

Administrative Office of the Courts

Chief Justice Christine M. Durham
Utah Supreme Court
Chair, 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

November 19, 2003
12:00 p.m.

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| 1. | WELCOME AND INTRODUCTION OF NEW MEMBERS | Todd Utzinger |
| 2. | APPROVAL OF MEETING MINUTES | Todd Utzinger |
| 3. | RULE 24, BASIS FOR ATTORNEY FEES | Matty Branch |
| 4. | APPEALS FROM CHILD WELFARE PROCEEDINGS | Matty Branch
Carol Verdoia |
| 5. | MISCELLANEOUS RULE PROPOSALS | Matty Branch |
| 6. | PROPOSED AMENDMENTS FROM
THE ATTORNEY GENERAL'S OFFICE | Todd Utzinger
Fred Voros |
| 7. | CHANGES TO RULE-MAKING PROCESS | Todd Utzinger |
| 8. | OTHER BUSINESS | |
| 9. | 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

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

November 19, 2003
5:15 p.m.

ATTENDEES

Todd Utzinger
Matty Branch
Karra Porter
Fred Voros
Judge Greg Orme
Larry Jenkins
Clark Sabey
Clark Nielsen
Margaret Lindsay
Kate Toomey
David Lewis
Bryan Pattison (by telephone)

EXCUSED

Marian Decker
Joan Watt

GUEST

Carol Verdoia

I. WELCOME AND APPROVAL OF MINUTES

Todd Utzinger welcomed the Committee members to the meeting and introduced the four new Committee members: Margaret Lindsay, Kate Toomey, David Lewis and Brian Pattison. Each new member told about his or her interest and experience in appellate practice.

Matty Branch moved to approve the minutes of the May 21, 2003 meeting. The motion carried unanimously.

II. APPEALS FROM CHILD WELFARE PROCEEDINGS

Matty Branch introduced Carol Verdoia, an assistant attorney general in the Child Welfare Division. The Child Welfare Division presented a proposal for processing appeals in child welfare cases. Ms. Verdoia briefly described child welfare proceedings and the need to expedite appeals from parental rights terminations in order to help stabilize the lives of children waiting in foster care. Ms. Verdoia stated that Iowa has instituted special procedures to govern child welfare appeals. These procedures reduce the average time for appeal from thirteen months to four months. Ms. Verdoia explained that the Court Improvement Project Committee had appointed a subcommittee to develop rules and forms for expedited appeals in child welfare cases. The proposal presented to the appellate rules committee

is the work of the subcommittee. Ms. Verdoia stated that the same rules and forms had been presented to the Board of Juvenile Court Judges and the Board had voted to approve the proposals. Ms. Verdoia stated that the only dissenting vote was from the Third District Juvenile Court, which does not like the responsibility placed on the juvenile court judge to advise the appellant of his or her right to appeal. Ms. Verdoia stated that the Court Improvement Project would appreciate review of the proposals by the appellate rules committee. Ms. Verdoia stated that she would be happy to meet with the Committee at a future meeting to discuss the issue further. Mr. Utzinger stated that the Committee will address the rules in future meetings.

III. RULE 24

Matty Branch had previously distributed a proposal to address attorney fees request in Rule 24. Clark Sabey moved to approve the language which was proposed as follows: “a party seeking to recover attorneys fees incurred on appeal shall state the request explicitly and set forth the legal basis for such an award.” Larry Jenkins seconded the motion. The motion carried unanimously.

IV. RULE-MAKING PROCESS CHANGE

Todd Utzinger distributed a memorandum from Tim Shea discussing a change in publishing rules for public comment, and then enacting those rules. The proposal is that rules will be published for public comment as soon as they are approved by each rules committee. This will eliminate the semi-annual packet publication. The question for the Committee was whether, after a rule has been published for public comment, the rule should become effective immediately or the rule should track the two current effective dates - November 1 and April 1 of each year. After brief discussion, the Committee agreed to endorse maintaining the two current effective dates.

V. RULE PROPOSALS FROM THE ATTORNEY GENERAL’S OFFICE

The Committee had received two letters from the Attorney General’s Office proposing changes to Rules 11 and 12. The first proposal suggested including a requirement that the court reporter prepare an index for each transcript. After discussion, the following language was proposed and adopted for inclusion in Rule 12: “ Upon completion of the transcript, if prepared by a certified court reporter, the reporter shall prepare an indexed with its contents”

The second proposal suggested amending Rule 11 to clarify the chronological order of the record. After discussion the following language was proposed and adopted for rule 11(b)(1)(C): all original papers in chronological order, beginning with the earliest - filed document on top and the last - filed document on the bottom;

The third proposal suggested including language to Rule 11 requiring inclusion of the pre-sentence investigation report as a part of the record on appeal in all criminal matters. The Committee approved the language proposed by the Attorney General’s Office.

VI. OTHER BUSINESS/ADJOURN

The Committee scheduled its next meeting for Wednesday January 21, 2004 at 12:00 noon. The meeting adjourned at 1:30 p.m.