

# Utah Rules of Juvenile Procedure Committee- Meeting Minutes

February 5, 2010

Noon to 2:00 p.m.

Executive Dining Room

MEETING DATE				TIME			LOCATION		
<b>MEMBERS:</b>				Present	Absent	Excused	<b>MEMBERS:</b>		
Judge Elizabeth Lindsley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Renee Jimenez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Judge Larry Steele	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	David Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Carol Verdoia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Narda Beas-Nordell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Brent Bartholomew	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Paul Wake	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Matty Branch	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Alan Sevison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Joan Carroll	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pam Vickery	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Angela Foncesbeck	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Brent Hall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<b>AOC STAFF:</b>				Present	Absent	<b>GUESTS:</b>			
Katie Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>			
Whitney Kania	<input checked="" type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>			

## AGENDA TOPIC

<b>I. Welcome &amp; Approval of minutes</b>		<b>CHAIR: CAROL VERDOIA</b>	
Corrections to the Minutes: None			
Motion: To approve the minutes of November 6, 2009, as written.	By: Judge Larry Steele	Second: Alan Sevison	
Approval	<input checked="" type="checkbox"/> Unanimous	<input type="checkbox"/> Vote:	In Favor _____ Opposed _____

## AGENDA TOPIC

<b>II. Professional Practice Disclosures</b>	<b>[PRESENTER] KATIE GREGORY</b>
Discussion: Katie Gregory explained the yearly practice disclosure requirement contained in Rule 11-101(4) of the Supreme Court Rules of Professional Practice. Members made the required disclosures.	
Action Item: None	

## AGENDA TOPIC

<b>III. Rule 25A-Withdrawal of Pleas</b>	<b>[PRESENTER] JUDGE LINDSLEY</b>
Discussion: Tim Shea sent the committee's revisions to Rule 25A out for comment. The comment period closed November 17, 2009, with no formal comments received. The committee held the rule for review of some informal comments received by members.	

Judge Lindsley reviewed the *Ostler* decision. In *Ostler*, an adult entered a plea and then moved to withdraw his plea. The court found it was not made within 30 days of entry of the plea. The court held that the 30 day limitation to withdraw a plea of guilty of no contest runs from the date of final disposition in the district court. The Supreme Court held that final disposition means entry of a final judgment of conviction at the district court. The running of the 30 day limit parallels the 30 day limit for filing a notice of appeal or petition for *cert.*

The committee discussed the need for a juvenile rule requiring the 30 days to run from the entry of the plea. The practice of taking further disposition under advisement in juvenile court matters continues to create concern regarding the time frame to withdraw a plea. Carol will present Rule 25A to the Supreme Court and would like some examples to share with the Supreme Court of the juvenile court taking further disposition under advisement. Some juvenile courts take further disposition under advisements to retain jurisdiction to make continued orders regarding placement without the filing of a new charge.

The committee agreed that the revised rule is ready for presentation to the Supreme Court.

Action Item:	Katie Gregory will contact Matty Branch to present Rule 25A to the Supreme Court for consideration.
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#### AGENDA TOPIC

<b>IV. Notice of Publication in Termination of Parental Rights Actions</b>	[PRESENTER] CAROL VERDOIA
<p>Discussion:</p> <p>Carol Verdoia reviewed an email from Tim Shea regarding using only initials and date of birth to identify a child in a publication notice. Carol also mentioned that pending legislation, S.B. 89, may impact the issue by requiring that legal notice be posted on the state's website. The committee acknowledged the additional issues raised by publishing children's names on the internet. Carol will ask Brent Bartholomew if he can prepare a discussion draft, even if he is unavailable for the next meeting. The committee may need to create a rule and ask the Supreme Court to pass a rule by emergency rulemaking procedures if S.B. 89 passes. Carol noted that the AG's office in some parts of the state is already publishing by initials and that the practice is not prohibited.</p>	
Action Item:	Carol will email Brent Bartholomew and ask for a draft to be sent to Katie Gregory for circulation in the next month.

#### AGENDA TOPIC

<b>V. Board of Juvenile Court Judges Request to Consider Fax Filing-Initial Discussion</b>	[PRESENTER] CAROL VERDOIA
<p>Discussion: In January, 2010, the Board of Juvenile Court Judges made a motion to ask the URJP to draft a rule regarding fax filings. Carol briefly reviewed the history of the committee's 2005 discussion of fax filing. Katie distributed the Supreme Court's internal policy on fax filings. The Juvenile Board would like a fax rule containing similar language. The 2<sup>nd</sup> and 8<sup>th</sup> District Courts have local rules regarding fax filings. References to fax filings are also contained in URJP 60 and the advisory note to URCP 5. The following issues were briefly discussed:</p> <ul style="list-style-type: none"> <li>• Impact on clerical staff and workloads</li> <li>• Use of email and electronic filings</li> <li>• Placing burden on the person filing regarding receipt, completeness, and timing.</li> <li>• Separately considering issues that affect appellate rights and post-judgment motions.</li> <li>• Should any rule created also cover electronic filings?</li> <li>• Should the rule mirror the Supreme Court's policy?</li> <li>• Is a fax considered an original?</li> </ul>	
<p>Judge Lindsley will email all juvenile judges to inquire regarding their local practices regarding fax</p>	

filings and how their district would be impacted by fax filings. Katie Gregory will check with the Clerk of the Supreme Court regarding how faxed documents are handled.	
Action Item:	Judge Lindsley will email the juvenile court judges and Katie Gregory will contact Supreme Court staff.
Motion: Judge Lindsley to send an email to all juvenile judges for input on creating a fax filing rule, after a draft has been reviewed by Judge Steele and Carol Verdoia.	By: Judge Lindsley <span style="float: right;">Second: Judge Steele</span>
Approval	<input checked="" type="checkbox"/> Unanimous <input type="checkbox"/> Vote: <span style="float: right;"># In Favor _____ # Opposed _____</span>

**AGENDA TOPIC**

<b>VI. Other Items</b>	[PRESENTER] CAROL VERDOIA
Discussion: <ol style="list-style-type: none"> <li>1. Carol Verdoia reviewed the items which were tabled to a future meeting. The issue of consent to waive the youth's constitutional rights if interrogated was tabled because it may be impacted by pending legislation (H.B. 239).</li> <li>2. The next meeting was set for March 26, 2010 from Noon to 2:00 p.m.</li> </ol>	