



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

In Person and by WebEx Videoconference
Thursday, October 5, 2023
12:00 pm to 1:30 pm

PRESENT

Emily Adams
Christopher Ballard—Chair
Troy Booher—
Emeritus Member
Eric Weeks—Guest
Judge Michele
Christiansen Forster
Lisa Collins
Carol Funk
Amber Griffith—Staff
Tera Peterson

Michael Judd—Recording
Secretary
Alexandra Mareschal—
Guest
Debra Nelson
Stanford Purser
Clark Sabey
Nick Stiles—Staff
Nathalie Skibine—
Vice Chair
Scarlet Smith

EXCUSED

Judge Gregory Orme
Mary Westby
Michelle Quist

1. Action:

Chris Ballard

Approval of September 2023 Minutes

The committee reviewed the September 2023 minutes and noted no changes.

After that review, Nathalie Skibine moved to approve the September 2023 minutes. Lisa Collins seconded that motion, and it passed without objection by unanimous consent.

2. **Action:** **Nathalie Skibine**
Rule 52(c)

In a recent case styled *A.S. v. State*, the Utah Supreme Court encouraged the committee to “consider[] a new rule that would ‘reinstate the time for appeal in child welfare cases where the parent’s right to effective counsel is implicated.’” *See* 2023 UT 11, ¶ 43 n.15. The committee noted concerns about a hard deadline and spent time exploring whether that path to reinstatement should be subject to different rules, depending on the nature of the child-welfare proceeding, as well as how long a period to provide for parents under these circumstances.

Following that discussion, Judge Michele Christiansen Forster moved to table to allow for further discussion, including with Mary Westby and with others with specialized insight. Stan Purser seconded that motion, and it passed without objection by unanimous consent.

3. **Discussion:** **Lisa Collins**
Vexatious Litigants **Judge Christiansen**
Forster

The appellate courts have expressed interest in a rule related to vexatious litigants. The committee discussed the existing framework for dealing with such litigants, and it reviewed a memo summarizing approaches taken in other states. The committee understands that, of the options presented, the approach taken in the Michigan rules holds the most appeal.

Following the committee’s discussion, the committee resolved to address this issue again at next month’s meeting and anticipates that draft language should be available for consideration by that point.

4. **Action:** **Nathalie Skibine**
***State v. Chadwick*/Utah Rule of Evidence 506**

The committee continued its discussion, in light of issues arising in *State v. Chadwick*, of how sealed records are treated when part of the appellate record. The committee also discussed the practical use of an advisory note that would

help direct parties regarding treatment of sealed materials. That note may most sensibly appear alongside Appellate Rule 11.

Following the committee's discussion, Ms. Skibine volunteered to prepare a draft amendment to Rule 11, and the committee will address this issue again at next month's meeting.

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

Tara Peterson brought to the committee's attention a new practice related to extension requests and completed-by dates. Specifically, the existing Appellate Rule 22(b)(4)(D) provides that a motion for enlargement of time "shall state the date on which the event [at issue] will be completed." The committee may consider a potential clarification to that rule to conform the rule to longstanding practice, and Mr. Purser and Ms. Peterson will take the lead in drafting proposed language.

6. Adjourn

Following the business described above, Carol Funk moved to adjourn, and Debra Nelson seconded. The committee adjourned. The committee's next meeting will take place on November 2, 2023.