



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, March 6, 2025
12:00 pm to 1:30 pm

PRESENT

Dick Baldwin
Nicole Gray
Judge Michele
Christiansen Forster
Amber Griffith—Staff
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

Michael Judd—Recording
Secretary

GUESTS

John Peterson
Alexa Mareschal
Adam Trupp

1. Action: Approval of February 2025 Minutes

Nathalie Skibine

The committee reviewed the draft February 2025 minutes and did not note any needed changes.

Judge Orme moved to approve the February 2025 minutes as they appeared in the committee's materials. Martha Pierce seconded that motion, and it passed without objection by unanimous consent.

**Mary Westby, Debra
Nelson, Tera Peterson**

The Committee began by discussing whether conclusions of law should be included in the rule. Mary Westby expressed that it should be included as the juvenile court is the fact finder for child welfare cases. This would require the juvenile court to support such findings with analysis and then the appellate court would review their decision for correctness. Ms. Westby also noted that this is a new rule and although Rule 23B was used for guidance we need to create a rule that fits the posture.

Tera Peterson voiced that conclusions of law should be left in so that everything is in front of the appellate court. The court would then be able to review the conclusions of law *de novo* and give deference to the findings of fact.

The Committee moved on to the next difference and Ms. Mareschal explained that version 2 includes language in paragraph (a) that is consistent with the Right to Counsel Statute. Ms. Westby disagreed with the added language and stated that the rule is intended for proceedings and parties may have private counsel.

Ms. Skibine suggested that the Committee stay with version 1 that does not include the additional language.

The Committee then discussed the time difference between the two versions. Ms. Mareschal stated that version 2 would allow a good cause standard for the notice of intent to be filed after the petition. Then expressed that by not allowing this, it could cause the process to slow down because attorneys may file the notice on every case, so they do not miss their opportunity. John Peterson agreed that the notice of intents would slow the process down as the appellee would need to wait an additional 30 days for the 55A motion to be filed before they could respond.

Ms. Mareschal suggested that the motion should be filed at the same time as the opening brief, adding that many cases do not go to full briefing. Attorneys would still be able to state in their petitions that an ineffective assistance of counsel claim may exist and provide what proof they have but this would not slow down the process. Dick Baldwin questioned what the downfall would be in requiring the motion to be filed with the opening brief.

Due to time constraints the Committee tabled further discussion on the matter until April's meeting.

3. Action: Nathalie Skibine
Rule 42 and 43

Due to time constraints the committee tabled this item for the April 3, 2025 meeting.

4. Old/new business Nathalie Skibine

Ms. Skibine reported feedback from the Supreme Court regarding Rule 29. The Court stated that they are fine with the two courts having separate rules when it comes to remote hearings but questioned if the Court of Appeals should include a standard for appearing remotely.

5. Adjourn Nathalie Skibine

Following the business and discussions described above, Stan Purser moved to adjourn, and Judge Christiansen Forster seconded that motion. The committee adjourned. The committee's next meeting will take place on April 3, 2025.