



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, September 2, 2021
12:00 pm to 1:30 pm

PRESENT

Emily Adams
Christopher Ballard—Chair
Troy Booher—
Emeritus Member
Lisa Collins
Carol Funk
Tyler Green
Michael Judd—
Recording Secretary

Judge Gregory Orme
Judge Jill Pohlman
Sarah Roberts—Staff
Clark Sabey
Nathalie Skibine
Nick Stiles—Staff
Christopher Williams—Guest
Mary Westby

EXCUSED

Patrick Burt
Scarlet Smith

1. Welcome and Introduction of New Members

Chris Ballard

Chris Ballard greeted the committee and thanked its members for their attendance. Mr. Ballard welcomed the committee's two new members—Emily Adams and Carol Funk. At Mr. Ballard's invitation, the committee's members introduced themselves to one another and described their practices. Mr. Ballard expressed the committee's appreciation for the work done by the committee's now-former members.

2. Discussion: Nick Stiles
Emeritus Members

Nick Stiles noted that the issue related to emeritus membership has been resolved. The committee's practices regarding engagement of emeritus members remain the same.

3. Action: Chris Ballard
Approval of June 3, 2021 Minutes

The committee reviewed the June 2021 minutes. The committee did not make note of any needed changes.

Mary Westby moved to approve the June 2021 minutes as circulated. Judge Jill Pohlman seconded that motion, and it passed without objection by unanimous consent.

4. Action: Clark Sabey
Rule 25

Substantial changes to Rule 25 were sent to Utah Supreme Court for comment or potentially approval, and those proposed amendments were circulated for public comment. The Court has now asked the committee to consider standards for granting and denying motions for amicus curiae briefing. The current version of the rule does not state an explicit standard. Rather, it simply asks that a movant describe why their brief is desirable. The committee discussed the value of drawing standards or approaches from other jurisdictions.

Clark Sabey volunteered to take on 50-state survey, which he suggested he may be able to complete by next meeting. Michael Judd agreed to review the application of the parallel federal rule in federal court.

5. Action: Sarah Roberts
Rule 11

Rule 11 relates to the record on appeal. The committee discussed details regarding timing and deadlines, both generally and with respect to indigent parties. The committee also discussed adding clarifying detail to specify that the index is not part of the record on appeal—the index should therefore be

described as *accompanying* the record. The committee agreed to remove references in (a) and (b)(1), and to revise language in (b)(3), to reflect that relationship. The committee made additional line-edits to clarify the rule.

After that discussion, Ms. Westby moved to approve rule as shown on screen. Lisa Collins seconded Ms. Westby's motion, and it passed without objection by unanimous consent.

**6. Action:
Rule 12**

Sarah Roberts

The committee's discussion of Rule 12 included several minor changes, a question regarding the rule's reference to "20 days," and clean-up on line 56 regarding the transmission of exhibits.

Following that work on revisions, Judge Pohlman moved to approve rule as shown on screen. Ms. Westby seconded Judge Pohlman's motion and it passed without objection by unanimous consent.

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

Chris Ballard

The committee briefly discussed new areas for review and potential rulemaking, including a discussion of expedited procedures. As part of that discussion, the committee noted that such procedures may not be necessary because of the Utah Supreme Court's discretion to suspend provisions of the appellate rules as appropriate and needed. The committee agreed that these new areas for discussion may be added to agendas for future meetings.

8. Adjourn

Following its productive September meeting, the committee adjourned. The committee's next meeting will take place in October.