



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, June 3, 2021
12:00 pm to 1:30 pm

PRESENT

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

Kirstin Norman—Guest
Rodney Parker
Judge Jill Pohlman
Sarah Roberts—Staff
Clark Sabey
Nathalie Skibine
Scarlet Smith
Adam Trupp—Guest
Carol Verdoia—Guest
Christopher Williams
Mary Westby

EXCUSED

Lisa Collins
Judge Gregory Orme
Nick Stiles—Staff

1. Welcome, Approval of May 2021 Minutes

Paul Burke

Paul Burke welcomed the committee and thanked its members for their attendance. The committee reviewed the May 2021 minutes. The committee noted that a reference to a stretch of rules from “Rule 59 to 62” should actually refer to a stretch of rules from Rule 54 to 58, and the committee agreed that that correction should be made.

Mary Westby moved to approve the minutes from the May 2021 meeting with that change. Judge Jill Pohlman seconded that motion and it passed without objection by unanimous consent.

**2. Action:
Rules 54–58 (Child Welfare Rules)**

**Adam Trupp
Carol Verdoia**

Adam Trupp and Carol Verdoia guided the committee in a return to the proposed changes to Rules 54 to 58, which govern child-welfare appeals. Among the proposed changes discussed was a change to Rule 55(b) at the end of line 15 to provide that appellate counsel must be appointed within 14 days of the filing of the notice of appeal, and if not, trial counsel would have to proceed with appeal. Ms. Verdoia explained that the goal is to avoid letting cases languish, given the important interests associated with expediting these appeals, both for children and for parents. Mr. Trupp suggested that there appears to be general agreement about expediting the process of appointing counsel, and proposed that any such appointment take place within 30 days. Ms. Verdoia pointed out that with a proposed change delaying the filing of petition until transmission of record, some delay may already have been introduced into the appellate timeline for child-welfare cases. Ms. Verdoia and Mr. Trupp both expressed openness to a proposal of 21 days, splitting the difference between the two proposals.

Mary Westby moved to adopt the package of proposed changes presented by Christopher Ballard, with 21 days as the time allowed to appoint appellate counsel. Mr. Ballard seconded that motion.

Before any vote on that motion, the committee discussed the possibility of inverting those deadlines, with counsel being appointed within 14 days of notice of appeal and petition being due within 21 days of transmission of the record. Ms. Westby expressed hesitation about increasing the time for filing a petition to 21 days. The committee also discussed the relative

benefits of “14 days” and “15 days” in line 3 of the working document.

After that discussion, the committee voted on Ms. Westby’s original motion regarding Mr. Ballard’s addition, and that motion passed without objection by unanimous consent.

3. **Action:** **Paul Burke**
Rules 15, 25, 43, 50 **Sarah Roberts**

The committee noted that public comment period on proposed changes to Rules 15, 25, 43, and 50 has passed. The only comment the committee received was a comment related to Rule 25. After discussion, the committee agreed that the issue raised in the comment is unlikely to prove problematic. The committee also discussed the rule regarding participation in oral argument and the timing of motions requesting such participation, recognizing that the court may not want to see motion practice on the eve of oral argument. The committee delved into timing and the appropriate method for such a request.

After discussion, Mr. Sabey moved to adopt amendment to Rule 25(h) as reflected on-screen at the committee’s meeting. Mr. Parker seconded that motion and it passed without objection by unanimous consent.

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

Given that little time remained in the committee’s meeting, Ms. Westby moved to table Rule 11. Mr. Gunnarson seconded that motion and it passed without objection by unanimous consent.

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

Similarly, Ms. Westby moved to table Rule 12. Mr. Gunnarson again seconded Ms. Westby’s motion and it passed without objection by unanimous consent.

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

Paul Burke

None.

7. Adjourn

The committee's next meeting will take place in September. Mr. Gunnarson moved to adjourn, and there were no objections.