

MINUTES

APPROVED 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

January 18, 2006 - 12:00 p.m.

ATTENDEES

Matty Branch
Paul Burke
Marian Decker
Larry Jenkins
Judge Greg Orme
Karra Porter
Clark Sabey
Kate Toomey
Joan Watt

EXCUSED

David Lewis
Margaret Lindsay
Bryan Pattison
Fred Voros

STAFF

Brent Johnson

I. WELCOME AND APPROVAL OF MINUTES

Joan Watt welcomed the Committee members to the meeting. Judge Orme moved to approve the minutes of the October meeting. Matty Branch seconded the motion. The motion carried unanimously.

II. RULE 24

Staff explained that there had not been a consensus or majority on the action slip concerning Rule 24. Therefore, the issue was up for discussion at the Committee meeting. Matty Branch explained that the judges do not have an opinion about a word-count limit. Ms. Branch stated that the appellate courts will be moving to e-filing and a word-count limit would make sense in conjunction with that change. However, e-filing is probably at least a year away.

Marian Decker stated that Fred Voros could not attend the meeting, but he wanted to make certain that his defense of a word-count limit was stated at the meeting. Larry Jenkins also stated that a word-count limit should be implemented at this time. After brief discussion, the majority of the Committee members voted to delay implementation of a word-count limit until the appellate courts implement e-filing.

The Committee then discussed the proposal on motions for over-length briefs. Judge Orme, Ms. Branch and Mr. Sabey explained the current practices followed by the appellate courts. Paul Burke expressed some concern with the last sentence in the proposal which grants the responding party the same number of additional pages as the moving party. Mr. Burke stated that this may create some problems in multiple party cases. Mr. Sabey stated that it should not be a problem as most multiple party cases have a tendency toward shorter briefs.

Karra Porter expressed a concern about having to include a copy of the brief with the motion. Ms. Porter stated that this cannot always be done and she expressed a concern about public disclosure of a draft brief at that time. Ms. Branch stated that this proposal is judge-driven. Clark Sabey and Judge Orme stated that it is very helpful for the court to have a copy of the brief, because the vast majority of motions do not contain helpful information. Joan Watt asked whether attaching the brief should be discretionary.

Judge Orme suggested that the rule be modified to include language that a draft brief be submitted for in camera review by the court. Judge Orme also suggested language requiring the court to destroy the draft brief. The Committee members agreed with this suggestion. After these amendments, Matty Branch moved to approve the language on over-length briefs. Judge Orme seconded the motion. The motion carried unanimously.

III. OTHER BUSINESS

Paul Burke stated that Scott Ellsworth had submitted a proposed rule change to address a problem with having a record released. Mr. Burke will distribute the proposal for discussion at the next meeting. The next meeting was scheduled for March 15, 2006. The Committee adjourned at 1:10 p.m.