



## 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, March 3, 2022  
12:00 pm to 1:30 pm

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#### PRESENT

Christopher Ballard – Chair  
Troy Booher –  
Emeritus Member  
Patrick Burt  
Lisa Collins  
Carol Funk  
Amber Griffith – Staff  
Judge Jill Pohlman

Judge Gregory Orme  
Stanford Purser  
Michelle Quist  
Clark Sabey  
Nathalie Skibine  
Scarlet Smith  
Nick Stiles – Staff  
Mary Westby

#### EXCUSED

Emily Adams  
Tyler Green  
Michael Judd –  
Recording Secretary

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**1. Action:** **Chris Ballard**  
**Approval of February 2022 Minutes**

The Committee reviewed the February 2022 minutes and Judge Pohlman suggested minor corrections to item 4.

*With those corrections made, Mary Westby moved to approve the February 2022 minutes as amended. Judge Pohlman seconded that motion, and it passed without objection by unanimous consent.*

**2. Action:  
Rules 4, 5, 22, and 52**

**Mary Westby**

Mary Westby proposed making amendments to Rules 4, 5, 22, and 52 to add language which would clarify what will be deemed the entry date when an order was entered on the weekend or on a legal holiday. Mary modeled these proposed amendments after Rule 22.

Clark Sabey questioned whether the amendment was needed in Rule 22 if each jurisdictional rule was amended. The Committee discussed this and ultimately voted to leave the amendments in Rule 22 as well as the jurisdictional rules; 4, 5, and 52.

Chris Ballard commented that orders entered on Friday have an entry date of Friday, beginning the timeline. However, adding this language will give orders entered on Saturday additional time, as the entry date will not be recognized as Saturday, but the next business day. Clark Sabey countered that previously we were unable to enter orders on the weekends; hence the entry date would have always been the next available business day.

Troy Booher questioned if the rules also needed to be amended to include when filed motions timeframe begins. Mary Westby stated that the time for motions begins from the time of service, which would include service by email, not the entry date of the court as is the case with orders. Judge Pohlman commented that she would base her time frame on when she received, i.e. was "served" the motion from opposing counsel. Michelle Quist added that in District Court if something is electronically filed on the weekend the timeframe starts the day it was electronically filed. Michelle stated that it should be consistent between courts. When the courts move to electronic filing, then these rules may need to be amended again. Mary proposed that the issue should be deferred to the Civil Rules as this is a bigger issue with District Courts.

*Following these discussions, Lisa and Troy agreed to wait on proposing any additional amendments to filed motions, Scarlet Smith concurred.*

*Clark Sabey moved to approve the amendments to Rules 4, 5, 22, and 52 as proposed by Mary Westby. Mary Westby seconded the motion, and it passed without objection by unanimous consent.*

**3. Action:  
Rules that use “memorandum” or “affidavit”**

**Nick Stiles  
Lisa Collins  
Amber Griffith**

This action was brought before the committee due to a discussion during February’s meeting. During that meeting the committee approved to change “memorandum” to “discussion” in Rule 23 to avoid confusion regarding separate motions and memoranda.

The committee included the term “affidavit” as it is deemed an out dated term, and should be changed to declarations. Michelle brought Rule 6 to the committee attention, as the statute itself says affidavit. Chris Ballard then mentioned Rule 37 as both affidavit and declarations are mentioned. He noted that the rules are not consistent.

*Chris Ballard then suggested that a subcommittee be formed to go through each of these rules and decide which rules need to be amended. Lisa Collins moved to make a subcommittee of Lisa Collins, Nick Stiles, and Amber Griffith. Chris Ballard asked if Nathalie Skibine would also join the subcommittee, she agreed.*

*Lisa Collins moved to approve the creation of the subcommittee to go through any rules that mention “memorandum” or “affidavit”, Michelle Quist seconded, and the motion passed without objection by unanimous consent.*

**4. Action:  
Cross-petition Memo**

**Nick Stiles  
Clark Sabey**

Nick Stiles presented a memo to the committee to add amendments to either Rule 14 or 18, to include when parties may file a cross-petition in appeals which arose from an administrative action.

Nick Stiles proposed the amendments to Rule 18, and Clark Sabey proposed adding paragraph (d) to Rule 14 to address this issue. Judge Orme questioned if the suggested amendment would cause confusion in regards to Rule 4, after reviewing Rule 18 Judge Orme withdrew his concern.

Nick Stiles commented that he prefers the proposed amendment to Rule 14, Judge Orme and Lisa Collins agreed.

*After these discussions Stan Purser moved to accept proposed amendments to Rule 14, Judge Pohlman seconded, and the motion passed without objection by unanimous consent.*

5. **Action:** **Chris Ballard**  
**Old/New Business**

Chris Ballard let the committee know that Stan Purser will be presenting proposed amendments to Rules 11, 22, and 24, once Rule 11's public comment period has ended.

Stan Purser is also working on proposed amendments to Rule 19.

6. **Adjourn**

*After a productive meeting, Michelle Quist moved to adjourn. Judge Orme seconded that motion. There were no objections and the motion carried. The committee's next meeting will take place on April 7, 2022.*