

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

August 30, 2006 - 12:00 p.m.

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| 1. | WELCOME AND APPROVAL OF MINUTES | Joan Watt |
| 2. | RULE 28A | Matty Branch Judge Gregory Orme |
| 3. | RULES 59A and 55 | Matty Branch |
| 4. | RULE 23A | Matty Branch |
| 5. | RULE 30 | Fred Voros |
| 6. | RULE 12 | Kate Toomey |
| 7. | CHILD WELFARE RULES | Margaret Lindsay |
| 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

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 84114-0241

August 30, 2006 - 12:00 p.m.

ATTENDEES

Matty Branch
Paul Burke
Marian Decker
Larry Jenkins
Margaret Lindsay
Judge Gregory Orme
Bryan Pattison
Clark Sabey
Kate Toomey
Fred Voros
Joan Watt

EXCUSED

Karra Porter

GUEST

Michelle Mattson

STAFF

Brent Johnson

I. WELCOME AND APPROVAL OF MINUTES

Joan Watt welcomed the Committee members to the meeting. The minutes from the previous meeting were approved.

II. RULE 28A

Matty Branch explained proposed changes to Rule 28A, on appellate mediation. The proposed changes are designed to clarify the confidentiality of mediation communications. Paul Burke questioned the language about “any of the records from mediation.” Mr. Burke stated that this could include the agreement itself. Judge Orme suggested that an exception be put into the rule, specifically allowing the agreement to be admitted. Mr. Burke suggested that the language should be clarified to permit the alleged agreement to be filed under seal. Judge Orme suggested that the motion be submitted under seal also. Matty Branch then moved to approve the proposed changes, along with the suggestions made. Larry Jenkins seconded the motion. The motion carried unanimously.

III. RULE 59 & 55

Matty Branch distributed proposed changes from the Child Welfare Rules Committee. The committee proposed deleting the reference to Rule 27 in Rule 55, to clarify that a petition on appeal does not require a cover. The committee members agreed with this suggestion. The committee also proposed changes to Rule 59A, clarifying when counsel may withdraw after an appeal is filed. The committee discussed the difficulties with ineffective assistance of counsel claims and withdrawal motions. Kate Toomey voiced concerns about not allowing parties to change attorneys, but noted that the language tracks the statute. Joan Watt noted that the rule is not consistent with the Rules of Juvenile Procedure. Fred Voros suggested forming a subcommittee, together with the juvenile rules committee, to resolve any inconsistencies. Fred Voros made a motion to this effect. Paul Burke seconded the motion. The motion carried. The subcommittee will consist of Margaret Lindsay, Larry Jenkins and Paul Burke.

IV. RULE 23A

There was also discussion about whether Rule 23A should apply to child welfare appeals. Margaret Lindsay stated that there is also an issue about reinstating the time for appeal, similar to Manning. Judge Orme suggested that the subcommittee should review this issue also.

V. RULE 30

Fred Voros distributed a proposed rule change stating that certain unpublished decisions do not have to be attached to the brief. Kate Toomey moved to approve the proposed amendment. Larry Jenkins seconded the motion. The motion carried unanimously.

VI. RULE 12

Kate Toomey distributed a revised proposal on Rule 12(b), on checking out the record in civil cases. The committee members made some minor language changes and then Margaret Lindsay moved to approve the rule. Judge Gregory Orme seconded the motion. The motion carried unanimously.

VII. OTHER BUSINESS

The committee scheduled its next meeting for Wednesday, October 25, 2006 at 12:00 p.m. There being no further business, the committee adjourned at 1:30 p.m.