



## 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, September 5, 2024  
12:00 pm to 1:30 pm

#### PRESENT

Dick Baldwin  
Judge Michele  
Christiansen Forster  
Nicole Gray  
Amber Griffith—Staff  
Michael Judd—Recording  
Secretary  
Debra Nelson  
Caroline Olsen  
Judge Gregory Orme

Tera Peterson  
Martha Pierce  
Stan Purser  
Michelle Quist  
Clark Sabey  
Nathalie Skibine—  
Chair  
Scarlet Smith  
Nick Stiles—Staff  
Mary Westby

#### EXCUSED

None

#### GUESTS

None

**1. Action:**

**Nathalie Skibine**

#### Approval of June 2024 Minutes

The committee reviewed the June 2024 minutes and identified one needed correction to the description of the motion to adjourn.

*With that correction made, Mary Westby moved to approve the June 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.*

**2. Action: Nathalie Skibine**  
**Rules 19, 21, 23C, and 29**

The committee noted first that, of the rules at issue, there were no additional changes proposed to the rules aside from Rule 21.

*Following that discussion, Michelle Quist moved to approve all rules aside from Rule 21. Judge Michele Christiansen Forster seconded that motion, and it passed without objection by unanimous consent.*

The committee then discussed a simple change to Rule 21 to remove reference to an August 1 implementation date.

*Following that discussion, Ms. Westby moved to approve Rule 21 as modified and as it appeared on the screen at the committee's meeting. Judge Michele Christiansen Forster seconded that motion, and it passed without objection by unanimous consent.*

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

The committee discussed the Rule 8-targeted project now assigned to subcommittee, noting that the Utah Supreme Court has encouraged the committee to determine whether any changes to Rule 8 are needed in light of changes to analogous rule of civil procedure. After initial discussion of the scope of the proposed amendments, Ms. Westby agreed to join the subcommittee, which also includes Clark Sabey and Stan Purser.

Following that agreement, the committee resolved to return to discussion of Rule 8 at its next meeting, at which it anticipates receiving a recommendation from the subcommittee.

**4. Action: Clark Sabey, Michelle Quist, Judge Christiansen Forster**  
**Rule 42**

The committee reviewed proposed changes to Rule 42 made by Justice Pohlman, which are largely stylistic rather. The committee discussed a particular word-choice issue: changing the term "recall" to "retain." The committee noted that the rule is an attempt to formalize a procedure that's been in place

for a long time, and the committee discussed the language of the rule and the ways in which the draft rule maps onto the existing process.

*Following that discussion, Judge Orme moved to table the proposed rule to allow for further development of the contemplated amendments. Mr. Sabey seconded that motion, and it passed without objection by unanimous consent. Nicole Gray will join the Rule sub-committee going forward.*

**5. Action: Nick Stiles**  
**Review Manner of Appearance Rules and**  
**Consider a Rule for the Appellate Courts**

Nick Stiles offered background on the potential rule change, noting that a similar rule has already been adopted in the civil, criminal, and juvenile rules and explaining that one upside of a potential rule change would be to maintain consistency. After discussion of how such a rule would function, the committee identified a potential amendment to Rule 29 and discussed the proper time limitation for such an appearance request.

*Following that discussion, Judge Orme moved to table. Judge Christiansen Forster seconded that motion, and it passed without objection by unanimous consent. The committee anticipates that Mr. Stiles will present a proposed rule for consideration at the committee's October meeting.*

**6. Action: Nick Stiles**  
**Appellate Disqualification**

Mr. Stiles again offered background regarding the history of the committee's consideration of a rule for appellate disqualification. The committee noted that separate rules would likely be needed for the two Utah appellate courts. Mr. Stiles reported on a discussion with the Tenth Circuit and relayed that the Tenth Circuit reports not receiving this type of request. After discussion, the committee used a roll-call vote to determine that the majority of members do not believe that a rule is necessary. Nathalie Skibine will convey that belief to the Supreme Court at the next Supreme Court conference.

**7. Discussion:  
Old/New Business**

**Nathalie Skibine**

None.

**8. Adjourn**

**Nathalie Skibine**

*Following the business and discussions described above, Ms. Quist moved to adjourn, and Ms. Nelson seconded. The committee adjourned. The committee's next meeting will take place on October 3, 2024.*