



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, December 3, 2020
12:00 pm to 1:30 pm

PRESENT

Christopher Ballard
Troy Booher—
Emeritus Member
Paul C. Burke—Chair
Tyler Green
R. Shawn Gunnarson
Michael Judd—
Recording Secretary

Alan Mouritsen
Judge Jill Pohlman
Sarah Roberts—Staff
Clark Sabey
Nathalie Skibine
Mary Westby

EXCUSED

Patrick Burt
Lisa Collins
Larissa Lee—Staff
Judge Gregory Orme
Rodney Parker
Scarlet Smith

1. Welcome, Approval of November 2020 Minutes Paul C. Burke

Paul C. Burke welcomed the committee. The committee discussed the review of the November 2020 minutes. No comments or objections were noted.

Mary Westby moved to approve the minutes from the November 2020 meeting. Judge Jill Pohlman seconded the motion and it passed by unanimous consent.

2. Review: Sarah Roberts
Supreme Court Style Guide

The Supreme Court Style Guide is intended as a reference for the committee's work. The committee reviewed the Style Guide and made note of its usefulness. No suggestions for improvement or adjustment were noted.

3. Action: Paul C. Burke
Rule 15

The Supreme Court has asked the committee to clarify language in Rule 15(b) regarding a party's choice as to where to initiate a direct appeal. The committee discussed the interplay between the Rule's subparagraphs. Tyler Green and Christopher Ballard suggested further consultation with experienced tax practitioners (including from the AG's office) to ensure the committee's amendments to Rule 15 would be consistent with established practices and would avoid creating unnecessary pitfalls. Based on that discussion, the committee determined that the best approach would be to table the discussion to allow for further consultation and refinement.

Mr. Ballard moved to table discussion of Rule 15 to allow for further consultation and refinement of the proposed amendments. Judge Pohlman seconded the motion and it passed without objection by unanimous consent.

4. Action: Tyler Green
Rules 19 & 20 Sarah Roberts

Rules 19 and 20 were presented to the juvenile procedure committee to inquire as to whether "district court" should be changed to "trial court," and that committee recommended that the change be made to Rule 19 but not to Rule 20, as further research is needed as to whether habeas proceedings are available for juvenile petitioners. The committee noted that further follow-up is needed regarding service issues related in Rule 20, and Mr. Ballard volunteered to take responsibility for that follow-up.

Troy Booher and Clark Sabey led the committee in a discussion of Rule 19(b), which included discussion of how to ensure that rule relates properly to now-Rule 23C.

Judge Pohlman moved to table discussion of Rules 19 and 20 to allow for further consultation and refinement of the proposed amendments. Shawn Gunnarson seconded the motion and it passed without objection by unanimous consent.

**5. Discussion: Judicial Efficiency
Rule 31 Subcommittee**

The committee briefly discussed the intent of the potential amendments to Rule 31 and suggested that the committee’s goals may be better met through an amendment to Rule 30.

Judge Pohlman moved to table discussion of Rule 31 to allow for further evaluation of the questions posed by Rule 30. Mary Westby seconded the motion and it passed without objection by unanimous consent.

**6. Action: Sarah Roberts
Rules 43, 50, 56 (Incorporating Standing Order 11)**

The intent of the proposed amendments to Rules 43, 50, and 56 is to ensure consistency with Standing Order 11 and to conform with the Supreme Court Style Guide. The committee also discussed the possible creation of a project intended to address word-court requirements similar to the requirements appearing elsewhere in the rules.

Ms. Westby moved to change the reference to “28 days” in Rule 50 to “30 days.” Clark Sabey seconded that motion, and it passed without objection by unanimous consent.

Judge Pohlman then moved to change the reference to “subject index” to “table of contents,” as well as to strike the clause “must be as short as possible” from line 21 and to otherwise clean up that sentence. Mr. Gunnarson seconded that motion in both respects, and it passed without objection by unanimous consent.

Mr. Gunnarson moved to amend the first sentence of paragraph (e) to track similar language in paragraph (c). Mr. Sabey seconded that motion and it passed without

objection by unanimous consent.

Ms. Westby moved to change the reference to “10 days” in line 10 of Rule 43(b) to “14 days.” Mr. Sabey seconded that motion and it passed without objection by unanimous consent.

With respect to Rule 56, Ms. Westby moved to table further discussion, for reasons related to formatting issues and relationship with Rule 27. Mr. Ballard seconded that motion and it passed without objection by unanimous consent.

Finally, Ms. Westby moved to approve the amendments to Rules 43 and 50 as they appeared on screen at the committee meeting. Judge Pohlman seconded the motion and it passed without objection by unanimous consent.

7. Discussion:

Paul C. Burke

Old/New Business

Mr. Ballard made two notes about potential future business for the committee. First, Mr. Ballard noted that the rule regarding interlocutory appeals (Rule 5(c)(3)) requires the attachment of the relevant trial-court order and any findings/conclusions, while also allowing reference to other documents. Mr. Ballard observed that the committee may consider a potential revision to that rule, in light of other recent amendments to similar rules.

Second, Mr. Ballard noted an increase in filings to supplement the record, given an uptick in transcriptions from remote hearings that may contain significant gaps or periods of unintelligible testimony. Mr. Ballard suggested the committee may consider whether any rules could be revised to address such problems.

8. Adjourn

Burke declares an adjournment. The committee is scheduled to meet again on January 7, 2021.