

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

Meeting Minutes – April 26, 2017

PRESENT: Chair Jonathan Hafen, Judge Andrew Stone, Judge Laura Scott, Paul Stancil, Rod Andreason, Leslie Slauch, Terri McIntosh, Trystan Smith, Heather Sneddon, James Hunnicutt, Justin Toth, Sammi Anderson, Judge Kent Holmberg, Amber Mettler, Barbara Townsend, Judge Kate Toomey

TELEPHONE: Lincoln Davies

EXCUSED: Judge James Blanch, Judge John Baxter, Dawn Hautamaki

STAFF: Nancy Sylvester, Lauren Hosler

GUESTS: None

(1) WELCOME, APPROVAL OF MINUTES

Chair Jonathan Hafen welcomed the committee. Nancy Sylvester reviewed the proposed changes to the March committee meeting minutes. Judge Kent Holmberg moved to approve the minutes as amended; Rod Andreason seconded. The motion passed unanimously.

(2) UPDATES ON RULE 63, LOGUE SUBCOMMITTEE, AND PRISONER MAILBOX RULE

Ms. Sylvester presented a summary of edits the Utah Supreme Court had made to Rule 63, which will be sent out for comment concurrent with proposed changes adding presiding judges in justice court. She noted that the proposed changes to Rule 5 (which are currently out for comment) have already received a number of comments. Ms. Sylvester also gave a summary on the Logue Subcommittee, which is reviewing the interplay between post-conviction relief cases, requests for new trial based on newly discovered evidence, and timing of appeals. Ms. Sylvester then gave a brief summary on the status of discussions with the Advisory Committee on the Rules of Appellate Procedure regarding the prisoner mailbox rule.

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

Ms. Sylvester presented a summary history of the proposals to amend Rules 7 and 101. She spoke of the impetus behind the proposed changes, which, in sum, was the potential unfairness to self-represented litigants when response dates are calculated from filing. The committee considered and discussed at length a number of proposals to address the stated concerns. It also determined that it should continue to table any amendments to Rule 101 pending the report of the Domestic Case

Process Improvements Subcommittee. Ultimately, the committee agreed to add the following subparagraph to Rule 6 (with no changes to Rules 7 and 101):

(d) Additional time for unrepresented parties. When a party is unrepresented, does not have an electronic filing account, and may or must act within a specified time after the filing of a document and service of that document is made by mail under Rule 5(b)(3)(C), the period of time within which the unrepresented party may or must act is calculated from the service date and not the filing date of the document, and the extra 3 days under paragraph (c) would apply.

Leslie Slaugh moved to send the foregoing proposed change out for public comment; Amber Mettler seconded. The committee approved the motion unanimously. Ms. Sylvester noted that the rule will be circulated for comment at the same time the prisoner mailbox amendments go out.

(4) ARIZONA REFORMS (DISCUSSION ONLY)

Paul Stancil provided a summary of a report published by the Arizona Committee on Civil Justice Reform on proposed changes to the Arizona Rules of Civil Procedure. The committee discussed a number of the proposals in detail, and noted that several of them resembled innovations previously adopted in Utah years ago. The committee tabled the adoption of any specific proposal or changes, pending circulation of additional materials for consideration.

(5) COMMITTEE QUEUE DISCUSSION

Mr. Hafen reviewed the committee queue process and the list of topics currently in the queue and solicited feedback on both from the committee.

(6) ADJOURNMENT

The remaining matters were deferred, and the committee adjourned at 5:51 pm. The next meeting will be held on May 24, 2017 at 4:00 pm at the Administrative Office of the Courts, Level 3.