

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

Meeting Minutes – November 15, 2017

PRESENT: Chair Jonathan Hafen, Judge Andrew Stone, Judge James Blanch, Judge Kent Holmberg, Judge Laura Scott, Judge Clay Stucki, James Hunnicutt, Rod Andreason, Lauren DiFrancesco, Susan Vogel, Barbara Townsend, Michael Petrogeorge, Leslie Slaugh, Justin Toth, Paul Stancil, Lincoln Davies, Dawn Hautamaki

EXCUSED: Trystan Smith, Timothy Pack, Amber Mettler, Judge Kate Toomey, Heather Sneddon

STAFF: Nancy Sylvester

GUESTS: Clayson Quigley, Mark Olson, Charles Stormont, Brian Rothschild

(1) WELCOME, APPROVAL OF MINUTES

Chair Jonathan Hafen welcomed the committee and asked for a motion on the minutes. Rod Andreason moved to approve the minutes; James Hunnicutt seconded. The motion passed unanimously.

(2) COMMENTS TO RULE 5

Clayson Quigley introduced a brief summary of the changes to the e-filing system regarding the court submitting its papers to the electronic filing service providers. Nancy Sylvester provided a brief summary of the comments and proposed change in response to the comments. The committee discussed the pros and cons of moving forward with eliminating the requirement for the court to prepare certificates of service when all parties are served electronically via the electronic filing service providers.

Judge Clay Stucki moved to approve Ms. Sylvester's proposed change to Rule 5, which provided that the court would prepare certificates of service when at least one party is self-represented. Judge Stone seconded the motion. The motion passed unanimously.

The committee also discussed a proposed change to Rule 5(d) addressing concerns regarding the timing between signing the certificate of service and actual service. The committee opted to table this issue pending review of a possible similar change to the Federal Rules of Civil Procedure.

Susan Vogel then raised an issue the Self-Help Center had been seeing with respect to paragraph (b)(5)(B). She said they often heard from people that they did not know that an order had even been signed by the court because they were not served with it. It raised the question of what constitutes a paper or order prepared by the court: 1) an order that is signed by the court; 2) an order that has been modified and then signed by the court; or 3) an order that only the court had prepared and

signed. The committee was split in its responses which appeared to support the Self-Help Center's point. The committee determined that it should take this issue up in the New Year.

(3) RULE 73. ATTORNEY FEES.

Mark Olson presented a history of the origin of the Rule 73 schedule, which was to address a problem of judges receiving a significant number of attorney fee affidavits in debt collection cases, along with his proposal to modify the fee schedule to increase the fees.

Charles Stormont and Brian Rothschild presented their proposal and the reasoning for their proposed changes which reflect the view of the defense side of debt collection actions.

The committee asked a number of questions of the presenting guests and considered the multitude of concerns at issue in the competing proposals. The committee reached a consensus that some change to the fee schedule was appropriate, but opted to discuss the issue further at the next meeting. The committee invited the guests to work together to create a joint proposal and submit any additional comments to Ms. Sylvester for the committee's further consideration.

(4) SELECTION OF MEMBERS FOR JOINT SUBCOMMITTEE ON RULE 24

Ms. Sylvester asked for volunteers to be on a joint subcommittee with members of the Supreme Court Advisory Committee on the Utah Rules of Criminal Procedure to address proposed changes to Rule 24. Michael Petrogeorge and Leslie Slaugh volunteered.

(5) ADJOURNMENT

The remaining matters were deferred, and the committee adjourned at 6:00 pm. The next meeting will be held on January 24, 2018 at 4:00 pm at the Administrative Office of the Courts, Level 3.