



## 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

Via WebEx Videoconference  
Thursday, November 5, 2020  
12:00 pm to 1:30 pm

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#### PRESENT

Christopher Ballard  
Troy Booher—  
Emeritus Member  
Paul C. Burke—Chair  
Lisa Collins  
Michael Judd—  
Recording Secretary  
Larissa Lee—Staff  
Margaret Lindsay—  
Guest

Kirstin Norman—Guest  
Judge Gregory Orme  
Judge Jill Pohlman  
Sarah Roberts—Staff  
Clark Sabey  
Nathalie Skibine  
Scarlet Smith  
Adam Trupp—Guest  
Mary Westby  
Chris Williams

#### EXCUSED

Patrick Burt  
Tyler Green  
R. Shawn Gunnarson  
Alan Mouritsen  
Rodney Parker

#### 1. Welcome and Approval of October 2020 Minutes Paul C. Burke

Paul C. Burke welcomed the committee, and the committee discussed their review of the October 2020 minutes. No comments or objections were noted.

*Mary Westby moved to approve the minutes from the October 2020 meeting. Judge Gregory Orme seconded the motion and it passed by unanimous consent.*

2. **Discussion:**  
**Legislative Update (Rule 4)**

**Paul C. Burke**  
**Judge Jill Pohlman**  
**Christopher Ballard**

The committee received feedback from a party regarding reinstatement of a right to appeal under Rule 4(g). That question focuses on whether a motion to reinstate an appeal should be entertained by the trial judge (as the rules now provide) or by some other decision-maker. After discussion, the committee determined that no policy change is needed, and the committee moved forward without further formal action.

3. **Action:**  
**Rule 11**

**Larissa Lee**

Judge Jill Pohlman noted that the Utah Court of Appeals is currently considering a case that relates to Rule 11, and suggested that it may make practical sense to delay further consideration of Rule 11 until after that case is resolved. After discussion, the committee determined that would be the most prudent approach.

*Mary Westby move to table further consideration of the proposed amendments to Rule 11 per the committee's discussion. Lisa Collins seconded the motion and it passed without objection by unanimous consent.*

4. **Action:**  
**Rule 25A**

**Paul C. Burke**  
**Larissa Lee**

The proposed Rule 25A amendments are intended to comport with changes already made to other rules. Christopher Ballard noted that the deadline change from 30 to 28 days may be consistent with an ongoing trend, but that with other deadlines currently fixed at 30 days, it may make sense to deal with all 30-day (or 40-day) deadlines at once, should a change be noted.

*With that discussion in mind, Mr. Ballard moved to amend the proposed changes to remove the change from a 30-day period to a 28-day period. Lisa Collins seconded that motion and it passed without objection by unanimous consent.*

*Mr. Ballard then moved to approve the amendments to Rule 25A as they appeared on screen at the committee meeting, subject to the amendment noted above. Scarlet*

*Smith seconded the motion and it passed without objection by unanimous consent.*

5. **Discussion:** **Larissa Lee**  
**Rules 52–59 (Child Welfare)** **Judge Gregory Orme**

Guests Margaret Lindsay, Kirstin Norman, and Adam Trupp explained that the goal of the proposed amendments is intended to resolve existing issues within Rule 52–59, and Rule 55 in particular. Under the existing child-welfare rules, the requirement for roster-qualified counsel attach only if the matter goes to briefing, which makes those proceedings different from other indigent-defense proceedings.

Judge Orme noted work done by prior groups (including a commission led by former Court of Appeals Judge Greenwood) and expressed concern about the committee wiping away decisions made by those prior groups without fully revisiting and retooling the rules and the mechanisms they put into place. With that thought in mind, Judge Orme recommended the formation of an *ad hoc* subcommittee, which could include the committee’s guests as well as other stakeholders.

Based on that recommendation and after further discussion, the committee agreed to form an *ad hoc* subcommittee that would include Ms. Lindsay, Ms. Norman, and Mr. Trupp, as well as Mary Westby, Christopher Ballard, and Lisa Collins. That subcommittee will propose amendments to Rules 52–59 for the committee’s consideration.

6. **Action:** **Christopher Ballard**  
**Rule 15**

The committee’s previous discussion of Rule 15 had centered on the removal of pincites to relevant statutory provisions. Mr. Ballard reported that he had discussed the matter with the Division Director of the tax division and with the head of civil appeals, and both expressed that they had no concerns with deleting the pincite references at issue.

*Following that discussion, Mr. Ballard moved to approve the amendments to Rule 15 as those amendments appeared on the screen at the committee meeting. Judge Pohlman seconded the motion and it passed without objection by unanimous*

*consent.*

7. **Discussion:**  
**Old/New Business**

**Paul C. Burke**

None.

8. **Adjourn**

*A motion to adjourn was made and seconded and there were no objections. The committee is scheduled to meet again on December 3, 2020.*