

Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

AGENDA

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

Supreme Court's Advisory Committee on the Rules of Appellate Procedure

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84114

2-15-06 12:00 p.m.

- | | | |
|----|--|---------------------------|
| 1. | WELCOME AND APPROVAL OF MINUTES | Joan Watt |
| 2. | <u>STATE V. MANNING</u> SUBCOMMITTEE REPORT | Joan Watt |
| 3. | RULE 12(b)(2) | Scott Ellsworth |
| 4. | RULE 24(g) | Fred Voros |
| 5. | RULE 28A | Judge Gregory Orme |
| 6. | RULE 5(c)(2) | Marian Decker |
| 7. | OTHER BUSINESS | |
| 8. | ADJOURN | |

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

MINUTES

**Supreme Court's Advisory Committee
on the Rules of Appellate Procedure**

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84114

March 15, 2006 - 12:00 p.m.

ATTENDEES

Paul Burke
Marian Decker
Margaret Lindsay
Judge Gregory Orme
Bryan Pattison
Clark Sabey
Kate Toomey
Fred Voros
Joan Watt

EXCUSED

Matty Branch
Larry Jenkins
David Lewis
Karra Porter

STAFF

Brent Johnson

I. WELCOME AND APPROVAL OF MINUTES

Joan Watt welcomed the Committee members to the meeting. Kate Toomey moved to approve the minutes from the last meeting. Clark Sabey seconded the motion. The motion carried unanimously.

II. STATE V. MANNING SUBCOMMITTEE

Joan Watt distributed a proposed addition to Rule 4. The addition would become Rule 4(f). Ms. Watt stated that the main issue of discussion centered on whether fault of the defendant should be mentioned in the rule. Ms. Watt expressed the concern that trial court judges would deny extensions based on de minimis fault, when Manning seems to require more. Fred Voros argued in favor of including language about fault, because that is the language used by the supreme court in Manning. Mr. Voros stated that omitting the language alters the standard established by the court. Judge Orme stated that the rule language should be as limited as possible and the committee note should address the issue of fault. After brief discussion, Judge Orme suggested that the rule language should focus strictly on the procedure, and not the substantive standard. Fred Voros agreed to redraft the rule along those lines.

III. RULE 12(b)(2)

Scott Ellsworth had submitted a proposal on checking out records to prepare a brief. Mr. Ellsworth had stated that sometimes he needs to ask for several orders allowing release of the record in order to have the documents for the time necessary to prepare a brief. Kate Toomey stated that she has also had some problems with checking out records by mail. Bryan Pattison agreed that there are occasionally problems with time-limited orders from other districts. Kate Toomey stated that she will look at the rule and propose changes addressing time, checking-out by mailing, and allowing staff to checkout with an authorization letter from an attorney.

IV. RULE 24(g)

Fred Voros submitted a proposal to manage briefs in cross appeals. Mr. Voros noted that the current process is sometimes inequitable in its allotment of pages for reply briefs. Mr. Voros proposed clarifying the rule to state that each party may file two briefs, that no brief may exceed 50 pages, and that the total number of pages would not exceed 75 pages. Mr. Voros stated that this would allow a party to determine how the pages are used over the two briefs. After brief discussion, Kate Toomey moved to approve the proposal. Marian Decker seconded the motion. The motion carried unanimously.

V. OTHER BUSINESS/ADJOURN

Margaret Lindsay noted that she has a rule proposal for the next meeting, addressing a problem with the child welfare rules. The next meeting was scheduled for April 13, 2006 at 12:00 p.m. The Committee adjourned at 1:05 p.m.

Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, Utah Judicial Council

February 27, 2006

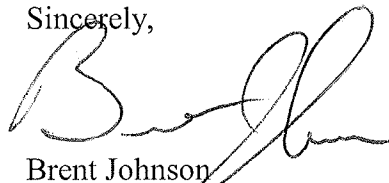
Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

**To: Supreme Court's Advisory Committee
on the Rules of Appellate Procedure**

Dear Committee Member:

This letter is to remind you of the next meeting of the Supreme Court's Advisory Committee on the Rules of Appellate Procedure, which will be Wednesday, March 15, 2006 at 12:00 p.m. at the Administrative Office of the Courts. Enclosed you will find the minutes from the January meeting and three rule proposals. If you have any other agenda items, please send them to me, or bring them to the meeting. If you have any questions or will be unable to attend the meeting, please let me know.

Sincerely,



Brent Johnson
General Counsel

enc.

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.