

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

Meeting Minutes – August 28, 2019

Committee members & staff	Present	Excused	Appeared by Phone
Jonathan Hafen, Chair	X		
Rod N. Andreason	X		
Judge James T. Blanch		X	
Lauren DiFrancesco	X		
Dawn Hautamaki		X	
Judge Kent Holmberg			X
James Hunnicutt	X		
Larissa Lee	X		
Trevor Lee	X		
Judge Amber M. Mettler	X		
Timothy Pack	X		
Bryan Pattison		X	
Michael Petrogeorge	X		
Judge Clay Stucki		X	
Judge Laura Scott	X		
Leslie W. Slauch	X		
Trystan B. Smith	X		
Heather M. Sneddon		X	
Paul Stancil		X	
Judge Andrew H. Stone	X		
Justin T. Toth	X		
Susan Vogel	X		
Brooke McKnight	X		
Ash McMurray, Recording Secretary	X		
Nancy Sylvester, Staff	X		

(1) WELCOME AND APPROVAL OF MINUTES

Jonathan Hafen welcomed the committee and introduced Brook McKnight, a new committee member, and Ash McMurray the new recording secretary. Mr. Hafen asked for approval of the minutes. The minutes were approved unanimously.

(2) RULE 4 AND ELECTRONIC ACCEPTANCE OF SERVICE

Lane Gleaves (Mr. Gleaves) and Tyler Gleaves of Utah Court Services, LLC, presented on their system of electronic service of process, which has evolved in response to feedback from judges and law firms. The presentation compared electronic service to certified mail and highlighted security features, including requiring individuals receiving service to provide their phone numbers and the last four digits of their social security numbers. Lauren DiFrancesco asked whether the system verifies phone numbers, and Mr. Gleaves explained that the system does not verify phone numbers but that requiring recipients to provide a phone number is a higher level of verification than used for in-person service. Susan Vogel raised concerns regarding the use of IP addresses, and Mr. Gleaves clarified that service is delivered not to IP addresses, but to email addresses, and that the system saves IP addresses of devices used to download documents in case recipients contest service. Judge Laura Scott raised concerns regarding whether the system merely provided service or also required acceptance of service. Judge Andrew Stone raised concerns regarding the proof of service details needed in affidavits of electronic service to guarantee the identities of individuals served, given that electronic service does not involve witnesses, physical addresses, or signatures. The subcommittee was asked to discuss and prepare a proposal to address acceptance and proof of service issues.

(3) SERVICE OF SUBPOENAS: DISCUSSION OF NEED FOR SERVICE OF SUPPORTING DOCUMENTS

Michael Drechsel introduced a legislator's request that documents accompanying civil subpoenas be made electronic via a weblink to court resources. He explained the practical problem officers face when they need to print multiple PDF's for lengthy civil subpoenas from their vehicles. Mr. Slauch noted that the proposal to provide documents via weblink could extend to other documents, such as writs of execution and writs of garnishment. Susan Vogel raised concerns that elderly individuals unfamiliar or uncomfortable with digital technology and online resources would require assistance. Judge Stone noted that those who do not read English already face a similar problem. Larissa Lee suggested that the documents could be condensed and include a telephone number for those who need assistance. James Hunnicutt mentioned that the documents can be and often are reduced to a single ten-page document, and Ms. DiFrancesco noted that federal courts have condensed the documents to a single page that includes a telephone number and other information for additional resources. Nancy Sylvester was asked to create a proposed amendment to Rule 45 using the federal form as a model.

(4) LICENSED PARALEGAL PRACTITIONERS AND THE CIVIL RULES

Ms. Sylvester introduced the committee to the issue of clarifying the applicability of the Utah Rules of Civil Procedure to licensed paralegal practitioners (LPPs). The committee discussed adding “licensed paralegal practitioner” throughout the rules where attorneys are included. Mr. Slaugh suggested that “LPP” could be defined to apply attorney rules to LPPs except where doing so would go beyond the scope of permitted practice. Mr. Slaugh also suggested that the term “attorney” throughout the rules could be replaced by “legal professional,” which would be defined to include both attorneys and LPPs. Judge Stone raised concerns that such changes could create access to justice problems by making LPP fees equivalent to attorney fees. Judge Amber Mettler, Mr. Hafen, and Ms. Lee also raised concerns that such changes could inappropriately expand the role of LPPs. Rod Andreason suggested an alternative solution of creating a new Rule 86 aggregating all LPP rules and a fee schedule in one place. Mr. Hafen and Ms. Sylvester were asked to create a proposal for a Rule 86.

(5) REVIEW OF COMMENTS TO RULES 7A, 7, 100

Ms. DiFrancesco introduced the public comments to the draft language of Rule 7A that recently circulated for public input. The committee discussed potential concerns regarding ex parte communications. Mr. Hunnicutt was asked to explore the possibility of having different tracks for different case types. The subcommittee will come back next month with a proposal to address the concerns raised in the comments. Approval of Rules 7 and 100, which received no comments, was deferred until next month.

(6) OTHER BUSINESS

The committee discussed the Supreme Court’s approval of a new Utah Rules of Probate Procedure area.

(7) ADJOURNMENT

The remaining issues were deferred until next month. The fall meeting schedule was discussed. The meeting adjourned at 5:50 pm. The next meeting will be held September 25, 2019 at 4:00 pm.