

# MINUTES

## UTAH SUPREME COURT ADVISORY COMMITTEE ON THE RULES OF CIVIL PROCEDURE

Wednesday, February 27, 2008  
Administrative Office of the Courts

**Francis M. Wikstrom, Presiding**

PRESENT: Francis M. Wikstrom, James T. Blanch, Francis J. Carney, Terrie T. McIntosh, Honorable Lyle R. Anderson, Honorable Derek Pullan, Honorable David O. Nuffer, Janet H. Smith, Jonathan Hafen, Thomas R. Lee, Judge R. Scott Waterfall, Barbara Townsend, Lincoln Davies, Matty Branch

EXCUSED: Todd M. Shaughnessy, Leslie W. Slaugh, David W. Scofield, Cullen Battle, Honorable Anthony B. Quinn, Anthony W. Schofield, Steve Marsden, Lori Woffinden

STAFF: Tim Shea, Trystan B. Smith

### **I. APPROVAL OF MINUTES.**

Mr. Wikstrom called the meeting to order at 4:00 p.m., and entertained comments from the committee concerning the January 23, 2008 minutes. No comments were made and Mr. Wikstrom asked for a motion that the minutes be approved. The motion was duly made and seconded, and unanimously approved.

### **II. RULE 35. PHYSICAL AND MENTAL EXAMINATION OF PERSONS.**

Mr. Wikstrom asked that the committee address Rule 35 in detail at the next meeting. Mr. Wikstrom asked Mr. Carney to circulate the proposed revisions to members of the plaintiff and defense bars, and invite to our next meeting spokespersons to discuss the proposed changes.

### **III. RULE 6, ET AL. TIME.**

Mr. Shea brought Rule 6 to the committee. Mr. Shea summarized the committee members' findings after their review of the proposed time period revisions to reflect the "days-are-days" approach.

The committee considered whether it wanted to change certain time periods from days to hours. After discussion, the committee decided those time periods currently delineated in hours should remain the same.

Mr. Shea noted that the mechanism for counting, and the designation of days will be similar to the federal rules. However, the actual time periods for certain rules may differ from the federal rules.

Mr. Lee questioned whether the “same time” language in Rule 6© allowed for filing at the beginning of the next business day, or at the same hour the next business day. After discussion, the committee asked Mr. Shea to revise the subsection to reflect the language in the federal rule.

The committee agreed to revise Rule 6(d) to state, “For electronic filing, *the filing must be done before midnight.*”

The committee agreed to revise Rule 6(f)(13) to include any day designated by the President, Governor, or the Legislature.

#### **IV. RULE 103. CHILD SUPPORT WORKSHEETS.**

Mr. Shea brought Rule 103. The committee agreed to repeal Rule 103 feeling it was redundant.

#### **V. SB 205. UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT.**

Mr. Shea brought SB 205 to the committee. Mr. Wikstrom asked that the committee address the proposed legislation after the legislative session ends.

#### **VI. OVERALL EVALUATION OF URCP.**

Judge Derek Pullan brought a proposal to the committee to revise Rule 26 to allow for a fast-track discovery process for cases with an amount in controversy under \$120,000 . The committee discussed the inaccessibility of the legal system because the extensive scope and expense of discovery. The committee further discussed the dramatic decline in the number of jury trials because of the expense of discovery. Mr. Hafen suggested a pilot program where parties could choose to fast-track discovery for certain cases. Judge Pullan indicated he would recommend to his colleagues that the pilot program begin in the Fourth District. The committee further discussed gathering empirical data addressing the amount in controversy and the expense incurred for conducting discovery.

Mr. Wikstrom asked the committee to study Judge Pullan’s proposal, and be prepared to discuss the proposal at the next meeting.

#### **VII. ADJOURNMENT.**

The meeting adjourned at 6:00 p.m. The next meeting of the committee will be held at 4:00 p.m. on Wednesday, March 26, 2008, at the Administrative Office of the Courts.