

Administrative Office of the Courts

Chief Justice Richard C. Howe
Chairman, Utah Judicial Council

AGENDA

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

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

12:00 p.m. - Supreme Court Conference Room

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| 1. | WELCOME AND APPROVAL OF MINUTES | Todd Utzinger |
| 2. | RULE 9, DOCKETING STATEMENT FORM | Fred Voros |
| 3. | RULE 23B | Fred Voros |
| 4. | RULE 22, COMPUTATION AND ENLARGEMENT OF TIME | Todd Utzinger |
| 5. | RULE 29, CASE CLASSIFICATION | Fred Voros |
| 6. | OTHER BUSINESS | |
| 7. | ADJOURN | |

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

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

April 17, 2001- 12:00 p.m.

ATTENDEES

Clark Nielsen
David Arrington
Fred Metos
Fred Voros
Joan Watt
Judge Judith Billings
Karra Porter
Matty Branch
Todd Utzinger

EXCUSED

George Haley
Julie Blanch
Larry Jenkins

STAFF

Brent Johnson

I. WELCOME AND APPROVAL OF MINUTES

Todd Utzinger welcomed the Committee members to the meeting. Clark Nielsen moved to approve the minutes of the March meeting. Fred Voros seconded the motion. The motion carried unanimously.

II. RULE 23(b)

Fred Voros stated that he had a minor proposal to amend Rule 23(b) to make it like other rules requiring action in response to another parties action. The propose change would require a response to be filed within 20 days of service of the motion, rather than 20 days after the motion is filed. After brief discussion, Fred Voros moved to approve the proposed amendment. Matty Branch seconded the motion. The motion carried unanimously.

III. RULE 9

Fred Voros distributed a copy of Rule 9 as amended after comments from the most recent meeting. Mr. Voros noted several changes from the comments received. First, in paragraph (a) a reference is made to "juvenile court proceeding" rather than simply "juvenile delinquency proceeding" because

the A.G.'s Office represents the state on all appeals from juvenile court.

Mr. Voros stated that he also did not include the requirement of including a copy of the notice of claim, because he did not believe it was relevant at the appellate stage. Judge Billings stated that there may be some relevance because jurisdiction can be raised at any time and may affect the summary disposition of the case. After brief discussion, the Committee members agreed that the requirement should be put in at least to see what kind comments are received.

Karra Porter asked about the reasons for the change to paragraph (c)(7) and whether it was intentional to require a citation to determine if statutes, rules or cases for each issue. Ms. Porter stated that she liked the idea and the Committee members agreed with this proposal.

Ms. Porter questioned the requirement of a date-stamped notice of appeal, noting that it is difficult to obtain a date-stamped copy of anything in outlining areas. Clark Nielsen noted that this information can be obtained from court computers by appellate court staff. The Committee members agreed that the requirement should be eliminated, at least to see the comments that are received.

Fred Voros questioned whether Committee members agreed with the last sentence in paragraph (g) which stated that "an issue not listed in the docketing statement may never the less be raised in appellant's brief." Ms. Porter questioned whether this would invite sloppy docketing statements. Mr. Nielsen stated that the proposed language would cut down on the number of requests for extension of time. Fred Metos stated that the language helps protect attorneys who pick-up an appeal from someone else. After brief further discussion, Fred Voros moved to leave the language as proposed. Fred Metos seconded the motion. The motion carried with Karra Porter casting the only dissenting vote.

Joan Watt questioned what would happen if an attorney or litigant did not put the docketing statement requirements in the order mandated by the rule. Ms. Branch suggested that nothing would happen. After brief discussion about whether the rule should mandate an order, Joan Watt moved to eliminate the language requiring a specific order. Karra Porter seconded the motion. The motion carried with Judge Judith Billings, Joan Watt, Fred Metos, Karra Porter and Todd Utzinger voting in favor of the motion, and the other four members voting against.

Judge Judith Billings then moved to approve the rule as proposed and amended. Fred Metos seconded the motion. The motion carried unanimously.

IV. OTHER BUSINESS/ADJOURN

The next meeting was scheduled for Wednesday May 16, 2001 at noon. The site of the meeting will be announced later. The Committee will discuss the docketing statement form and have follow-up discussions on case classification. There being no further business, the meeting adjourned at 1:00 p.m.