

1 **Rule 24. Briefs.**

2 (a) Brief of the appellant. The brief of the appellant shall contain under appropriate headings and
3 in the order indicated:

4 (a)(1) A complete list of all parties to the proceeding in the court or agency whose judgment or
5 order is sought to be reviewed, except where the caption of the case on appeal contains the names
6 of all such parties. The list should be set out on a separate page which appears immediately inside
7 the cover.

8 (a)(2) A table of contents, including the contents of the addendum, with page references. (a)(3)
9 A table of authorities with cases alphabetically arranged and with parallel citations, rules, statutes
10 and other authorities cited, with references to the pages of the brief where they are cited.

11 (a)(4) A brief statement showing the jurisdiction of the appellate court.

12 (a)(5) A statement of the issues presented for review, including for each issue: the standard of
13 appellate review with supporting authority; and

14 (a)(5)(A) citation to the record showing that the issue was preserved in the trial court; or

15 (a)(5)(B) a statement of grounds for seeking review of an issue not preserved in the trial court.

16 (a)(6) Constitutional provisions, statutes, ordinances, rules, and regulations whose interpretation
17 is determinative of the appeal or of central importance to the appeal shall be set out verbatim with
18 the appropriate citation. If the pertinent part of the provision is lengthy, the citation alone will
19 suffice, and the provision shall be set forth in an addendum to the brief under paragraph (11) of this
20 rule.

21 (a)(7) A statement of the case. The statement shall first indicate briefly the nature of the case, the
22 course of proceedings, and its disposition in the court below. A statement of the facts relevant to the
23 issues presented for review shall follow. All statements of fact and references to the proceedings
24 below shall be supported by citations to the record in accordance with paragraph (e) of this rule.

25 (a)(8) Summary of arguments. The summary of arguments, suitably paraphrased, shall be a
26 succinct condensation of the arguments actually made in the body of the brief. It shall not be a mere
27 repetition of the heading under which the argument is arranged.

28 (a)(9) An argument. The argument shall contain the contentions and reasons of the appellant with
29 respect to the issues presented, including the grounds for reviewing any issue not preserved in the

30 trial court, with citations to the authorities, statutes, and parts of the record relied on. A party
31 challenging a fact finding must first marshal all record evidence that supports the challenged finding.
32 A party seeking to recover attorney's fees incurred on appeal shall state the request explicitly and set
33 forth the legal basis for such an award.

34 (a)(10) A short conclusion stating the precise relief sought.

35 (a)(11) An addendum to the brief or a statement that no addendum is necessary under this
36 paragraph. The addendum shall be bound as part of the brief unless doing so makes the brief
37 unreasonably thick. If the addendum is bound separately, the addendum shall contain a table of
38 contents. The addendum shall contain a copy of:

39 (a)(11)(A) any constitutional provision, statute, rule, or regulation of central importance cited
40 in the brief but not reproduced verbatim in the brief;

41 (a)(11)(B) in cases being reviewed on certiorari, a copy of the Court of Appeals opinion; in all
42 cases any court opinion of central importance to the appeal but not available to the court as part of
43 a regularly published reporter service; and

44 (a)(11)(C) those parts of the record on appeal that are of central importance to the determination
45 of the appeal, such as the challenged instructions, findings of fact and conclusions of law,
46 memorandum decision, the transcript of the court's oral decision, or the contract or document subject
47 to construction.

48 (b) Brief of the appellee. The brief of the appellee shall conform to the requirements of paragraph
49 (a) of this rule, except that the appellee need not include:

50 (b)(1) a statement of the issues or of the case unless the appellee is dissatisfied with the statement
51 of the appellant; or

52 (b)(2) an addendum, except to provide material not included in the addendum of the appellant.
53 The appellee may refer to the addendum of the appellant.

54 (c) Reply brief. The appellant may file a brief in reply to the brief of the appellee, and if the
55 appellee has cross-appealed, the appellee may file a brief in reply to the response of the appellant to
56 the issues presented by the cross-appeal. Reply briefs shall be limited to answering any new matter
57 set forth in the opposing brief. The content of the reply brief shall conform to the requirements of
58 paragraphs (a)(2), (3), (9), and (10) of this rule. No further briefs may be filed except with leave of

59 the appellate court.

60 (d) References in briefs to parties. Counsel will be expected in their briefs and oral arguments
61 to keep to a minimum references to parties by such designations as "appellant" and "appellee." It
62 promotes clarity to use the designations used in the lower court or in the agency proceedings, or the
63 actual names of parties, or descriptive terms such as "the employee," "the injured person," "the
64 taxpayer," etc.

65 (e) References in briefs to the record. References shall be made to the pages of the original record
66 as paginated pursuant to Rule 11(b) or to pages of any statement of the evidence or proceedings or
67 agreed statement prepared pursuant to Rule 11(f) or 11(g). References to pages of published
68 depositions or transcripts shall identify the sequential number of the cover page of each volume as
69 marked by the clerk on the bottom right corner and each separately numbered page(s) referred to
70 within the deposition or transcript as marked by the transcriber. References to exhibits shall be made
71 to the exhibit numbers. If reference is made to evidence the admissibility of which is in controversy,
72 reference shall be made to the pages of the record at which the evidence was identified, offered, and
73 received or rejected.

74 (f) Length of briefs. Except by permission of the court, principal briefs shall not exceed 50 pages,
75 and reply briefs shall not exceed 25 pages, exclusive of pages containing the table of contents, tables
76 of citations and any addendum containing statutes, rules, regulations, or portions of the record as
77 required by paragraph (a) of this rule. In cases involving cross-appeals, paragraph (g) of this rule sets
78 forth the length of briefs.

79 (g) Briefs in cases involving cross-appeals. If a cross-appeal is filed, the party first filing a notice
80 of appeal shall be deemed the appellant, unless the parties otherwise agree or the court otherwise
81 orders. Each party shall be entitled to file two briefs. No brief shall exceed 50 pages, and no party's
82 briefs shall in combination exceed 75 pages.

83 (g)(1) The appellant shall file a Brief of Appellant, which shall present the issues raised in the
84 appeal.

85 (g)(2) The appellee shall then file one brief, entitled Brief of Appellee and Cross-Appellant,
86 which shall respond to the issues raised in the Brief of Appellant and present the issues raised in the
87 cross-appeal.

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88 (g)(3) The appellant shall then file one brief, entitled Reply Brief of Appellant and Brief of
89 Cross-Appellee, which shall reply to the Brief of Appellee and respond to the Brief of Cross-
90 Appellant.

91 (g)(4) The appellee may then file a Reply Brief of Cross-Appellant, which shall reply to the Brief
92 of Cross-Appellee.

93 (h) Permission for over length brief. While such motions are disfavored, the court for good cause
94 shown may upon motion permit a party to file a brief that exceeds the limitations of this rule. The
95 motion shall state with specificity the issues to be briefed, the number of additional pages requested,
96 and the good cause for granting the motion. A motion filed at least seven days before the date the
97 brief is due or seeking five or fewer additional pages need not be accompanied by a copy of the brief.
98 A motion filed less than seven days before the date the brief is due and seeking more than 5
99 additional pages shall be accompanied by a copy of the draft brief for in camera inspection. If the
100 motion is granted, any responding party is entitled to an equal number of additional pages without
101 further order of the court. Whether the motion is granted or denied, the draft brief will be destroyed
102 by the court.

103 (i) Briefs in cases involving multiple appellants or appellees. In cases involving more than one
104 appellant or appellee, including cases consolidated for purposes of the appeal, any number of either
105 may join in a single brief, and any appellant or appellee may adopt by reference any part of the brief
106 of another. Parties may similarly join in reply briefs.

107 (j) Citation of supplemental authorities. When pertinent and significant authorities come to the
108 attention of a party after that party's brief has been filed, or after oral argument but before decision,
109 a party may promptly advise the clerk of the appellate court, by letter setting forth the citations. An
110 original letter and nine copies shall be filed in the Supreme Court. An original letter and seven copies
111 shall be filed in the Court of Appeals. There shall be a reference either to the page of the brief or to
112 a point argued orally to which the citations pertain, but the letter shall ~~without argument~~ state the
113 reasons for the supplemental citations. The body of the letter must not exceed 350 words. Any
114 response shall be made within 7 days of filing and shall be similarly limited.

115 (k) Requirements and sanctions. All briefs under this rule must be concise, presented with
116 accuracy, logically arranged with proper headings and free from burdensome, irrelevant, immaterial

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117 or scandalous matters. Briefs which are not in compliance may be disregarded or stricken, on motion
118 or sua sponte by the court, and the court may assess attorney fees against the offending lawyer.

119 Advisory Committee Note. Rule 24 (a)(9) now reflects what Utah appellate courts have long
120 held. See *In re Beesley*, 883 P.2d 1343, 1349 (Utah 1994); *Newmeyer v. Newmeyer*, 745 P.2d 1276,
121 1278 (Utah 1987). "To successfully appeal a trial court's findings of fact, appellate counsel must play
122 the devil's advocate. 'Attorneys must extricate themselves from the client's shoes and fully assume
123 the adversary's position. In order to properly discharge the marshalling duty..., the challenger must
124 present, in comprehensive and fastidious order, every scrap of competent evidence introduced at trial
125 which supports the very findings the appellant resists.'" *ONEIDA/SLIC, v. ONEIDA Cold Storage*
126 *and Warehouse, Inc.*, 872 P.2d 1051, 1052-53 (Utah App. 1994) (alteration in original)(quoting *West*
127 *Valley City v. Majestic Inv. Co.*, 818 P.2d 1311, 1315 (Utah App. 1991)). See also *State ex rel. M.S.*
128 *v. Salata*, 806 P.2d 1216, 1218 (Utah App. 1991); *Bell v. Elder*, 782 P.2d 545, 547 (Utah App.
129 1989); *State v. Moore*, 802 P.2d 732, 738-39 (Utah App. 1990).

130 The brief must contain for each issue raised on appeal, a statement of the applicable standard of
131 review and citation of supporting authority.

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