DRAFT MINUTES

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

May 18, 1999 - 3:30 p.m.

PRESENT
Annina Mitchell
Fred Voros
Julianne Blanch
Fred Metos
Matty Branch
Todd Utzinger
Joan Watt
Larry Jenkins
Karra Porter

EXCUSED
David Arrington
Clark Nielsen
Judge Judith Billings

STAFF
Brent Johnson

I. WELCOME AND APPROVAL OF MINUTES

Annina Mitchell welcomed the Committee members to the meeting. Matty Branch noted several typographical changes to the January 19, 1999 minutes. Fred Metos moved to approve the minutes as amended. Matty Branch seconded the motion. The motion carried unanimously.

II. REVIEW OF PUBLIC COMMENTS

Annina Mitchell noted that the Committee had received several comments on the rules that were recently published for public comment. Ms. Mitchell stated that the comments would be addressed in order of the rule number.

Antje Curry had sent in a comment on Rule 9 stating that the original and one copy would be insufficient. Two copies are necessary. Matty Branch stated that she had talked with Antje Curry and agreed that the rule should be amended to require the original and two copies.

Ms. Curry had also submitted a comment stating that the heading to Rule 14(b) was outdated, because it contained the word "docketing." The Committee agreed that the heading to Rule 14(b) should just read "filing fees." Fred Metos then moved to approve Rules 9 and 14 as proposed and amended. Todd Utzinger seconded the motion. The motion carried unanimously.

Annina Mitchell questioned whether an amendment was necessary to Rule 24, which amendment would incorporate the marshaling requirement. Ms. Mitchell also questioned whether there should be other requirements in the rule that reflect requirements of case law. Fred Metos stated that this is an important rule change. Joan Watt agreed stating that first-time lawyers appearing in a case will now hopefully know the marshaling requirement. Todd Utzinger stated that even if the amendment helps only a few cases, it will be worth it.

Judge Gregory Orme and Annina Mitchell had submitted suggested changes to replace the current rule change proposal. After brief discussion, the Committee agreed that Ms. Mitchell's proposal was the most appropriate. Fred Voros moved to approve Rule 24 as proposed and amended, including altering the Committee note to add a criminal case and to provide the correct bluebook citations. Todd Utzinger seconded the motion. The motion carried unanimously.

Antje Curry had also submitted a comment on proposed Rule 38A. Matty Branch stated that she had talked with Ms. Curry to clarify the rule change and Ms. Curry had withdrawn her comment.

Annina Mitchell stated that Judge Orme had also submitted a suggestion proposing different language on Rule 40, dealing with admission pro hac vice. Fred Metos suggested that if the problem is the time in locating evidence of admission pro hac vice, the proposed language will not solve the problem. Fred Voros suggested requiring a separate notice of admission pro hac vice. Annina Mitchell suggested adding the following language: "the attorney shall file in the appellate court a notice of appearance pro hac vice, to that effect." Matty Branch moved to approve Rule 40 as proposed and amended. Todd Utzinger seconded the motion. The motion carried unanimously. Annina Mitchell questioned whether Committee members had comments about any of the other proposed rule changes. No changes were suggested. Fred Metos moved to approve the remaining rules as proposed for public comment. Fred Voros seconded the motion. The motion carried unanimously.

III. OTHER BUSINESS AND ADJOURN

Annina Mitchell stated that she was resigning from the Committee as chair and as a member. Ms. Mitchell stated that if Committee members are interested in chairing the Committee, they should submit a letter to staff indicating that interest. There being no further business, the meeting adjourned at 4:25 p.m.