



## 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, May 6, 2021  
12:00 pm to 1:30 pm

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#### PRESENT

Christopher Ballard  
Troy Booher—  
Emeritus Member  
Paul C. Burke—Chair  
Patrick Burt  
Lisa Collins  
Tyler Green  
R. Shawn Gunnarson  
Michael Judd—  
Recording Secretary  
Margaret Lindsay—Guest  
Alan Mouritsen  
Debra Nelson—Guest

#### EXCUSED

Julie J. Nelson—Guest  
Judge Gregory Orme  
Rodney Parker  
Judge Jill Pohlman  
Sarah Roberts—Staff  
Adam Trupp—Guest  
Clark Sabey  
Nathalie Skibine  
Scarlet Smith  
Nick Stiles—Staff  
Christopher Williams  
Mary Westby

**1. Welcome, Approval of April 2021 Minutes**

**Paul C. Burke**

Paul Burke welcomed the committee and thanked its members for their attendance. The committee reviewed the April 2021 minutes, and it noted and corrected a stray period in Section 4 of those minutes.

*Christopher Ballard moved to approve the minutes from the April 2021 meeting, with that correction. Judge Jill Pohlman seconded that motion and it passed without objection by unanimous consent.*

**2. Action:  
Rules 54–58**

**Adam Trupp  
Margaret Lindsay**

Adam Trupp and Margaret Lindsay introduced the proposed changes to Rules 54 to 58. The proposed changes address several complicating aspects of the rules governing child-welfare appeals. Those appeals are quick-moving, yet the rights at issue on those appeals are incredibly important.

In turning to the proposed changes, Mary Westby proposed deleting language that placed trial counsel “on the hook” for appeals, given that the proposed amendments ensure access to a record that will act as a stand-in for trial counsel’s personal knowledge.

*Ms. Westby moved to amend accordingly, and Lisa Collins seconded that motion.*

Before that amendment proceeded to a vote, the committee discussed further coordination with Carol Verdoia at the Attorney General’s office, to ensure that the proposed changes do not conflict with existing law. Ms. Westby also made recommendations intended to simplify the record provisions, including by strike changes to Rule 54 regarding record-assembling procedures and making several other small, related changes. Ms. Westby then proposed several similar record-related changes to the proposed Rule 57.

*Ms. Westby moved to amend the proposed changes to Rule 54 and 57 to reflect the committee’s discussions. Ms. Collins seconded that motion, and it passed without objection by unanimous consent.*

The committee then turned to a discussion of the word-count requirement contained in the proposed amendment. Ms. Westby proposed that the word count be set at 5,000 words, rather than the 7,000 initially proposed. Margaret Lindsay noted that the petition at issue is a document that should and must contain argument, and therefore more space may be warranted. After

discussion, the committee agreed that a limit of 5,000 words is most appropriate.

Mr. Ballard also suggested a change in the language regarding “roster” attorneys, which the committee found acceptable.

*Following that discussion, and in light of the committee’s preference to seek further input before formally adopting the proposed changes, Judge Orme moved to approve amendments in the form developed at today’s meeting, but with the requirement that those amendments be shared with stakeholders at the Attorney General’s office within ten business days. Once the committee has received word back from the Attorney General’s office, the committee would then take whatever further action it finds appropriate, including possibly returning to this conversation next month if needed. That motion was seconded, and it passed without objection by unanimous consent.*

**3. Action: Lisa Collins**  
**Draft Letter re: Long-Standing Appellate Cases Sarah Roberts**

Sarah Roberts reported that she and Ms. Collins had worked together to draft the letter regarding long-standing appellate cases. The committee reviewed and discussed that draft letter. The committee endorsed the substance of the letter and offered minor changes to the letter’s language.

*Following that discussion, Ms. Westby moved to adopt the revised version. Shawn Gunnarson seconded that motion, and it passed without objection by unanimous consent.*

**4. Action: Sarah Roberts**  
**Rule 11**

Ms. Roberts introduced the action item, reminding the committee that some amendments to Rule 11 had been approved at the April 2021 meeting, but that any final decision on the proposed changes had been delayed to allow the committee to consider the amendments as a whole.

*After brief discussion regarding the amendments, Ms. Westby moved to strike the final sentence of the first paragraph regarding the record (which appeared as ll. 9-11). Ms. Collins seconded that motion, and it passed without objection by unanimous consent.*

*Ms. Collins then moved to strike subsection (c) of the proposed amendment. Rod Parker seconded that motion, and it passed without objection by unanimous consent.*

The committee discussed a further rule change to provide additional flexibility about numbering the pages of the record.

*After that additional discussion, Judge Pohlman moved to again table the proposed changes to Rule 11, to allow for additional discussion at a future meeting. Judge Orme seconded that motion, and it passed without objection by unanimous consent.*

**5. Action: Sarah Roberts**  
**Rule 12**

Given time constraints, discussion of Rule 12 was postponed until a future meeting.

**6. Discussion: Paul C. Burke**  
**Old / New Business**

None.

**7. Adjourn**

*Rod Parker moved to adjourn, and that motion was seconded. The committee adjourned its May 2021 meeting and will meet again on June 3, 2021.*