

Administrative Office of the Courts

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

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

AGENDA

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, 2005 - 12:00 p.m.

- | | | |
|----|--|----------------------|
| 1. | WELCOME AND APPROVAL OF MINUTES | Todd Utzinger |
| 2. | PERMISSION TO FILE OVER-LENGTH BRIEFS | Marian Decker |
| 3. | WORD-COUNT PROPOSAL | Larry Jenkins |
| 4. | OTHER BUSINESS | |
| 5. | 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

May 18, 2005 - 12:00 p.m.

2 copies

ATTENDEES

Matty Branch
Marian Decker
Larry Jenkins
Margaret Lindsay
Bryan Pattison
Kate Toomey
Todd Utzinger
Fred Voros
Joan Watt

EXCUSED

David Lewis
Clark Nielsen
Judge Gregory Orme
Karra Porter
Clark Sabey

STAFF

Brent Johnson

I. WELCOME AND APPROVAL OF MINUTES

Todd Utzinger welcomed the Committee members to the meeting. Fred Voros moved to approve the minutes from the last meeting. Kate Toomey seconded the motion. The motion carried.

II. PERMISSION TO FILE OVER LENGTH-BRIEFS

Marian Decker had distributed a proposal to incorporate the appellate courts' suggestions on permission to file an over-length brief. The proposal included language stating that the final brief should be submitted if the motion is filed within seven days of the due date. The proposal also included language allowing the opposing party to receive the same number of pages granted to the movant. The Committee members felt that the language accurately reflected the courts' proposal. The Committee members delayed a vote on the proposal until it could resolve the word-count issue.

III. WORD-COUNT PROPOSAL

Larry Jenkins reminded the Committee members that they were to test their word-processing software for word-counts. Joan Watt stated that her office conducted a test and found that 50

pages ran between 13,500 and 15,200 for the briefs that they had filed. Kate Toomey stated that she had run tests and found significant difference between the different fonts.

Fred Voros asked why the rule should differentiate monospace type. Mr. Voros stated that, if there is a word-count limit, monospace should not matter. Joan Watt suggested that it might be for hand-written briefs so that the person can then count lines instead of words. Ms. Watt suggested, however, that hand-written briefs should be able to take advantage of the word-limit also. Mr. Voros suggested making it clear that a hand-written brief can use the word limit. After brief discussion, Kate Toomey moved to approve the word-count proposal. Joan Watt seconded the motion. The motion carried unanimously. The motion included language incorporating Marian Decker's proposal on permission to file over-length briefs.

IV. OTHER BUSINESS

Fred Voros suggested that the Committee consider a rule to address the precedential value of an opinion when certiorari is pending. Larry Jenkins stated that Texas has rule which says that a certiorari petition nullifies the appellate decision that is being reviewed. Joan Watt suggested that the best way to handle this issue is through litigation. Mr. Voros stated that the problem is that the issue is never resolved because a cert case is resolved before the other cases work their way through the appellate system. The Committee members agreed that Fred Voros should draft a proposal and present it at the next meeting.

V. ADJOURN

The Committee scheduled its next meeting for August 17, 2005. The Committee adjourned at 1:10 p.m.

MINUTES

APPROVED MINUTES

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