

Administrative Office of the Courts

Chief Justice Richard C. Howe
Chairman, 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

March 20, 2001 - 4:00 p.m.
Judicial Council Room

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| 1. | WELCOME AND APPROVAL OF MINUTES | Todd Utzinger |
| 2. | RULE 29, ORAL ARGUMENT | Fred Voros |
| 3. | RULE 9, DOCKETING STATEMENT | Fred Voros Larry Jenkins |
| 4. | RULE 22, COMPUTATION AND ENLARGEMENT OF TIME | Todd Utzinger |
| 5. | OTHER BUSINESS | |
| 6. | 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 20, 2001 - 4:00 p.m.

ATTENDEES

Todd Utzinger
Larry Jenkins
Judge Judith Billings
Fred Metos
Clark Nielsen
Fred Voros
George Haley
Joan Watt
Matty Branch

EXCUSED

David Arrington
Julianne Blanch
Karra Porter

STAFF

Brent Johnson

I. WELCOME AND APPROVAL OF MINUTES

Matty Branch moved to approve the minutes of the October meeting. Fred Voros seconded the motion. The motion carried unanimously.

II. RULE 29

Fred Voros reminded the Committee members that the Committee was now simply considering creating case classifications with the courts being able to create their own internal oral argument priorities. Clark Nielsen questioned what the court would use the classification for other than scheduling oral argument. Judge Judith Billings stated that the courts also use the classification for determining which cases go to mediation. Joan Watt suggested that the rule must clarify that these are simply classifications and not a priority for the courts.

Fred Voros stated that, because of the changes, the classification should now go in Rule 24 because it will be put in the brief. Mr. Voros also suggested changing the heading to "case classification." Mr. Voros also questioned whether interlocutory appeals should be a separate classification. Judge Billings stated that the category should be eliminated because the interlocutory appeal will have the same priority as its case type.

Clark Nielsen raised a concern with the proposal to delete specific reference to child custody and termination orders, replacing the language with “juvenile court orders.” Mr. Nielsen stated that orders affecting custody from the district court should also have priority.

After brief further discussion, George Haley moved to submit the proposal to appellate court staff for their input as to whether the classifications were appropriate, and whether additions or deletions are necessary. Fred Metos seconded the motion. The motion carried unanimously.

III. RULE 9 DOCKETING STATEMENT

Fred Voros reminded the Committee members that two different approaches had been proposed. The first approach is to create a short rule with a form that can be changed without having to change the rule. The second proposal is to redraft the rule and create a form that conforms with the redrafted rule. Larry Jenkins stated that he was in support of the first proposal because he found the form easier to use and a rule would not have to be constantly amended.

Fred Voros had proposed changes to the rule and the proposals were reviewed by Committee members. Joan Watt suggested eliminating the requirement that the original charges be put in the docketing statement, because sometimes her office does not know what the original charges were. Fred Metos suggested incorporating the language of the statute requiring the docketing statement to be served on the Attorney General’s Office in certain cases.

Fred Metos questioned whether a statement should be included directing litigants to the form promulgated by the court. Fred Voros stated that he would rather have the rule state that, if the form is used, the use would comply with the rule.

Matty Branch noted that she had received two comments requesting that the standard of review requirement be continued. Judge Jackson had noted that the standard of review requirement forces attorneys to focus on their case at an earlier stage. Karin Hobbs had noted that the standard of review is used during mediation. Matty Branch noted that pro se’s have a difficult problem with the standard of review requirement. Judge Billings suggested leaving the requirement in, but being lenient with pro se litigants.

Fred Voros questioned whether the prison mailbox certification should be one of the attachments to the docketing statement. The Committee agreed that it would be appropriate. Joan Watt stated that it is often difficult getting date-stamped judgments. Matty Branch stated that the court can check CORIS for the date of judgments and therefore a copy should suffice. Judge Billings suggested also requiring the notice of claim to be attached, because the notice of claim is jurisdictional.

The Committee agreed that it would discuss the form at the next meeting. Judge Billings then moved to approve the changes proposed by the Committee during the meeting. Joan Watt seconded the motion. The motion carried unanimously.

IV. OTHER BUSINESS AND ADJOURN

The Committee members agreed to meet at noon on April 17, 2001, for its next meeting. The Committee decided to try a lunch meeting to see if the meeting would be better attended. There being no further business, the meeting adjourned at 5:45 p.m.