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MEMBERS, UTAH SUPREME COURT
ADVISORY COMMITTEE ON CIVIL PROCEDURE

Dear Advisory Committee Members:

The next meeting of the Advisory Committee will be held on Thursday, September 19, 1991. The meeting will be held at the Administrative Office of the Courts, 230 South 500 East, Suite 300, Salt Lake City, Utah. We will begin at 4:00 p.m. promptly. As usual, we will conclude our meeting no later than 6:00 p.m. As always, I ask you to let me know if you do not plan to be in attendance so that we do not wait for you before beginning. In that regard, please call me or my secretary, Kay Rich, at any time before the meeting.

Please find enclosed for your review a copy of Colin Winchester's minutes from our last meeting, which was held on May 29. I appreciate Colin's stepping in to provide us with minutes for our last meeting.

The main topic of discussion at our meeting next week will be proposed changes in the discovery rules. There are also some other items that will require the Committee's attention. We will discuss the following:

1. Before getting to discovery issues, we will discuss proposed changes to Rule 69 on execution and supplemental proceedings. For those of you who are new members to the Committee, this is a project that Brad Baldwin and his subcommittee members Bruce Plenk and Judge Murphy have been working on for some time. This is a follow-up project relating to our earlier changes to the garnishment rule. I have enclosed for your review and comment the latest draft of the subcommittee's work. We will discuss this draft at the meeting.

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2. We will discuss proposed changes to Rule 35(a) that would permit physical or mental examinations by professionals other than physicians. After our meeting in May, I sent a series of alternative proposals relating to Rule 35(a) to various lawyer groups for comment. Specifically, I sent the group of alternatives (which I enclose for your information) to the Utah Chapter of the American College of Trial Lawyers, the Utah Trial Lawyers Association, and to the Utah Chapter of the American Board of Trial Advocates. I received a number of responses to my request for comment, and I enclose all of them. (Normally I would not burden the members of the Committee with this volume of correspondence, but it is interesting, and each of the letters is relatively short). I think it is likely that our decision will be affected by imminent changes to Rule 30, F.R.C.P. I have enclosed a copy of a May 7, 1991 U.S. Law Week Report on announced rule changes, including the changes to Rule 35, which modifies the current federal rule, effective December 1, 1991. I am indebted to Terry McIntosh of our committee for pointing this out to me.
3. Allan Larson and his subcommittee (consisting of Jim Soper, Elizabeth Dunning and Ron Boyce) have proposed some amendments to Rules 5(d), 30(f) and Rule 4-502 of the Code of Judicial Administration. The purpose of these amendments is to harmonize the rules insofar as they relate to the filing of depositions. As you may know, the rules are now in conflict. I have enclosed a copy of the Larson subcommittee's draft for your consideration.
4. Earlier this year, we considered amendments to Rule 30 relating to videotaping of depositions. In an effort to reignite Committee interest on that topic, I have enclosed the most recent proposed amendments to Rule 30, F.R.C.P. As you will note, these proposed changes deal with much more than videotaping of depositions, but they do deal with that topic. I suspect that, since this proposed change is part of a much larger package to revamp the discovery rules, it will not be acted upon by the United States Supreme Court for a long time. Since there is a great deal of interest in this particular topic (i.e.,

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videotaped depositions) among practitioners in this state, I hope the enclosed draft might provoke some interest from the members of the Committee.

5. We will consider any additional items that the members of the Committee would like to discuss.

I look forward to seeing all of you next Thursday. If you have any questions in advance of the meeting, please call me at any time.

Very truly yours,



Alan L. Sullivan

ALS/kr
Enclosures
cc: Colin R. Winchester, Esq.

Utah Supreme Court Advisory Committee
on Civil Procedure

A G E N D A

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1. *Welcome and approval of minutes (Alan Sullivan)*
2. *Letter of Barbara Schwartz (Alan Sullivan)*
3. *Rule 69 - Discussion of proposed changes (Brad Baldwin and subcommittee)*
4. *Rule 35(a) - Discussion of proposed changes (Alan Sullivan)*
5. *Filing of Depositions: Harmonizing Rules 5(d), 30(f) and 4-502, Code of Judicial Administration (Allan Larson)*
6. *Rule 30: Videotaping of depositions (Alan Sullivan)*
7. *New projects*