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January 21, 1992

MEMBERS OF THE UTAH SUPREME COURT
ADVISORY COMMITTEE ON CIVIL PROCEDURE

Dear Committee Members:

Our January meeting of the committee will be held next Wednesday, January 27, 1993 beginning at 4:00 p.m. The meeting will be held at the usual location, in the Council Room of the Administrative Offices of the Courts, 230 South 500 East, Salt Lake City. I look forward to seeing you there. If you do not plan to attend or believe you will be late, I would appreciate your calling me or my secretary, Kay Rich, so we do not wait for you.

Please find enclosed minutes from our meeting in December. Thanks to Craig Jacobsen for his work in preparing these extraordinarily detailed minutes.

The matters we will take up at our January 27 meeting will be the following:

1. We will have a report from our Rule 45 Subcommittee, chaired by Perrin Love. As I understand, Perrin will have a draft of some changes (as discussed at our last meeting) for the committee to consider.

2. I will give a report to the committee on the advisability of our proceeding with a new rule of civil procedure on writs of restitution, as requested by Bruce Plenk at our last meeting. I will report on a discussion with members of the Utah Supreme Court about our concerns that a rule of the kind envisioned by Bruce may legislate substantive rights.

3. We will have a report from Fran Wikstrom on alternative strategies that our committee might adopt in making major changes to the discovery rules.

4. We will consider a request from Fran Fish, Notary Public Administrator in the Utah Department of Commerce, relating to two forms found behind the Utah Rules of Civil Procedure. I have attached a copy of Ms. Fish's letter to Jeffrey Butler which was only belatedly sent to us.

I have two informational items I thought you would be interested in. First, on December 21, the Utah Judicial Council passed a resolution allowing parties to file pleadings printed on recycled white or near-white paper. Second, the Utah Supreme Court has adopted our recommended changes to Rules 35 and 65B. In that connection, you may be interested in reading Lucero v. Warden of the Utah State Prison, 200 Utah Adv.Rep. 69 (November 13, 1992), in which the Court of Appeals reversed a Third District judge on grounds relating directly to the changes that have now been effectuated as a result of our recommendations.

I look forward to seeing all of you next Wednesday.

Very truly yours,



Alan L. Sullivan

cb

Enclosures

cc: Craig Jacobsen, Esq. (w/encls.)
Colin Winchester, Esq. (w/encls.)

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

A G E N D A

January 27, 1993

1. *Welcome and approval of minutes (A. Sullivan).*
2. *Rule 45 subcommittee report (P. Love).*
3. *Proposed rule on writs of restitution - report on progress (A. Sullivan).*
4. *Discovery committee report and discussion (A. Sullivan and F. Wikstrom).*
5. *Request from Fran Fish (A. Sullivan).*
6. *Other business.*