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, October 1, 2026
12:00 pm to 1:30 pm

PRESENT

Rachel Phillips Ainscough
Dick Baldwin
Daniel Day
Judge Michele Christiansen Forster
Nicole Gray
Amber Griffith—Staff
Michael Judd—Recording Secretary
Debra Nelson
Caroline Olsen
Judge Gregory Orme
Martha Pierce
Stan Purser—Vice Chair
Clark Sabey
Nathalie Skibine—Chair
Nick Stiles—Staff
Mary Westby

EXCUSED

Michelle Quist

GUEST

Wendy Brown
Paige Nelson

1. Action: Nathalie Skibine, Chair

Approval of September 2026 Minutes

The committee reviewed the September 2026 minutes and proposed no changes.

Mary Westby moved to approve the minutes as displayed on screen. Debra Nelson seconded the motion, and it passed without objection by unanimous consent.

2. Action: Nathalie Skibine

Final Approval of Rules 1, 19, 27, and 48

The committee received a public comment suggesting that Rule 27 require the incarceration-status notation on the defendant's brief rather than the principal brief. Daniel Day explained that the State may not know the defendant's status. The committee agreed and revised Rule 27 accordingly.

Rachel Phillips Ainscough separately asked whether the rules governing Anders briefs should clarify respondents' filing obligations. She reported orders stating that respondents had not filed a response. Mary Westby observed that the language may be a typographical error because respondents typically file nothing in that circumstance. Ms. Ainscough will send Ms. Westby examples.

Judge Gregory Orme moved to approve Rules 1, 19, 27, and 48, as modified, and submit them to the Supreme Court for final approval. The motion carried.

3. Action: Nick Stiles

URE 107 / URAP 11

Nick Stiles reported that, after the Utah Rules of Evidence Committee submitted proposed Rule 107 to the Supreme Court, the Court asked that committee to coordinate with other advisory rules committees to determine whether related amendments were needed because of Rule 107's cross-references.

Nathalie Skibine asked whether Rule 11 is broad enough to include illustrative aids in the record on appeal. Clark Sabey noted that if an illustrative aid is filed in the district court, the appellate court may request it as part of the record. Ms. Ainscough added that her office has sometimes obtained the item from another party and then moved to supplement the record. Ms. Westby stated that Rule 11 is sufficiently broad if the submitted items are identified as exhibits.

4. Action: Caroline Olsen
Rule 8

Caroline Olsen presented proposed amendments adding separate page and word limits for Rule 8 motions, responses, and replies. The proposed limits mirror those allowed for summary-judgment motions: 9,000 words or 25 pages for a motion or response and 4,500 words or 12 pages for a reply. Ms. Westby questioned whether the limits were too high. Mr. Sabey noted that a party may need the additional space when a Rule 8 motion addresses the merits, and Ms. Olsen observed that the limits would reduce the need for overlength motions.

Ms. Westby moved to approve the proposed amendments to Rule 8 for submission to the Supreme Court with a recommendation that they be posted for public comment. The motion carried. The rule will be held until the committee approves Rule 23B.

Ms. Olsen then asked whether a subcommittee should review the overall structure of Rule 8. Committee members noted that changes to Rule 62 of the Utah Rules of Civil Procedure may have made Rule 8 more difficult to follow. The committee tabled that broader issue for further discussion.

5. Action: All
Rule 23

The committee reviewed proposed amendments adding a limit of 15 pages or 5,400 words for motions and memoranda in opposition and requiring a certificate of compliance when a filer uses the word-count limit.

Ms. Westby moved to approve the proposed amendments to Rule 23 for submission to the Supreme Court with a recommendation that they be posted for public comment. The motion carried. The rule will be held until the committee approves Rule 23B.

6. Action: Mary Westby
Rule 23B

Wendy Brown attended as a guest to address proposed amendments adding word limits to Rule 23B motions, responses, and replies. Ms. Brown expressed concern that a word limit could undermine the purpose of Rule 23B and require appellate counsel to abbreviate arguments. She suggested that, if the committee adopted a limit, it should be the same as the limit for an opening brief. Judge Orme noted that counsel may move for leave to file an overlength brief.

Ms. Westby observed that Rule 55A excludes attachments from its word count and recommended adding the same exclusion to Rule 23B. The committee also changed the phrase 'must not' exceed the word limit to 'may not,' consistent with the committee's style guide.

The committee tabled Rule 23B to allow Ms. Westby to add language excluding attachments from the word count.

7. Action: Nathalie Skibine
Rule 23D (Appellate Disqualification)

Nathalie Skibine asked whether committee members had any proposed edits to Rule 23D before it was resubmitted to the Supreme Court with a recommendation that it be posted for public comment. No additional edits were proposed.

8. Discussion: Nathalie Skibine, Chair
Old / New Business

None.

9. Adjourn Nathalie Skibine, Chair

Following the business and discussions described above, the committee adjourned. The committee's next meeting will take place on November 5, 2026.