next meeting will be moved to September 18, 2013. Time and place remain the same.

X. REVISIONS TO RULES GOVERNING POST-TRIAL MOTIONS.

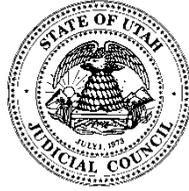
Mr. Carney led a discussion regarding proposed revisions to the post-trial motion rules. Mr. Shea has proposed revisions to post-trial motions that match their federal counterparts. The committee expressed that the proposed revisions warrant further consideration and the proposed revisions were tabled.

IX. ADJOURNMENT.

The meeting adjourned at 5:52 pm. The next meeting will be held on September 18, 2013 at 4:00 p.m. at the Administrative Office of the Courts.

Mr. Wikstrom is again thanked for his lengthy and dedicated service to the committee.

Tab 2



Administrative Office of the Courts

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

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Civil Procedures Committee
From: Tim Shea *T. Shea*
Date: September 4, 2013
Re: Rules for final action

The comment period for the following rules has closed, and they are ready for your final recommendations.

Rule summary

URCP 007. Pleadings allowed; motions, memoranda, hearings, orders. Amend. Adopts expedited procedures for resolution of specified motions related to disclosure and discovery. If approved, similar provisions currently in the Code of Judicial Administration will be deleted.

URCP 058A. Entry of judgment; abstract of judgment. Amend. Requires the party preparing the judgment to promptly serve a copy of the signed judgment on the other parties and promptly file proof of service with the court. Proposed in conjunction with proposed amendments to URAP 4.

URCP 058B. Satisfaction of judgment. Amend. Requires the creditor to file a satisfaction of judgment upon the debtor's request.

URCP 064D. Writ of garnishment. Amend. Extends a writ of continuing garnishment to one year, unless a second or subsequent writ is served.

Analysis of Comments

Rule 7

Mr. Bogart suggests specifying calendar days or court days in which to respond to a motion (He refers to what is Line 94 of the September 3 draft.) We usually have not specified calendar or business days in the rules that establish deadlines, relying instead on the Rule 6 calculation. He also suggests designating the length of the motion and response by the number of words rather than number of pages. This also has generally not been done, but may warrant consideration in the context of electronic filing.

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

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

Mr. Whittaker suggests several drafting changes, many of which I have already incorporated into the September 3 draft.

Mr. Trumbo recommends more than a 4-page limit.

Rule 58A

Mr. Whittaker raises points that deserve attention and that the committee has not discussed.

Rule 58B

Ms. Hatfield and Ms. Jensen recommend that the creditor be required to file a satisfaction. Ms. Hatfield implies that the amendment will make filing the satisfaction discretionary whereas now it is mandatory. Ms. Jensen seems to raise a similar point. In fact just the opposite is true: the change will make filing the satisfaction mandatory if requested whereas now it is discretionary. Admittedly, that is a nuance that may be lost on self-represented parties. The committee discussed but ultimately decided against a requirement that the satisfaction be filed even without a request.

Rule 64D

The comments all favor extending writs of garnishment to one year. Two recommend that three years is more appropriate; one suggests allowing the writ to remain in place until the judgment is paid. Three commentators suggest that the rule allow for the collection of interest that accrues over the life of the writ.

Extending the writ from four months to 12 does not affect the liability for post-judgment interest. Interest will accrue at either the statutory rate or the contract rate depending on the circumstances, and a writ of garnishment can be used to recover interest as well as principal. The issue—which exists now, but apparently four months is not long enough for anyone to have mentioned it—is that the writ will be for a specified amount, which will include interest only to the date the writ is issued.

The court writ form does not include authorization for future interest nor a formula for calculating it, but I think that they could be added, and lawyers could include them in the writs they prepare. The formula would have to tell the garnishee how to calculate interest as time goes by, because it will be impossible to know in advance when the judgment might be paid in full.

Encl. Comments, Draft rules

Rule 7

The time for responding to a discovery motion should be identified as calendar days or court days. As is, looks like 7 court days, which makes little sense and, if not served by hand, means two weeks in practice.

A specification of the number of words for the argument section of a discovery motion may be more effective than a page limit, especially as the proposal provides for a response that is effectively longer than the moving papers. It is unclear how a dispute about 6 or more items could be done within the page limits and still give the Judge fair notice of the nature of the dispute and party positions.

Posted by J. Bogart June 11, 2013 12:56 PM

Style notes re: URCP 7(g)

Line 83: consider replacing “paragraph” with “subdivision.” [1]

Line 84: consider inserting “Motion” before “length and content” to make it consistent with the header of (g)(2).

Lines 84 & 101: As the amount of space is limited and the court is likely to get motions to strike for violating the length requirements from zealous litigants, it may be wise to specify what sections count against the page limit and what sections do not. For example, the committee may want to include the caption and signature line in the portions that do not count against the page limit.

Lines 87-98 & 103-110: this seems like an odd order—it seems more logical to put the relief requested at the front and the certifications at the end of the motion.

Line 92: the word “and” should be deleted, as the next item is not the last item of the list.

Lines 93-94: As this language exactly tracks the language for motions apart from memoranda, it seems possible that this will create confusion as to whether a statement of facts or supporting authority is allowed. Consider using something like the following two subparagraphs in its place:

- (g)(1)(D) a statement of the precise relief sought;
- (g)(1)(E) a brief recitation of relevant facts, supporting authority, and argument justifying the relief sought;

Line 94: replace the period at the end of the line with a semicolon.

Lines 98 & 110: It seems awkward to insert a prohibition together with a list. Consider moving out of the list and incorporating it into paragraph (g)(1) or just allowing it to dangle after the list. Alternatively, you could separate the attachment requirements from lines 95-98 & 106-110 into a paragraph separate from the content of the motion and response:

- (g)(3) Attachments. Except as required by law, only the following exhibits or other papers may be attached or included with a discovery motion or response:

- (g)(3)(A) Discovery papers. The moving party shall attach to its motion a copy of the request for discovery, the disclosure, or response at issue. A party opposing the motion may attach to its response a copy of the request for discovery, the disclosure, or the response at issue if it is needed and was not attached by the moving party.

- (g)(3)(B) Proposed order. Each party shall submit a proposed order consistent with its position on the motion to the court concurrently with the filing of its motion or response.

Line 99: As the “days are days” approach has not been incorporated into the Rules yet, consider replacing “7” with “5.”

Lines 99-108: This list seems unnecessary and perhaps confusing—consider using the language in UCJA 4-502(2)(C) and just require the opposition to “briefly address pertinent issues raised in the [motion].”

Lines 106-108: this language seems out of place as the opposition has not sought relief.

Lines 113-117: This wording just seems a bit awkward: consider revising to something like the following after the words "paragraph (i)":

- (g)(3) . . . Upon receiving a request to submit for decision, the court shall promptly:
- (g)(3)(A) decide the motion on the pleadings and papers submitted by the parties;
- (g)(3)(B) schedule a hearing or telephone conference; or
- (g)(3)(C) order additional briefing and establish a briefing schedule.

Line 113: The reference to “paragraph (i)” appears to be a typographical error; consider revising to “subdivision (d)”

[1] Bryan A. Garner, *Guidelines for Drafting and Editing Court Rules* § 3.2(A) (5th ed. 2007) (indicating that divisions set off with lowercase letters should be referred to as subdivisions).

Posted by Nathan Whittaker May 24, 2013 01:13 PM

The page limit in the "expedited procedures" proposed to be added to Rule 7 of the Utah Rules of Civil Procedure is too restrictive.

The proposed page limit is four pages. URCP 7(g)(1). This is not enough room to state "the relief sought and the grounds for relief sought . . . with particularity." Id. 7(g)(1)(D).

My fear is that the parties will not have enough space to adequately explain binding precedents to the court, and the court will make incorrect decisions.

Parties certainly don't have to use the maximum amount of pages permitted if they don't want to. Why restrict it so much?

Posted by Axel Trumbo May 23, 2013 01:54 PM

Rule 58A

Re: URCP 58A(d) & URAP 4(g) (cross-posted)

1. It appears that the requirement to serve a notice of judgment under URCP 58A(d) only applies to “the party preparing the judgment.” Likewise, URAP 4(g) requires a party seeking to reinstate the period for filing the appeal to show that “the party responsible for serving the judgment did not promptly serve a copy of the signed judgment” It seems this rule is unclear as to what happens if the Court prepares the judgment itself. Does any party have a responsibility to notify the other parties in such a circumstance? Does the Court have a responsibility to notify the parties of the entry of the judgment? As URAP 4(g)(iii) specifies a “party,” does this mean that relief is unavailable if the court prepared the judgment?

2. When read with URCP 58A(d), URAP 4(g)(iii) seems to require that notice not be served under URCP 5 in order for a party to obtain relief. As service under URCP 5 is not the same as delivery or actual notice, this seems like it may be inconsistent with the intent of URAP 4(g), which otherwise appears to apply an excusable neglect standard. Did the committee intend to restrict the ability of a party to obtain relief under URAP 4(g) if the party preparing the judgment served notice under Rule 5, but the party seeking relief did not receive actual notice and was otherwise reasonably diligent in monitoring the proceedings? Or is it the intent to allow the party preparing the judgment to guarantee that the time limit for appeal cannot be reset regardless of excusable neglect?

3. Both URCP 58A(d) and URAP 4(g)(iii) use the term “promptly serve.” If the intent of URAP 4(g)(iii) is to allow the party preparing the judgment to guarantee that the time limit for appeal cannot be reset, (see paragraph 2), perhaps a specific time such as “7 (or 14) days after entry of judgment” would be better. Notices served after that time would be probative for the purpose of actual notice under URAP 4(g)(i), but would not be an absolute bar.

Posted by Nathan Whittaker May 24, 2013 10:50 AM

Rule 58B

I am objecting to URCP 058B. I am a court employee and I find that many debtor's don't even know what a satisfaction of judgment is, let alone to request one be filed. I am of the opinion that it should stay mandatory that a satisfaction of judgment should be filed by the creditor when the judgment is paid off.

Posted by Amber Hatfield May 23, 2013 02:10 PM

As a clerk in the courts I would like to address the change to URCP 058B. In my opinion it is irresponsible to allow an attorney to get a judgment against a defendant and then not have to file a Satisfaction as soon as the judgment is paid. In fact, I think there should be some action a defendant can take against an attorney when a Satisfaction is not filed timely. We frequently get telephone calls from defendants who have paid a

judgment and it is still showing on their credit report. We tell them they must talk to the attorney and ask them to file a Satisfaction. Almost without fail they have already spoken with the attorney who says they must deal with the court. We get very frustrated people when we tell them we can do nothing and it is the attorney who must take care of it. Usually these people are attempting to buy a home, refinance it, or get some kind of loan and we are of no help to them and from what we hear from the public the attorneys are of no assistance either. Making this change will make it even harder for someone who has paid their judgment to get it satisfied.

Pamela Jensen, Clerk of Court

Rule 64D

We support the extension of time for a garnishment. We believe this will cut down on the costs of collection for all parties, as well as reduce the work load for the court in issuing writs of garnishment. We would also support a garnishment length of 3 years or until the debt is paid in full.

We also agree that it would be helpful to address the accrual of interest while the garnishment is in place. This could be done by adding an additional subsection to (I) Writ of Continuing Garnishment that states, "A writ of continuing garnishment includes collection of interest as allowed by law that accrues after the initial service of the writ without obtaining a separate writ."

Posted by Richard Beckstead July 10, 2013 02:51 PM

I agree with the changes to the garnishment rule (R 58B) making garnishments effective for 1 year and the expedited discovery rule added to Rule 7 -- effectively converting and amending the Statement of Discovery Issues CJA rule to a URCP rule.

Posted by Chris Rogers June 7, 2013 01:03 PM

Re: rule 64D - garnishments - in my experience, those whose assets need be garnished to pay a judgment normally do not have that income allowing judgments to be retired in even 12 months worth of garnishments. I believe 3 years would be more practical. Otherwise, preparation and filing of 3 garnishments would be necessary under the proposed rule. The proposed rule is a good step forward, but if you are going to do it, a garnishment life more likely to be sufficient to completely retire the judgment would be even better don't you think? Also, the commentator bringing attention to changing judgment interest has a good point. Provision to allow interest allowed by law at the time of the garnishment would solve the question.

Posted by GEORGE M. MCCUNE May 24, 2013 11:17 AM

One problem with extended writs of continuing garnishments out to a year is the issue of interest. When you apply for the writ you state the interest to the date of application. If the writ continues for a full year, it effectively freezes the interest on it for that full year as well. While this may seem nominal given statutory interest currently, another rate

may govern the judgment pursuant to agreement of the parties. This would be problematic. The rule should fix this somehow.

Posted by anonymous May 23, 2013 01:51 PM

1 **Rule 7. Pleadings allowed; motions, memoranda, hearings, orders.**

2 (a) **Pleadings.** There shall be a complaint and an answer; a reply to a counterclaim;
3 an answer to a cross claim, if the answer contains a cross claim; a third party complaint,
4 if a person who was not an original party is summoned under ~~the provisions of~~ Rule 14;
5 and a third party answer, if a third party complaint is ~~served~~ filed. No other pleading
6 shall be ~~allowed~~ filed, except that the court may order a reply to an answer or a third
7 party answer.

8 (b)(1) **Motions.** An application to the court for an order shall be by motion which,
9 unless made during a hearing or trial or in proceedings before a court commissioner,
10 shall be made in accordance with this rule. A motion shall be in writing and state
11 succinctly and with particularity the relief sought and the grounds for the relief
12 sought.

13 (b)(2) **Limit on order to show cause.** An application to the court for an order to
14 show cause shall be ~~made~~ filed only for enforcement of an existing order or for
15 sanctions for violating an existing order. An application for an order to show cause
16 must be supported by an affidavit sufficient to show cause to believe a party has
17 violated a court order.

18 (c) **Memoranda.**

19 (c)(1) **Memoranda required, exceptions, filing times.** All motions, except
20 uncontested or ex parte motions, shall be accompanied by a supporting
21 memorandum. Within ten days after service of the motion and supporting
22 memorandum, a party opposing the motion shall file a memorandum in opposition.
23 Within five days after service of the memorandum in opposition, the moving party
24 may file a reply memorandum, which shall be limited to rebuttal of matters raised in
25 the memorandum in opposition. No other memoranda will be considered without
26 leave of court. A party may attach a proposed order to its initial memorandum.

27 (c)(2) **Length.** Initial memoranda shall not exceed 10 pages of argument without
28 leave of the court. Reply memoranda shall not exceed 5 pages of argument without
29 leave of the court. The court may permit a party to file an over-length memorandum
30 upon ex parte application and a showing of good cause.

31 (c)(3) **Content.**

32 (c)(3)(A) A memorandum supporting a motion for summary judgment shall
33 contain a statement of material facts as to which the moving party contends no
34 genuine issue exists. Each fact shall be separately stated and numbered and
35 supported by citation to relevant materials, such as affidavits or discovery
36 materials. Each fact set forth in the moving party's memorandum is deemed
37 admitted for the purpose of summary judgment unless controverted by the
38 responding party.

39 (c)(3)(B) A memorandum opposing a motion for summary judgment shall
40 contain a verbatim restatement of each of the moving party's facts that is
41 controverted, and may contain a separate statement of additional facts in
42 dispute. For each of the moving party's facts that is controverted, the opposing
43 party shall provide an explanation of the grounds for any dispute, supported by
44 citation to relevant materials, such as affidavits or discovery materials. For any
45 additional facts set forth in the opposing memorandum, each fact shall be
46 separately stated and numbered and supported by citation to supporting
47 materials, such as affidavits or discovery materials.

48 (c)(3)(C) A memorandum with more than 10 pages of argument shall contain
49 a table of contents and a table of authorities with page references.

50 (c)(3)(D) A party may attach as exhibits to a memorandum relevant portions of
51 documents cited in the memorandum, such as affidavits or discovery materials.

52 (d) **Request to submit for decision.** When briefing is complete, either party may
53 file a "Request to Submit for Decision." The request to submit for decision shall state the
54 date on which the motion was served, the date the opposing memorandum, if any, was
55 served, the date the reply memorandum, if any, was served, and whether a hearing has
56 been requested. If no party files a request, the motion will not be submitted for decision.

57 (e) **Hearings.** The court may hold a hearing on any motion. A party may request a
58 hearing in the motion, in a memorandum or in the request to submit for decision. A
59 request for hearing shall be separately identified in the caption of the document
60 containing the request. The court shall grant a request for a hearing on a motion under

61 Rule 56 or a motion that would dispose of the action or any claim or defense in the
62 action unless the court finds that the motion or opposition to the motion is frivolous or
63 the issue has been authoritatively decided.

64 (f) **Orders.**

65 (f)(1) An order includes every direction of the court, including a minute order
66 entered in writing, not included in a judgment. An order for the payment of money
67 may be enforced in the same manner as if it were a judgment. Except as otherwise
68 provided by these rules, any order made without notice to the adverse party may be
69 vacated or modified by the judge who made it with or without notice. Orders shall
70 state whether they are entered upon trial, stipulation, motion or the court's initiative.

71 (f)(2) Unless the court approves the proposed order submitted with an initial
72 memorandum, or unless otherwise directed by the court, the prevailing party shall,
73 within fifteen days after the court's decision, serve upon the other parties a proposed
74 order in conformity with the court's decision. Objections to the proposed order shall
75 be filed within five days after service. The party preparing the order shall file the
76 proposed order upon being served with an objection or upon expiration of the time to
77 object.

78 (f)(3) Unless otherwise directed by the court, all orders shall be prepared as
79 separate documents and shall not incorporate any matter by reference.

80 (g) Expedited procedures for discovery motions. A motion for extraordinary
81 discovery under Rule 26, a motion for a protective order or a motion for an order
82 compelling disclosure or discovery under Rule 37, or a motion to quash a subpoena
83 under Rule 45, shall follow the procedures of this paragraph.

84 (g)(1) Motion length and content. The motion shall be no more than four pages,
85 not including permitted attachments, and shall include in the following order:

86 (g)(1)(A) the relief sought and the grounds for the relief sought stated
87 succinctly and with particularity;

88 (g)(1)(B) a certification that the requesting party has in good faith
89 conferred or attempted to confer with the other affected parties in an effort
90 to resolve the dispute without court action;

91 (g)(1)(C) a statement regarding proportionality under Rule 26(b)(2); and
92 (g)(1)(D) if the motion is a motion for extraordinary discovery, a statement
93 complying with Rule 26(c).

94 (g)(2) **Response length and content.** No more than 7 days after the moving
95 party has filed the motion, the non-moving party may file a response. The
96 response shall be no more than four pages, not including permitted attachments,
97 and shall [address the issues raised in the motion] include in the following order:

98 (g)(2)(A) a succinct statement regarding the relief sought and the grounds
99 for the relief sought; and

100 (g)(2)(B) a statement regarding proportionality under Rule 26(b)(2).

101 (g)(3) **Attachments.** Unless required by law the moving party and responding
102 party shall attach only a copy of the request for discovery, the disclosure, or the
103 response at issue and a proposed order.

104 (g)(4) **Decision.** Upon filing of the response or expiration of the time to do so,
105 either party may and the moving party shall file a Request to Submit for Decision
106 under paragraph (d). The court will promptly decide the motion. The court may
107 decide the motion on the pleadings and papers unless the court schedules a
108 hearing. The hearing may be by telephone conference or other electronic
109 communication. The court may order additional briefing and establish a briefing
110 schedule.

111 **Advisory Committee Notes**

112 Paragraph (g) adopts the expedited procedures for discovery motions formerly
113 approved by the Judicial Council. The expedited procedures are intended to be
114 complete, without the need to refer to the procedures for other motions, unless the
115 judge directs that the other procedures apply.

116

1 **Rule 58A. Entry of judgment; abstract of judgment.**

2 (a) **Judgment upon the verdict of a jury.** Unless the court otherwise directs and
3 subject to Rule 54(b), the clerk shall promptly sign and file the judgment upon the
4 verdict of a jury. If there is a special verdict or a general verdict accompanied by
5 answers to interrogatories returned by a jury, the court shall direct the appropriate
6 judgment, which the clerk shall promptly sign and file.

7 (b) **Judgment in other cases.** Except as provided in paragraphs (a) and (f) and
8 Rule 55(b)(1), all judgments shall be signed by the judge and filed with the clerk.

9 (c) **When judgment entered; recording.** A judgment is complete and shall be
10 deemed entered for all purposes, except the creation of a lien on real property, when it
11 is signed and filed as provided in paragraphs (a) or (b). The clerk shall immediately
12 record the judgment in the register of actions and the register of judgments.

13 (d) **Notice of judgment.** ~~A The party preparing the judgment shall promptly serve a~~
14 ~~copy of the signed judgment shall be promptly served by the party preparing it on the~~
15 ~~other parties in the manner provided in Rule 5 and promptly file proof of service with the~~
16 ~~court. The time for filing a notice of appeal is not affected by this requirement.~~

17 (e) **Judgment after death of a party.** If a party dies after a verdict or decision upon
18 any issue of fact and before judgment, judgment may nevertheless be entered.

19 (f) **Judgment by confession.** If a judgment by confession is authorized by statute,
20 the party seeking the judgment must file with the clerk a statement, verified by the
21 defendant, to the following effect:

22 (f)(1) If the judgment is for money due or to become due, it shall concisely state
23 the claim and that the specified sum is due or to become due.

24 (f)(2) If the judgment is for the purpose of securing the plaintiff against a
25 contingent liability, it must state concisely the claim and that the specified sum does
26 not exceed the liability.

27 (f)(3) It must authorize the entry of judgment for the specified sum.

28 The clerk shall sign and file the judgment for the specified sum, with costs of entry, if
29 any, and record it in the register of actions and the register of judgments.

30 (g) **Abstract of judgment.** The clerk may abstract a judgment by a signed writing
31 under seal of the court that:

32 (g)(1) identifies the court, the case name, the case number, the judge or clerk
33 that signed the judgment, the date the judgment was signed, and the date the
34 judgment was recorded in the registry of actions and the registry of judgments;

35 (g)(2) states whether the time for appeal has passed and whether an appeal has
36 been filed;

37 (g)(3) states whether the judgment has been stayed and when the stay will
38 expire; and

39 (g)(4) if the language of the judgment is known to the clerk, quotes verbatim the
40 operative language of the judgment or attaches a copy of the judgment.

41

1 **Rule 58B. Satisfaction of judgment.**

2 (a) **Satisfaction by acknowledgment.** A judgment may be satisfied by the owner or
3 the owner's attorney by filing an acknowledgment of satisfaction in the court in which
4 the judgment was first entered after payment of the judgment. At the request of the
5 judgment debtor, the owner or the owner's attorney shall file an acknowledgement of
6 satisfaction within 28 days after the request if the judgment has been paid. If the owner
7 is not the original judgment creditor, the owner or owner's attorney shall also file proof of
8 ownership. If the satisfaction is for part of the judgment or for fewer than all of the
9 judgment debtors, it shall state the amount paid or name the debtors who are released.

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

13 (c) **Effect of satisfaction.** Satisfaction of a judgment, whether by acknowledgement
14 or order, shall discharge the judgment, and the judgment shall cease to be a lien as to
15 the debtors named and to the extent of the amount paid. A writ of execution or a writ of
16 garnishment issued after partial satisfaction shall include the partial satisfaction and
17 shall direct the officer to collect only the balance of the judgment, or to collect only from
18 the judgment debtors remaining liable.

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

24

1 **Rule 64D. Writ of garnishment.**

2 (a) **Availability.** A writ of garnishment is available to seize property of the defendant
3 in the possession or under the control of a person other than the defendant. A writ of
4 garnishment is available after final judgment or after the claim has been filed and prior
5 to judgment. The maximum portion of disposable earnings of an individual subject to
6 seizure is the lesser of:

7 (a)(1) 50% of the defendant’s disposable earnings for a writ to enforce payment
8 of a judgment for failure to support dependent children or 25% of the defendant’s
9 disposable earnings for any other judgment; or

10 (a)(2) the amount by which the defendant’s disposable earnings for a pay period
11 exceeds the number of weeks in that pay period multiplied by thirty times the federal
12 minimum hourly wage prescribed by the Fair Labor Standards Act in effect at the
13 time the earnings are payable.

14 (b) **Grounds for writ before judgment.** In addition to the grounds required in Rule
15 64A, the grounds for a writ of garnishment before judgment require all of the following:

16 (b)(1) that the defendant is indebted to the plaintiff;

17 (b)(2) that the action is upon a contract or is against a defendant who is not a
18 resident of this state or is against a foreign corporation not qualified to do business
19 in this state;

20 (b)(3) that payment of the claim has not been secured by a lien upon property in
21 this state;

22 (b)(4) that the garnishee possesses or controls property of the defendant; and

23 (b)(5) that the plaintiff has attached the garnishee fee established by Utah Code
24 Section 78A-2-216.

25 (c) **Statement.** The application for a post-judgment writ of garnishment shall state:

26 (c)(1) if known, the nature, location, account number and estimated value of the
27 property and the name, address and phone number of the person holding the
28 property;

29 (c)(2) whether any of the property consists of earnings;

30 (c)(3) the amount of the judgment and the amount due on the judgment;

31 (c)(4) the name, address and phone number of any person known to the plaintiff
32 to claim an interest in the property; and

33 (c)(5) that the plaintiff has attached or will serve the garnishee fee established by
34 Utah Code Section 78A-2-216.

35 (d) **Defendant identification.** The plaintiff shall submit with the affidavit or
36 application a copy of the judgment information statement described in Utah Code
37 Section 78B-5-201 or the defendant's name and address and, if known, the last four
38 digits of the defendant's social security number and driver license number and state of
39 issuance.

40 (e) **Interrogatories.** The plaintiff shall submit with the affidavit or application
41 interrogatories to the garnishee inquiring:

42 (e)(1) whether the garnishee is indebted to the defendant and the nature of the
43 indebtedness;

44 (e)(2) whether the garnishee possesses or controls any property of the defendant
45 and, if so, the nature, location and estimated value of the property;

46 (e)(3) whether the garnishee knows of any property of the defendant in the
47 possession or under the control of another, and, if so, the nature, location and
48 estimated value of the property and the name, address and phone number of the
49 person with possession or control;

50 (e)(4) whether the garnishee is deducting a liquidated amount in satisfaction of a
51 claim against the plaintiff or the defendant, a designation as to whom the claim
52 relates, and the amount deducted;

53 (e)(5) the date and manner of the garnishee's service of papers upon the
54 defendant and any third persons;

55 (e)(6) the dates on which previously served writs of continuing garnishment were
56 served; and

57 (e)(7) any other relevant information plaintiff may desire, including the
58 defendant's position, rate and method of compensation, pay period, and the
59 computation of the amount of defendant's disposable earnings.

60 (f) **Content of writ; priority.** The writ shall instruct the garnishee to complete the
61 steps in subsection (g) and instruct the garnishee how to deliver the property. Several
62 writs may be issued at the same time so long as only one garnishee is named in a writ.
63 Priority among writs of garnishment is in order of service. A writ of garnishment of
64 earnings applies to the earnings accruing during the pay period in which the writ is
65 effective.

66 (g) **Garnishee's responsibilities.** The writ shall direct the garnishee to complete the
67 following within seven business days of service of the writ upon the garnishee:

68 (g)(1) answer the interrogatories under oath or affirmation;

69 (g)(2) serve the answers on the plaintiff; and

70 (g)(3) serve the writ, answers, notice of exemptions and two copies of the reply
71 form upon the defendant and any other person shown by the records of the
72 garnishee to have an interest in the property.

73 The garnishee may amend answers to interrogatories to correct errors or to reflect a
74 change in circumstances by serving the amended answers in the same manner as the
75 original answers.

76 (h) **Reply to answers; request for hearing.**

77 (h)(1) The plaintiff or defendant may file and serve upon the garnishee a reply to
78 the answers, a copy of the garnishee's answers, and a request for a hearing. The
79 reply shall be filed and served within 10 days after service of the answers or
80 amended answers, but the court may deem the reply timely if filed before notice of
81 sale of the property or before the property is delivered to the plaintiff. The reply may:

82 (h)(1)(A) challenge the issuance of the writ;

83 (h)(1)(B) challenge the accuracy of the answers;

84 (h)(1)(C) claim the property or a portion of the property is exempt; or

85 (h)(1)(D) claim a set off.

86 (h)(2) The reply is deemed denied, and the court shall conduct an evidentiary
87 hearing as soon as possible and not to exceed 14 days.

88 (h)(3) If a person served by the garnishee fails to reply, as to that person:

89 (h)(3)(A) the garnishee's answers are deemed correct; and

90 (h)(3)(B) the property is not exempt, except as reflected in the answers.

91 (i) **Delivery of property.** A garnishee shall not deliver property until the property is
92 due the defendant. Unless otherwise directed in the writ, the garnishee shall retain the
93 property until 20 days after service by the garnishee under subsection (g). If the
94 garnishee is served with a reply within that time, the garnishee shall retain the property
95 and comply with the order of the court entered after the hearing on the reply. Otherwise,
96 the garnishee shall deliver the property as provided in the writ.

97 (j) **Liability of garnishee.**

98 (j)(1) A garnishee who acts in accordance with this rule, the writ or an order of the
99 court is released from liability, unless answers to interrogatories are successfully
100 controverted.

101 (j)(2)(A) If the garnishee fails to comply with this rule, the writ or an order of the
102 court, the court may order the garnishee to appear and show cause why the
103 garnishee should not be ordered to pay such amounts as are just, including the
104 value of the property or the balance of the judgment, whichever is less, and
105 reasonable costs and attorney fees incurred by parties as a result of the garnishee's
106 failure. If the garnishee shows that the steps taken to secure the property were
107 reasonable, the court may excuse the garnishee's liability in whole or in part.

108 (j)(2)(B) The creditor must attach to the motion for an order to show cause a
109 statement that the creditor has in good faith conferred or attempted to confer with
110 the garnishee in an effort to settle the issue without court action.

111 (j)(3) No person is liable as garnishee by reason of having drawn, accepted,
112 made or endorsed any negotiable instrument that is not in the possession or control
113 of the garnishee at the time of service of the writ.

114 (j)(4) Any person indebted to the defendant may pay to the officer the amount of
115 the debt or so much as is necessary to satisfy the writ, and the officer's receipt
116 discharges the debtor for the amount paid.

117 (j)(5) A garnishee may deduct from the property any liquidated claim against the
118 plaintiff or defendant.

119 (k) **Property as security.**

120 (k)(1) If property secures payment of a debt to the garnishee, the property need
121 not be applied at that time but the writ remains in effect, and the property remains
122 subject to being applied upon payment of the debt. If property secures payment of a
123 debt to the garnishee, the plaintiff may obtain an order authorizing the plaintiff to buy
124 the debt and requiring the garnishee to deliver the property.

125 (k)(2) If property secures an obligation that does not require the personal
126 performance of the defendant and that can be performed by a third person, the
127 plaintiff may obtain an order authorizing the plaintiff or a third person to perform the
128 obligation and requiring the garnishee to deliver the property upon completion of
129 performance or upon tender of performance that is refused.

130 **(l) Writ of continuing garnishment.**

131 (l)(1) After final judgment, the plaintiff may obtain a writ of continuing garnishment
132 against any non exempt periodic payment. All provisions of this rule apply to this
133 subsection, but this subsection governs over a contrary provision.

134 (l)(2) A writ of continuing garnishment applies to payments to the defendant from
135 the effective date of the writ until the earlier of the following:

136 (l)(2)(A) ~~120 days~~ one year;

137 (l)(2)(B) 120 days after service of a second or subsequent writ of continuing
138 garnishment;

139 ~~(l)(2)(B)~~ (l)(2)(C) the last periodic payment;

140 ~~(l)(2)(C)~~ (l)(2)(D) the judgment is stayed, vacated or satisfied in full; or

141 ~~(l)(2)(D)~~ (l)(2)(E) the writ is discharged.

142 (l)(3) Within seven days after the end of each payment period, the garnishee
143 shall with respect to that period:

144 (l)(3)(A) answer the interrogatories under oath or affirmation;

145 (l)(3)(B) serve the answers to the interrogatories on the plaintiff, the defendant
146 and any other person shown by the records of the garnishee to have an interest
147 in the property; and

148 (l)(3)(C) deliver the property as provided in the writ.

149 (l)(4) Any person served by the garnishee may reply as in subsection (g), but
150 whether to grant a hearing is within the judge's discretion.

151 (l)(5) A writ of continuing garnishment issued in favor of the Office of Recovery
152 Services or the Department of Workforce Services of the state of Utah to recover
153 overpayments:

154 (l)(5)(A) is not limited to 120 days;

155 (l)(5)(B) has priority over other writs of continuing garnishment; and

156 (l)(5)(C) if served during the term of another writ of continuing garnishment,
157 tolls that term and preserves all priorities until the expiration of the state's writ.

158

159

Tab 3

Rule Amendment Summary

(1) Rule amendments by year

2003:	22	2007:	14	2011:	18	Avg:	12.1
2004:	26	2008:	9	2012:	6		
2005:	9	2009:	9	2013:	8		
2006:	8	2010:	4	Total	133		

(2) Rules amended most frequently

Rule	Times Amended
101. Motion practice before court commissioners.	7
64D. Writ of garnishment.	6
7. Pleadings allowed; motions, memoranda, hearings, orders, objection to commissioner's order.	5
26. General provisions governing discovery.	5
62. Stay of proceedings to enforce a judgment.	5
5. Service and filing of pleadings and other papers.	4
9. Pleading special matters.	4
37. Discovery and disclosure motions; Sanctions.	4
74. Withdrawal of counsel.	4
106. Modification of divorce decrees.	4
4. Process.	3
45. Subpoena.	3
64E. Writ of execution.	3
65C. Post-conviction relief.	3
1. General provisions.	2
6. Time.	2
10. Form of pleadings and other papers.	2
11. Signing of pleadings, motions, and other papers; representations to court; sanctions.	2
16. Pretrial conferences, scheduling, and management conferences.	2
24. Intervention.	2
26.2. Disclosures in personal injury actions.	2
30. Depositions upon oral questions.	2
33. Interrogatories to parties.	2
34. Production of documents and things and entry upon land for inspection and other purposes.	2
35. Physical and mental examination of persons.	2
47. Jurors.	2
51. Instructions to jury; objections.	2

Rule	Times Amended
58A. Entry of judgment; abstract of judgment.	2
64. Writs in general.	2
64A. Prejudgment writs in general.	2
64C. Writ of attachment.	2
68. Offer of judgment.	2
73. Attorney fees.	2
100. Coordination of cases pending in district court and juvenile court.	2
103. Child support worksheets.	2
105. Shortening 90-day waiting period in domestic matters.	2

(3) Amendments made by the legislature

- Rule 26. General provisions governing discovery. Amended by SJR 15. 2012 General Session. Incorporates long-standing protections against discovery and admission into evidence of privileged matters connected to medical care review and peer review.
- Rule 62. Stay of proceedings to enforce a judgment. Amended by HJR 16. 2004 General Session. Establishes maximum bond on judgments over \$5,000,000. Later amended by this committee and the supreme court.
- Rule 62. Stay of proceedings to enforce a judgment. Amended by SJR 14. 2013 General Session. Provides that a municipality is not a state agency exempt from posting security to stay a judgment on appeal. Requires a municipality to post security to stay a judgment over \$5,000,000.

(4) Amendments required to implement legislation

- Rule 9. Pleading special matters. Describes method for identifying persons to whom a defendant wants to assess fault under Utah Code Section 78-27-41. Effective 5/2/2005
- Rule 11. Signing of pleadings, motions, and other papers; representations to court; sanctions. Permits a self-authenticated statement instead of an affidavit in accordance with Section 46-5-101. Effective 4/1/2008.
- Rule 105. Shortening 90 day waiting period in domestic matters. Changes the standard of "good cause" to "extraordinary circumstances" in keeping with Section 30-3-18. Effective 4/1/2013.
- Rule 65C. Post-conviction relief. Adds appointment of pro bono counsel in accordance with Sections 78B-9-109 and -202. Effective 4/1/2012.

(5) Pending

Topic	Raised By
Arbrogast v. River Crossings, 2010 UT 40 Supreme Court suggestion that the Standards of Civility be incorporated in the URCP.	Supreme Court
Rule 45. Require notice of third party subpoena duces tecum to include the subpoena.	Ed Havas
Rule 26.3 Disclosures in employment actions.	Bob Wilde
Rule 63. Response and request to submit for decision are not proper on a motion to disqualify. Incorporate federal grounds for recusal into URCP. 28 U.S.C. § 455. Disqualification of justice, judge, or magistrate judge	Judicial Conduct Commission David Scofield
Rule 68. HB 235, Offer of judgment in civil cases.	Rep. Ken Ivory
Style amendments	FRCP
I ask that the Committee consider deleting or amending Rule 12(j). The rule provides that an out of state plaintiff must post a cost bond whenever a defendant moves for one. Bonds are permissive for in-state plaintiffs but mandatory for out-of-state plaintiffs (on motion). Whatever justification may have existed for this rule, there is no practical basis for it now. Most banking and other financial institutions are regional or national, and there are very few obstacles to collecting judgments across state lines. Where the plaintiff is located should not matter to whether a cost bond is appropriate.	John Bogart
File all dispositive motions or certificate of readiness for trial within 30 days after close of expert discovery. Include in notice form.	Jon Hafen
Rule 101 and 109	Michele Blomquist
Rule 106. Modification of final domestic relations order.	Nathan Whittaker
Rule 13. Counterclaim and cross-claim. Effect on Rule 15?	Nathan Whittaker
Rule 26. General provisions governing disclosure and discovery. Rule 81. Applicability of rules in general.	Mike Jensen
Eifiling. Rule 5. Certificates of service for e-filed documents	Leslie Slaugh
E-filing. Rule 5. Delete requirement that party has to have agreed to service by email. Paragraph (d) filing/service in light of change to "filing" in other rules.	Committee
E-filing. Rule 10. No script signature. Margins?	Debra Moore
E-filing. Rule 74/75. Permit NOLA and W/D of counsel on the record in open court if approved by the judge. Lawyer-for-the-day programs, such as debt collection calendar and OSC domestic calendar.	Charles Stormont Debra Moore
E-filing. Rule 6. Time. Review all rules for conformity with 7/14/21/28 days service	FRCP
Service of motion to renew judgment by personal service	Judge Lyle Anderson
	Judge Todd Shaughnessy
Rule 54. Statement of post judgment interest rate in final judgment.	Committee
Review all rules for conformity with "filing" documents.	Committee
Rule 7. Finality of orders. Combine memo into motion. Allow proposed order with request to submit but not with brief unless authorized by another rule.	Committee
Post trial motions. 50, 52, 59, 60.	Frank Carney

Topic	Raised By
Rule 26.1. Amend so that all dates trigger from the first answer, rather than triggering from each step along the way.	Leslie Slaugh

Summary of all approved amendments¹ 2003 - 2013

Rule Number	Title	Action	Summary	Effective Date
001	General provisions.	Amend.	Recognized e-filing pilot program.	4/1/2003
047	Jurors.	Amend.	Established a procedure for questions of witnesses by jurors.	4/1/2003
003	Establishes process to obtain filing fee. Recognizes authority of the court to impose sanctions for failure to pay filing fee.	Amend.	Establishes process to obtain filing fee. Recognizes authority of the court to impose sanctions for failure to pay filing fee.	11/1/2003
005	Service and filing of pleadings and other papers.	Amend.	Technical amendments.	11/1/2003
006	Time.	Amend.	Technical amendments.	11/1/2003
007	Pleadings allowed, motions, memoranda, hearings, orders, objection to commissioner's order.	Amend.	Replaces CJA 4-501; 4-504; 6-401(4) and (5). Regulates timing and content of motions, memoranda, requests for hearings and order.	11/1/2003
009	Pleading special matters.	Amend.	Replaces CJA 4-504(8). Regulates pleading non-payment of a judgment.	11/1/2003
024	Intervention.	Amend.	Provides for notice to the attorney general, county attorney or municipal attorney when claiming that a statute or ordinance is unconstitutional.	11/1/2003
042	Consolidation; separate trials.	Amend.	Replaces CJA 4-107. Designates the judge responsible for deciding a motion to consolidate cases. Regulates filing papers.	11/1/2003
051	Instructions to jury; objections.	Amend.	Replaces CJA 4-503. Leaves timing of request for final jury instructions to the discretion of the judge. Requires citation or copy of controlling statute, rule or case.	11/1/2003
054	Judgments; costs.	Amend.	Replaces CJA 4-504(4) and (6). Regulates content of judgment.	11/1/2003
072	Property bonds.	New.	Replaces CJA 6-612. Regulates security based on real property.	11/1/2003
073	Attorney fees.	New.	Replaces CJA 4-505; 4-505.01; 6-501; 6-501. Regulates process for claiming attorney fees by affidavit or in reliance on schedule of fees.	11/1/2003
074	Withdrawal of counsel.	New.	Replaces 4-506. Regulates process for withdrawing from representation.	11/1/2003

¹ Includes 22 new rules and 5 repealed rules. Does not include technical amendments not published for comment.

Rule Number	Title	Action	Summary	Effective Date
100	Coordination of cases pending in district court and juvenile court.	New.	Replaces CJA 4-901. Regulates notice to the court of other cases in which custody, visitation or support is an issue.	11/1/2003
101	Domestic pretrial conferences and orders.	New.	Replaces CJA 4-905. Regulates pretrial conferences with court commissioner in family law case.	11/1/2003
102	Motion and order for payment of costs and fees.	New.	Replaces CJA 4-911. Regulates payments of costs and fees under statutory conditions.	11/1/2003
103	Child support worksheets.	New.	Replaces CJA 4-912. Regulates child support worksheets under statutory conditions.	11/1/2003
104	Divorce decree upon affidavit.	New.	Replaces CJA 4-913. Permits entry of divorce default or stipulated decree based on prima facie case established by affidavit.	11/1/2003
105	Shortening 90-day waiting period in domestic matters.	New.	Replaces CJA 6-403. Regulates motion to shorten statutory 90-day waiting period.	11/1/2003
106	Modification of divorce decrees.	New.	Replaces CJA 6-404. Requires petition, served as an initial complaint, to initiate action to modify divorce decree.	11/1/2003
107	Decree of adoption; petition to open adoption records.	New.	Replaces CJA 6-406. Regulates conditions and procedures for opening adoption records.	11/1/2003
004	Process.	Amend.	Dispense with requirement that order allowing service by publication be published.	4/1/2004
006	Time.	Amend.	Limit applicability of Rule 6(d) to hearings with less than 5 days notice.	4/1/2004
007	Pleadings allowed; motions, memoranda, hearings, orders, objection to commissioner's order.	Amend.	Removes motions to court commissioners from scope of the rule. Establishes 10 pages as the maximum length memorandum for all motions without leave of the court.	4/1/2004
024	Intervention.	Amend.	Change role of AG from intervention to appearance.	4/1/2004
062	Stay of proceedings to enforce a judgment.	Amend.	Clarify finality rule.	4/1/2004
064D	Garnishment	Amend.	Conform to statutory changes assigning collection responsibility to the Department of Workforce services.	4/1/2004
068	Offer of judgment	Repeal & Reenact.	Limit liability of offeror for costs and attorney fees incurred by offeree after an offer. Establishes offeree's responsibility for offeror's costs.	4/1/2004
074	Withdrawal of counsel.	Amend.	Modifies content of notice/request to withdraw.	4/1/2004
101	Domestic pretrial conferences and orders.	Repeal.	Not replaced.	4/1/2004
106	Modification of divorce decrees.	Amend.	Requires petition, served under Rule 4, to initiate modify a divorce decree.	4/1/2004

Rule Number	Title	Action	Summary	Effective Date
062	Stay of proceedings to enforce a judgment.	Amend.	Strikes from the rule the amendments made by HJR 16.	5/12/2004
045	Subpoena.	Amend.	Correct reference to Rule 4 regarding methods of serving subpoena.	11/1/2004
047	Jurors.	Amend.	Conforms rule regulating conversing with jurors to caselaw.	11/1/2004
056	Summary judgment.	Amend.	Corrects reference to URCP 7. Technical amendments.	11/1/2004
064	Writs in general.	New.	Substantial reorganization of rules regulating writs for the seizure of property. Substantial changes to procedures. Includes provisions common to all writs.	11/1/2004
064A	Prejudgment writs in general.	Repeal & Reenact.	Substantial reorganization of rules regulating writs for the seizure of property. Substantial changes to procedures. Includes provisions common to prejudgment writs.	11/1/2004
064B	Writ of replevin.	Repeal & Reenact.	Substantial reorganization of rules regulating writs for the seizure of property. Substantial changes to procedures. Includes provisions specific to writs of replevin.	11/1/2004
064C	Writ of attachment.	Repeal & Reenact.	Substantial reorganization of rules regulating writs for the seizure of property. Substantial changes to procedures. Includes provisions specific to writs of attachment. Methods for seizing property included in URCP 69A.	11/1/2004
064D	Writ of garnishment.	Repeal & Reenact.	Substantial reorganization of rules regulating writs for the seizure of property. Substantial changes to procedures. Includes provisions specific to writs of garnishment.	11/1/2004
064E	Writ of execution.	Repeal & Reenact.	Substantial reorganization of rules regulating writs for the seizure of property. Substantial changes to procedures. Includes provisions specific to writs of execution.	11/1/2004
064F	Waiver of bond or undertaking.	Repeal.	Included in URCP 64.	11/1/2004
066	Receivers.	Repeal & Reenact.	Includes provisions from former URCP 69 regarding receivers.	11/1/2004
069	Execution and proceedings supplemental thereto.	Repeal.	Provisions regulating the writ of execution included in URCP 64E. Provisions regulating the sale of property included in URCP 69B. Provisions regulating the redemption of real property included in URCP 69C.	11/1/2004
069A	Seizure of property.	New.	Substantial reorganization of rules regulating writs for the seizure of property. Substantial changes to procedures. Substantial changes to seizure and sale of property. Includes methods of seizing property from former URCP 64C.	11/1/2004

Rule Number	Title	Action	Summary	Effective Date
069B	Sale of property; delivery of property.	New.	Substantial reorganization of rules regulating writs for the seizure of property. Substantial changes to procedures. Substantial changes to seizure and sale of property. Includes provisions for selling property from former URCP 69.	11/1/2004
069C	Redemption of real property after sale.	New.	Substantial reorganization of rules regulating writs for the seizure of property. Substantial changes to procedures. Substantial changes to seizure and sale of property. Includes provisions for redemption of real property from former URCP 69.	11/1/2004
062	Stay of proceedings to enforce a judgment.	Amend.	Establishes guidelines for determining the amount of a supersedeas bond. Establishes a maximum supersedeas bond.	2/4/2005
051	Instructions to jury; objections.	Amend.	Permits the judge discretion to repeat earlier instructions as necessary.	4/1/2005
073	Attorney fees.	Amend.	Requires a statement that attorney will not split fees in violation of Code of Professional Responsibility.	4/1/2005
009	Pleading special matters.	Amend.	Describes method for identifying persons to whom a defendant wants to assess fault under Utah Code Section 78-27-41.	5/2/2005
026	General provisions governing discovery.	Amend.	Discovery plan should include deadline for identifying non-parties to whom fault will be allocated.	5/2/2005
007	Pleadings allowed; motions, memoranda, hearings, orders, objection to commissioner's order.	Amend.	Prohibits orders embedded in other documents unless permitted by the court.	11/1/2005
047	Jurors.	Amend.	Clarifies situations in which multiple parties share peremptory challenges.	11/1/2005
101	Motion practice before court commissioners.	New.	Establishes procedures for motions to a court commissioner.	11/1/2005
106	Modification of divorce decrees.	Amend.	Describes conditions in which the court may enter a temporary order in an action to modify a divorce decree.	11/1/2005
004	Process.	Amend.	In conjunction with repealing Rule 71B, permit case to proceed against parties who are served.	4/1/2006
062	Stay of proceedings to enforce a judgment.	Amend.	Establishes an automatic 10-day stay on enforcing a judgment.	4/1/2006
064C	Writ of attachment.	Amend.	Permits a writ of attachment when the writ is authorized by statute.	4/1/2006
068	Offer of judgment.	Amend.	Changes name of rule to "Settlement offers." Makes results of failure to improve bi-directional	4/1/2006
071	Process in behalf of and against persons not parties.	ReNUMBER & Amend.	In conjunction with repealing Rule 71B, renumber Rule 71A as Rule 71. Gender neutral text.	4/1/2006

Rule Number	Title	Action	Summary	Effective Date
071B	Proceedings where parties not summoned.	Repeal.	Repeal as contrary to due process.	4/1/2006
063	Disability or disqualification of a judge.	Amend.	Clarify that judge is to take no action in a case after a motion to recuse has been filed.	11/1/2006
074	Withdrawal of counsel.	Amend.	Requires judicial consent for withdrawal if a hearing has been set.	11/1/2006
005	Service and filing of pleadings and other papers.	Amend.	Describes when the attorney and party must be served if the attorney has entered a limited appearance.	4/1/2007
017	Parties plaintiff and defendant.	Amend.	Limits the requirement that a minor appear by a guardian or guardian ad litem to an unemancipated minor.	4/1/2007
074	Withdrawal of counsel.	Amend.	Establishes the procedures for withdrawing from a limited appearance.	4/1/2007
075	Limited appearance.	New.	Establishes the procedures for entering a limited appearance when a client, under the rules permitting unbundling legal services, hires an attorney for a limited purpose.	4/1/2007
016	Pretrial conferences, scheduling, and management conferences.	Amend.	Coordinates sanction provisions with those in Rule 35 and Rule 37. Adopt the federal provisions governing discovery of electronically stored information.	11/1/2007
023A	Derivative actions by shareholders.	Re-number & Amend.	Re-numbers the rule to conform to Supreme Court protocol. Amends the rule to more clearly delineate the content of the petition.	11/1/2007
026	General provisions governing discovery.	Amend.	Adopt the federal provisions governing discovery of electronically stored information.	11/1/2007
033	Interrogatories to parties.	Amend.	Adopt the federal provisions governing discovery of electronically stored information.	11/1/2007
034	Production of documents and things and entry upon land for inspection and other purposes.	Amend.	Adopt the federal provisions governing discovery of electronically stored information.	11/1/2007
035	Physical and mental examination of persons.	Amend.	Coordinates sanction provisions with those in Rule 16 and Rule 37.	11/1/2007
037	Failure to make or cooperate in discovery; sanctions.	Amend.	Creates sanctions for spoliation of evidence. Coordinates sanction provisions with those in Rule 16 and Rule 35. Adopt the federal provisions governing discovery of electronically stored information.	11/1/2007

Rule Number	Title	Action	Summary	Effective Date
045	Subpoena.	Amend.	Require person scheduling deposition to give advance notice before serving subpoena. Permit person serving subpoena rather than recipient to decide whether records should be copied and delivered or delivered for inspection and copying. Requires advance payment of costs upon request. Clarifies the grounds and procedures for objecting to a subpoena. Requires declaration under penalty of perjury to accompany documents produced under a subpoena. Adopt the federal provisions governing discovery of electronically stored information. Delete committee note.	11/1/2007
101	Motion practice before court commissioners.	Amend.	Permit motion for default judgment to be heard by the court commissioner. Technical amendments.	11/1/2007
106	Modification of divorce decrees.	Amend.	Expand to include modification of any final domestic relations order.	11/1/2007
001	General provisions.	Amend.	Removes electronic filing from the pilot project phase.	4/1/2008
005	Service and filing of pleadings and other papers.	Amend.	Recognizes electronic service, as well as traditional methods. Permits the judge to require electronic filing. Defines the moment at which filing occurs.	4/1/2008
007	Pleadings allowed; motions, memoranda, hearings, orders, objection to commissioner's order.	Amend.	Requires motion for the relief sought rather than motion for an order to show cause except to enforce an existing court order.	4/1/2008
010	Form of pleadings and other papers.	Amend.	Prohibits redundant, immaterial, impertinent or scandalous matter. Makes upper-left corner of document uniform for represented and self-represented parties. Permits but does not require a graphic signature if a document is electronically filed. Includes electronic records within the scope of the rules.	4/1/2008
011	Signing of pleadings, motions, and other papers; representations to court; sanctions.	Amend.	Permits a self-authenticated statement instead of an affidavit in accordance with Section 46-5-101. Recognizes electronic signatures.	4/1/2008
040	Scheduling and postponing a trial.	Rename & Amend.	Deletes obsolete requirement for a local rule to govern trial settings. Simplify text.	4/1/2008
041	Dismissal of actions.	Amend.	Deletes obsolete reference to Rule 66.	4/1/2008
064D	Writ of garnishment.	Amend.	To accommodate electronic filing, the amendment allows the creditor to pledge to serve the garnishee's fee rather than attach it to the filing.	4/1/2008

Rule Number	Title	Action	Summary	Effective Date
101	Motion practice before court commissioners.	Amend.	Requires motion for the relief sought rather than motion for an order to show cause except to enforce an existing court order.	4/1/2008
030	Depositions upon oral examination.	Amend.	Correct cross reference.	1/1/2009
045	Subpoena.	Amend.	Permits a person affected by a subpoena to object.	4/1/2009
103	Child support worksheets.	Repeal.	Eliminates the requirement that parties send a copy of their child support worksheet to the AOC.	4/1/2009
052	Findings by the court; correction of the record.	Amend.	Establishes a procedure for correcting the record of a hearing.	7/1/2009
007	Pleadings allowed; motions, memoranda, hearings, orders, objection to commissioner's order.	Amend.	Move process for objecting to a commissioner's recommendation from Rule 7 to Rule 101.	11/1/2009
058A	Entry.	Amend.	Describes how to create an abstract of judgment.	11/1/2009
063A	Change of judge as a matter of right.	Amend.	Exempts one party actions from the rule.	11/1/2009
076	Notice of contact information change.	New.	Requires attorneys and parties to inform the court of changes to contact information.	11/1/2009
101	Motion practice before court commissioners.	Amend.	Move process for objecting to a commissioner's recommendation from Rule 7 to Rule 101.	11/1/2009
065C	Post-conviction relief.	Amend	Recognizes Utah's Post-Conviction Remedies Act as the law governing post-conviction relief.	1/4/2010
058B	Satisfaction of judgment.	Amend.	Simplify and clarify the process for entering a satisfaction of judgment. Provide the judgment debtor with a process to raise the issue.	7/1/2010
064D	Writ of garnishment.	Amend.	Eliminate the requirement that the garnishee file answers to interrogatories with the court. Establishes deadline for hearing on objection to a writ.	7/1/2010
064E	Writ of execution.	Amend.	Establishes deadline for hearing on objection to a writ.	7/1/2010
058A	Entry of judgment; abstract of judgment.	Amend.	Resolves an inconsistency within the rule and directs that a judgment by confession will be signed by the clerk.	4/1/2011
001	General provisions.	Amend.	Disclosure and discovery amendments.	11/1/2011
008	General rules of pleadings.	Amend.	Disclosure and discovery amendments.	11/1/2011
009	Pleading special matters.	Amend	Disclosure and discovery amendments.	11/1/2011

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016	Pretrial conferences.	Amend.	Disclosure and discovery amendments.	11/1/2011
026	General provisions governing disclosure and discovery.	Amend.	Disclosure and discovery amendments.	11/1/2011
02601	Disclosure in domestic relations actions.	New.	Disclosure and discovery amendments.	11/1/2011
029	Stipulations regarding disclosure and discovery procedure.	Amend.	Disclosure and discovery amendments.	11/1/2011
030	Depositions upon oral questions.	Amend.	Disclosure and discovery amendments.	11/1/2011
031	Depositions upon written questions.	Amend.	Disclosure and discovery amendments.	11/1/2011
033	Interrogatories to parties.	Amend.	Disclosure and discovery amendments.	11/1/2011
034	Production of documents and things and entry upon land for inspection and other purposes.	Amend.	Disclosure and discovery amendments.	11/1/2011
035	Physical and mental examination of persons.	Amend.	Disclosure and discovery amendments.	11/1/2011
036	Request for admission.	Amend.	Disclosure and discovery amendments.	11/1/2011
037	Discovery and disclosure motions; Sanctions.	Amend.	Disclosure and discovery amendments.	11/1/2011
064D	Writ of garnishment.	Amend.	Requires the creditor to certify to the court a good faith effort to meet and confer with the garnishee before attempting to impose liability on the garnishee.	11/1/2011
037	Discovery and disclosure motions; Sanctions.	Amend.	Correct references to Rule 26(d).	12/13/2011
02602	Disclosures in personal injury actions.	New.	Describes special disclosures in personal injury actions.	12/22/2011
004	Process.	Amend.	Deletes the requirement that a summons published in a newspaper must be in an English language newspaper.	4/1/2012
065C	Post-conviction relief.	Amend.	Adds appointment of pro bono counsel in accordance with Sections 78B-9-109 and -202.	4/1/2012
101	Motion practice before court commissioners.	Amend.	Deletes a paragraph that is incorporated into new Rule 108.	4/1/2012
108	Objection to court commissioner's recommendation.	New.	Establishes a procedure for objecting to a court commissioner's recommendations. Establishes standards of review.	4/1/2012

Rule Number	Title	Action	Summary	Effective Date
025	Substitution of parties.	Amend.	Clarifies that the notice of hearing on a motion to substitute parties must be served with the motion if the hearing has been scheduled by the time the motion is served.	11/1/2012
083	Vexatious litigants.	New.	Establishes the standards and procedures for declaring a person to be a vexatious litigant. Establishes management of cases involving vexatious litigants.	11/1/2012
062	Stay of proceedings to enforce a judgment.	Amend.	Amended by SJR 14 2013 General Session. Provides that a municipality is not a state agency exempt from posting security to stay a judgment on appeal. Requires a municipality to post security to stay a judgment over \$5,000,000.	3/13/2013
005	Service and filing of pleadings and other papers.	Amend.	Requires a certificate of service appended to each document that has to be served. Permits the court to serve documents by email. Email to lawyers will be to the email address on file with the Utah State Bar.	4/1/2013
010	Form of pleadings and other papers.	Amend.	Requires designation of the discovery tier in the caption of a claim. Requires a court-approved coversheet for counterclaims and cross claims as well as complaints.	4/1/2013
011	Signing of pleadings, motions, affidavits, and other papers; representations to court; sanctions.	Amend.	Deletes a provision that conflicts with Rule 26(e). The consequence will be that the signature on disclosures, discovery requests and discovery responses is a certification under Rule 11.	4/1/2013
026	General provisions governing disclosure and discovery.	Amend.	Changes the time for initial disclosures. Provides for timing of disclosure and discovery of rebuttal experts. Clarifies that disclosure and discovery documents must be served.	4/1/2013
02602	Disclosures in personal injury actions.	Amend.	Narrows the limitation on the further use of disclosures to Plaintiff's Social Security number and Medicare health insurance claim numbers. In a committee note, describes the committee's intent regarding the scope of the rule.	4/1/2013
037	Discovery and disclosure motions; Sanctions.	Amend.	Allows the court to enter sanctions if a motion for a protective order or motion to compel is denied.	4/1/2013
105	Shortening 90 day waiting period in domestic matters.	Amend.	Changes the standard of "good cause" to "extraordinary circumstances" in keeping with Section 30-3-18.	4/1/2013