



Minutes

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

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

In Person and by WebEx Videoconference
Thursday, June 6, 2024
12:00 pm to 1:30 pm

PRESENT

Emily Adams
Christopher Ballard—Chair
Troy Booher—
Emeritus Member
Judge Michele
Christiansen Forster
Lisa Collins
Carol Funk
Amber Griffith—Staff
Michael Judd—Recording
Secretary

Judge Gregory
Orme
Tera Peterson
Stanford Purser
Clark Sabey
Nathalie Skibine—
Vice Chair
Scarlet Smith
Nick Stiles—Staff
Mary Westby

EXCUSED

Debra Nelson
Michelle Quist

GUESTS

Heath Haacke
Debra Kurzban
Alexa Mareschal
Adam Trupp

1. Action:

Approval of May 2024 Minutes

The committee reviewed the May 2024 minutes and identified a needed correction to the attendee list.

With that correction made, Mary Westby moved to approve the May 2024 minutes as they appeared in the committee's materials. Judge Michele Christiansen Forster seconded that motion, and it passed without objection by unanimous consent.

Chris Ballard

2. **Action:** **Chris Ballard**
Rule 21 **Nathalie Skibine**

The committee discussed a concern raised by Nicole Gray about a potential contradiction within Rule 21 regarding proof-of-service requirements. The committee considered a pair of potential approaches to resolving that issue. The committee also changed a reference to “contact information” to refer instead to “user accounts.”

Following that discussion, Emily Adams moved to approve the proposed changes to Rule 21, as modified and as they appeared on the screen at the committee’s meeting. Ms. Westby seconded that motion, and it passed without objection by unanimous consent.

3. **Action:** **Chris Ballard**
Rule 23C and Rule 19 **Nathalie Skibine**

The committee received feedback from the Utah Supreme Court designed to help clarify language contained in Rules 23C and 19. The committee reviewed and agreed on changes intended to incorporate that feedback.

Following that discussion, Judge Gregory Orme moved to approve the proposed changes to Rules 23C and Rule 19, as modified and as they appeared on the screen at the committee’s meeting. Clark Sabey seconded that motion, and it passed without objection by unanimous consent.

4. **Action:** **Stan Purser**
Rule 8

The committee returned to its discussion of the standard an appellate court should apply in granting a stay. Mr. Purser explained the basis for the proposed changes and alerted the committee to the fact that the two parallel federal rules (governing injunctive relief and stays) track one another and that existing Utah caselaw—including *Jensen v. Schwendimann*, 744 P.2d 1026 (Utah Ct. App. 1987)—may already call for the showings required by the proposed amended rule.

Mr. Sabey and Ms. Westby raised concerns about the burden on appellants and on the court in evaluating likelihood-of-success-on-the-merits arguments at an early appellate stage.

Following that discussion, Ms. Adams moved that the committee refer the proposed changes to Rule 8 to a subcommittee comprising Troy Booher, Clark Sabey, and Stan Purser. That motion was seconded, and it passed without objection by unanimous consent.

- 5. **Action:** **Mary Westby, Emily Adams, Martha Pierce, John Peterson, Alexa Mareschal**
- Rules Governing Child-Welfare Appeals**

The subcommittee reported broad agreement on a number of formerly contested issues, reserving for discussion only a matter related to options regarding supplemental briefing. The committee discussed what would become of Rule 58, reaffirming that the committee’s intent was to repeal that rule as unnecessary after the proposed changes are made.

Following that discussion, Judge Orme moved to approve the proposed changes to the rules governing child-welfare appeals, as modified, as included in Tab 7 of the committee’s monthly materials, and as they appeared on the screen at the committee’s meeting. Ms. Adams seconded that motion, and it passed without objection by unanimous consent.

- 6. **Action:** **Clark Sabey, Judge Christiansen Forster, Michelle Quist, Carol Funk**
- Rule 42**

Given the lack of adequate time to discuss Rule 42, the committee tabled that discussion until its next meeting.

- 7. **Action:** **Clark Sabey**
- Rule 29**

The proposed changes to Rule 29 are intended to address a potential practice of parties designating too much time for rebuttal at oral argument in an attempt to circumvent expectations about the content and order of arguments.

Following that discussion, the committee received a motion to approve the changes to Rule 29, as modified and as they appeared on the screen at the committee's meeting. That motion was seconded, and it passed without objection by unanimous consent.

8. Discussion: Chris Ballard
Old/New Business

None.

9. Adjourn Chris Ballard

Following the business and discussions described above, there was a motion to adjourn the meeting, and the meeting was adjourned. The committee's next meeting will take place on September 5, 2024.