

**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

Judicial Council Room  
Thursday, February 4, 2016  
12:00 p.m. to 1:30 p.m.

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**PRESENT**

Rodney Parker- Acting Chair  
Troy Booher  
Paul Burke  
R. Shawn Gunnarson  
Alan Mouritsen  
Judge Gregory Orme  
Adam Pace – Recording Secretary  
Bridget Romano  
Clark Sabey  
Lori Seppi  
Tim Shea-Staff  
Judge Fred Voros  
Mary Westby

**EXCUSED**

Joan Watt- Chair  
Marian Decker  
Ann Marie Taliaferro

**1. Welcome and Approval of Minutes**

**Rodney Parker**

Mr. Parker served as acting chair in Ms. Watt’s absence. He welcomed the committee to the meeting and invited a motion to approve the minutes from the January meeting. Ms. Romano noted that the minutes should be corrected to show that she was not present at the January meeting.

*Mr. Burke moved to approve the January minutes with Ms. Romano’s correction. Mr. Sabey seconded the motion and it passed unanimously.*

## 2. Amendments to enable electronic filing

## Committee

Mr. Parker asked Mr. Shea to guide the committee's continued discussion of the proposed rule amendments to accommodate electronic filing.

Mr. Shea asked the committee to consider his previous proposal to have deadlines in the amended rules run from the date of service, rather than the date of filing, to accommodate self-represented parties who receive service by mail. Mr. Parker and Mr. Booher both expressed concern that this change would cause confusion over when the deadlines begin to run. The committee discussed the issue and agreed that the change should not be made.

Mr. Shea summarized the additional changes that he made to Rules 19 and 20 since the January meeting (relating to service of extraordinary writs and habeas petitions). Ms. Romano suggested changing the rule regarding personal service on judges to allow for service on someone else in their place. The committee members discussed this issue, and ultimately agreed to leave the rule unchanged for the time being.

The committee then resumed its discussion of the proposed changes to each rule, beginning where it left off in the January meeting with Rule 23. The committee approved the proposed changes to each rule, with comments and additional changes as noted below.

### Rule 23 and Rule 27 (discussed together).

Mr. Shea pointed out the significant changes to the formatting of documents required in Rule 23(f), and in Rule 27. Mr. Shea asked the committee to consider whether Rule 23(f) could be deleted, because the formatting requirements in Rule 27 will now apply generally to all filings. The committee discussed and agreed that Rule 23(f) should not be deleted because it addresses the caption for motions, which are different than the cover pages for briefs and certain other filings. The committee agreed that the format requirements for cover pages in Rule 27(a)(12) should be moved to Rule 27(b), to make it clear that they only apply to briefs and certain other filings, and not motions. Mr. Booher commented that Rule 27(b) should be clarified to include all types of filings that require cover pages.

The committee discussed the choice of Georgia 12 point font. Mr. Parker explained that the subcommittee chose that font based on research indicating that it was one of the most readable fonts both on a screen and in print. Mr. Shea explained the new header requirements, and said that new forms will be made available on the court's website to assist individuals in complying with the new formatting requirements.

The committee discussed the courtesy copy requirement. Judge Orme commented that this requirement may become obsolete in the future, but that for the time being there are still judges who prefer to read paper copies. Mr. Booher commented, and other members of the committee agreed, that if the court is going to be reviewing paper copies, practitioners would prefer to supply courtesy copies of those filings themselves.

### Rule 23C.

Mr. Shea asked whether there are substantive issues with the proposed change to Rule 23(C)(d), addressing the timing for filing a response to a motion for emergency relief. Judge Voros said he did not see an issue, and others agreed. The committee agreed to delete the reference to “electronic transmission” in Rule 23C(b)(6). The committee also discussed that 23C(g) was deleted because it was already provided for in Rule 23. Mr. Sabey suggested that a comment should be included explaining that this deletion is not meant as a substantive change.

### Rule 24.

Mr. Shea explained that the proposed changes to Rule 24 are related to e-filing only, and that a subcommittee is considering further substantive changes that will be proposed later. Mr. Parker commented that software is being developed which will enable parties to include the mandatory links to the record in their briefs.

### Rule 26

Mr. Shea pointed out that the deadlines for filing briefs were left the same, and were not changed to the uniform “days are days” approach used for deadlines elsewhere in the rules.

### Rule 29

Mr. Shea pointed out that the deadline in Rule 29(b)(2) was changed from 15 days to 14 days, in keeping with the “days are days” approach. This is one of the few instances where this change reduced the number of days for a deadline. The committee agreed with this change, and also agreed to change the 30 day deadline in Rule 29(b)(1) to 28 days.

### Rule 34

Mr. Parker commented that with the proposed change, parties will not be able to claim \$3 per page in costs for printing courtesy copies of their filings.

### Rule 36

Mr. Shea asked whether the extension of filing time until midnight in Rule 22(a)(4) would adversely affect remittiturs under Rule 36. The committee agreed this is not an issue.

### Rules 42 and 43

Mr. Shea commented that the deleted sections are no longer relevant due to electronic filing.

#### Rule 48

Mr. Shea commented that Rule 48(e)(1) should be amended to say “before” the expiration of time, instead of “not later than 30 days after.” The committee agreed with this change.

#### Rule 50

The committee discussed whether to change the language in the title of Rule 50 from “brief in opposition” to “response to petition.” Judge Voros suggested and others agreed that this issue should be added to a future agenda for discussion, and that the change should not be made to Rule 50 at this time.

#### Rule 51

The committee discussed and agreed to delete the unnecessary language “The order may be a summary disposition on the merits” in Rule 51(a).

#### Rule 53

The committee discussed and agreed to change Rule 53(c) to refer to the service methods that are now provided in Rule 21, instead of referring to Utah R. Civ. P. 5.

#### Rule 54

Mr. Shea noted the similarities between Rule 11 and Rule 54, and explained that there needs to be a separate rule to address child welfare appeals.

#### Rule 55

Mr. Booher asked whether petitions in child welfare proceedings required captions. The committee agreed they do not.

#### Rule 58 and 59

The committee agreed to change the titles of both these rules to include the language “in child welfare appeals,” to be consistent with Rules 53-57.

Mr. Shea explained that the proposed rules need to be published for comment as soon as possible, in order to make the July 1, 2016 effective date as planned. He said he would make the revisions and circulate the finalized proposed rules to the committee right away. He requested committee members to contact him directly if they have additional comments about the revisions. Mr. Parker invited a motion approving the proposed amendments and this course of action.

*Mr. Burke moved to approve the amendments to the rules as discussed. Mr. Gunnarson seconded the motion, and it passed unanimously*

### **3. Adjourn**

The meeting was adjourned at 1:40 p.m. The next meeting will be held on Thursday, March 3, 2016.