

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

Meeting Minutes – March 22, 2017

PRESENT: Chair Jonathan Hafen, Judge Andrew Stone, Judge John Baxter, Judge Laura Scott, Judge James Blanch, Paul Stancil, Rod Andreason, Leslie Slauch, Terri McIntosh, Trystan Smith, Heather Sneddon, James Hunnicutt, Justin Toth, Sammi Anderson, Lincoln Davies, Judge Kent Holmberg

TELEPHONE: Dawn Hautamaki, Amber Mettler

EXCUSED: Barbara Townsend, Judge Kate Toomey

STAFF: Nancy Sylvester, Lauren Hosler

GUESTS: Paul Barron, Clayson Quigley

(1) WELCOME, APPROVAL OF MINUTES

Chair Jonathan Hafen welcomed the committee and introduced the new committee members, Judge Laura Scott and Justin Toth.

Rod Andreason moved to approve the minutes as amended by Jim Hunnicutt in an email to Nancy Sylvester; Mr. Hunnicutt seconded. The motion passed unanimously.

(2) RULE 5: COURTS AND CERTIFICATES OF SERVICE

Nancy Sylvester summarized her memo on Rule 5 and certificates of service to the committee. Clayson Quigley followed up with additional information about the issue to be addressed. The committee discussed the proposed change, as well as whether certificates of service should be required at all anymore in light of electronic filing (at least as to e-filers). The committee also discussed issues with court notices not reaching the necessary personnel to ensure calendaring of hearings (i.e., legal assistants) because court notices are currently only sent to attorneys of record. Attorneys admitted *pro hac vice* or representing third parties (on subpoena issues, for example) are not receiving filing notifications or copies of filed documents through the e-filing system. Dawn Hautamaki noted that the proposed change was also intended to eliminate or reduce the number of emails to attorneys on the same activity. The committee discussed a concern that attorneys may interpret the proposed change as eliminating the requirement as to them to prepare a certificate of service—which is not the intent. The intent is to only eliminate the requirement that the court generate a certificate of service for documents prepared by the court. In lieu of the proposed change, the committee suggested the following changes to Rule 5:

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

(b)(5)(B) ~~an order or judgment~~ every paper prepared by the court will be served by the court.

(d) Certificate of service. A paper required by this rule to be served other than a paper required to be served under paragraph (b)(5)(B), 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.

Leslie Slauch moved to send the foregoing proposal to the Utah Supreme Court for its approval as to circulating it for public comment; Judge John Baxter seconded. The motion passed unanimously.

(3) RULES 7, 101: FILED VS. SERVED AND PRO SE LITIGANTS

Ms. Sylvester provided some context on the status of this issue, which has been raised previously on a few occasions. The committee discussed the fact that Rule 101 is currently under consideration for modification by a separate subcommittee, the Domestic Case Process Improvements subcommittee. The committee discussed the proposal and its history. Ultimately, the proposed change to Rule 7 was tabled for further consideration and review of whether other rules have a similar issue with filed vs. served. The proposed change to Rule 101 was also tabled pending the subcommittee's recommendations.

(4) ARIZONA REFORMS (DISCUSSION ONLY)

This issue was tabled to circulate additional materials for consideration.

(5) RULE 63 AND URCRP 29: MOTIONS TO DISQUALIFY

Ms. Sylvester provided a brief summary of the impetus behind the proposed change to Rule 63. The Criminal Rules Committee recommended that the Civil Rules Committee match its Rule 29 language as to reviewing judges on motions to disqualify and the role of the presiding officer of the Judicial Council. The committee discussed the proposed changes and agreed with the recommendation.

Sammi Anderson moved to send the proposal to the Utah Supreme Court for approval to send out for public comment; Heather Sneddon seconded. The motion passed unanimously.

(6) ADJOURNMENT

The remaining matters were deferred, and the committee adjourned at 5:30 pm. The next meeting will be held on April 26, 2017 at 4:00 pm at the Administrative Office of the Courts, Level 3.