

1       **Rule 9. Docketing statement.**

2       (a) Purpose. A docketing statement has two principal purposes: (1) to demonstrate  
3 that the appellate court has jurisdiction over the appeal, and (2) to identify at least one  
4 substantial issue for review. The docketing statement is a document used for  
5 jurisdictional and screening purposes. It should not include argument.

6       (b) Time for filing. Within 21 days after a notice of appeal, cross-appeal, or a petition  
7 for review of an administrative order is filed, the appellant, cross-appellant, or petitioner  
8 shall file an original and two copies of a docketing statement with the clerk of the  
9 appellate court and serve a copy with attachments, if required, on all parties. The Utah  
10 Attorney General shall be served in any appeal arising from a crime charged as a felony  
11 or a juvenile court proceeding.

12       ~~(b) Interlocutory appeals. When a petition for interlocutory review is granted under~~  
13 ~~Rule 5, a docketing statement shall not be filed, unless otherwise ordered.~~

14       (c) Content of docketing statement in a civil case. The docketing statement in an  
15 appeal arising from a civil case shall include ~~contain the following information:~~

16       (c)(1) A concise statement of the nature of the proceeding and the effect of the order  
17 appealed, and the district court case number, e.g., "This appeal is from a final judgment  
18 ~~or decree~~ of the First District Court granting summary judgment in case number  
19 001900055." or "This petition is from an order of the Utah State Tax Commission."

20       ~~(c)(2) The statutory provision that confers jurisdiction on the appellate court.~~

21       (c)(~~3~~2) The following dates relevant to a determination of the timeliness of the notice  
22 of appeal and the jurisdiction of the appellate court:

23       (c)(~~2~~3)(i)A) The date of entry of the final judgment or order from which the appeal is  
24 taken.

25       (c)(~~2~~3)(ii)B) The date the notice of appeal ~~or petition for review~~ was filed in the district  
26 court.

27       (c)(~~2~~3)(iii)C) If the notice of appeal was filed after receiving an extension of the time  
28 to file pursuant to Rule 4(e), the date the motion for an extension was granted.

29       (c)(2)(iv) If any motions listed in Rule 4(b) were filed, the date such motion was filed  
30 in the trial court and the date of entry ~~The date of any motions filed pursuant to Rules~~

31 ~~50(b), 52(b), or 59, Utah Rules of Civil Procedure, or Rule 24, Utah Rules of Criminal~~  
32 ~~Procedure, and the date and effect of any orders disposing of such motions.~~

33 (c)(2)(v) If the appellant is an inmate confined in an institution and is invoking Rule  
34 21(f), the date the notice of appeal was deposited in the institution's internal mail  
35 system, a statement to that effect.

36 (c)(25)(vi) If a motion to reinstate the time to appeal was filed pursuant to Rule 4(g),  
37 the date of the order disposing of such motion.

38 (c)(3) ~~If the an appeal is taken from an order in a multiple-party or a multiple-claim~~  
39 ~~case, and the judgment has been certified as a final judgment by the trial court pursuant~~  
40 ~~to Rule 54(b) of the, Utah Rules of Civil Procedure,:~~ a statement of what claims and  
41 parties remain before the trial court for adjudication, and a statement of whether the  
42 facts underlying the appeal are sufficiently related to the facts underlying the claims  
43 remaining before the trial court to constitute res judicata on those claims.

44 (c)(5)(A) ~~a statement of what claims and parties remain before the trial court for~~  
45 ~~adjudication, and~~

46 (c)(5)(B) ~~a statement of whether the facts underlying the appeal are sufficiently~~  
47 ~~similar to the facts underlying the claims remaining before the trial court to constitute~~  
48 ~~res judicata on those claims.~~

49 (c)(46) A statement of at least one substantial issue appellant intends to assert on  
50 appeal. An issue not raised in the docketing statement may nevertheless be raised in  
51 the brief of the appellant; conversely, an issue raised in the docketing statement does  
52 not have to be included in the brief of the appellant.

53 (c)(5) A concise summary of the facts necessary to provide context for the issues  
54 presented.

55 (c)(6) A reference to all related or prior appeals in the case, with case numbers and  
56 citations.

57 ~~If the case is criminal,~~

58 (c)(6)(A) ~~the charges of which the defendant was convicted or, if the defendant is not~~  
59 ~~convicted, the dismissed or pending charges;~~

60 (c)(6)(B) ~~any sentence imposed; and~~

61 ~~(c)(6)(C) whether the defendant is currently incarcerated.~~

62 ~~(c)(7) A statement of the issues appellant intends to assert on appeal, including, for~~  
63 ~~each issue,~~

64 ~~(c)(7)(A) citations to determinative statutes, rules, or cases;~~

65 ~~(c)(7)(B) the applicable standard of appellate review, with supporting authority.~~

66 ~~(c)(8) A succinct summary of facts material to a consideration of the issues~~  
67 ~~presented.~~

68 ~~(c)(9) If the appeal is subject to assignment by the Supreme Court to the Court of~~  
69 ~~Appeals, and the appellant advocates or opposes such an assignment, a succinct~~  
70 ~~statement of reasons why the Supreme Court should or should not assign the case. The~~  
71 ~~Supreme Court may, for example, consider whether the case presents or involves one~~  
72 ~~or more of the following:~~

73 ~~(c)(9)(A) a novel constitutional issue;~~

74 ~~(c)(9)(B) an important issue of first impression;~~

75 ~~(c)(9)(C) a conflict in Court of Appeals decisions;~~

76 ~~(c)(9)(D) any other persuasive reason why the Supreme Court should or should not~~  
77 ~~resolve the issue.~~

78 ~~(c)(10) A reference to all related or prior appeals in the case, with case numbers and~~  
79 ~~citations~~

80 (d) Content of a docketing statement in a criminal case. The docketing statement in  
81 an appeal arising from a criminal case shall include:

82 (d)(1) A concise statement of the nature of the proceeding, including the highest  
83 degree of any of the charges in the trial court, and the district court case number, e.g.,  
84 “This appeal is from a judgment of conviction and sentence of the Third District Court on  
85 a third degree felony charge in case number 001900055.”

86 (d)(2) The following dates relevant to a determination of the timeliness of the appeal  
87 and the jurisdiction of the appellate court:

88 (d)(2)(i) The date of entry of the final judgment or order from which the appeal is  
89 taken.

90 (d)(2)(ii) The date the notice of appeal was filed in the district court.

91 (d)(2)(iii) If the notice of appeal was filed after receiving an extension of the time to  
92 file pursuant to rule 4(e), the date the motion for an extension was granted.

93 (d)(2)(iv) If a motion pursuant to Rule 24 of the Utah Rules of Criminal Procedure  
94 was filed, the date such motion was filed in the trial court and the date of entry of any  
95 order disposing of such motion.

96 (d)(2)(v) If a motion to reinstate the time to appeal was filed pursuant to Rule 4(f),  
97 the date of the order disposing of such motion.

98 (d)(2)(vi) If the appellant is an inmate confined to an institution and is invoking Rule  
99 21(f), the date the notice of appeal was deposited in the institution's internal mail  
100 system.

101 (d)(3) The charges of which the defendant was convicted, and any sentence  
102 imposed; or, if the defendant was not convicted, the dismissed or pending charges.

103 (d)(4) A statement of at least one substantial issue appellant intends to assert on  
104 appeal. An issue not raised in the docketing statement may nevertheless be raised in  
105 the brief of the appellant; conversely, an issue raised in the docketing statement does  
106 not have to be included in the brief of the appellant.

107 (d)(5) A concise summary of the facts necessary to provide context for the issues  
108 presented. If the conviction was pursuant to a plea, the statement of facts should  
109 include whether a motion to withdraw the plea was made prior to sentencing, and  
110 whether the plea was conditional.

111 (d)(6) A reference to all related or prior appeals in the case, with case numbers and  
112 citations.

113 ~~(d) Necessary attachments. Copies of the following must be attached to each copy~~  
114 ~~of the docketing statement:~~

115 ~~(d)(1) The final judgment or order from which the appeal is taken;~~

116 ~~(d)(2) Any rulings or findings of the trial court or administrative tribunal included in~~  
117 ~~the judgment from which the appeal is taken;~~

118 ~~(d)(3) In appeals arising from an order of the Public Service Commission, any~~  
119 ~~application for rehearing filed pursuant to Utah Code Section 54-7-15;~~

120 ~~(d)(4) The notice of appeal and any order extending the time for the filing of a notice~~  
121 ~~of appeal.~~

122 ~~(d)(5) Any notice of claim.~~

123 ~~(d)(6) Any motions filed pursuant to Rules 50(b), 52(b), 54(b), or 59, Utah Rules of~~  
124 ~~Civil Procedure, or Rule 24, Utah Rules of Criminal Procedure, and orders disposing of~~  
125 ~~such motions; and~~

126 ~~(d)(7) If the appellant is an inmate confined in an institution and is invoking Rule~~  
127 ~~4(g), the notarized statement or written declaration required by that provision.~~

128 (e) Content of a docketing statement in a review of an administrative order. The  
129 docketing statement in a case arising from an administrative proceeding shall include:

130 (e)(1) A concise statement of the nature of the proceedings and the effect of the  
131 order appealed, e.g., "This petition is from an order of the Workforce Appeals Board  
132 denying reconsideration of the denial of benefits."

133 (e)(2) The statutory provision that confers jurisdiction on the appellate court.

134 (e)(3) The following dates relevant to a determination of the timeliness of the petition  
135 for review:

136 (e)(3)(i) The date of entry of the final order from which the petition for review is filed.

137 (e)(3)(ii) The date the petition for review was filed.

138 (e)(4) A statement of at least one substantial issue petitioner intends to assert on  
139 review. An issue not raised in the docketing statement may nevertheless be raised in  
140 the brief of petitioner; conversely, an issue raised in the docketing statement does not  
141 have to be included in the brief of petitioner.

142 (e)(5) A concise summary of the facts necessary to provide context for the issues  
143 presented.

144 (e)(6) If applicable, a reference to all related or prior petitions for review in the same  
145 case.

146 (e)(7) Copies of the following documents must be attached to each copy of the  
147 docketing statement:

148 (e)(7)(i) The final order from which the petition for review is filed.

149 (e)(7)(ii) In appeals arising from an order of the Public Service Commission, any  
150 application for rehearing filed pursuant to Utah Code section 54-7-15.

151 ~~(e) Appellee's statement regarding assignment. If the appeal is subject to~~  
152 ~~assignment by the Supreme Court to the Court of Appeals, an appellee may within 10~~  
153 ~~days of service of the docketing statement file a succinct statement of reasons why the~~  
154 ~~appeal should or should not be assigned.~~

155 (f) Consequences of failure to comply. Failure to file a Docketing statements within  
156 the time period provided in subsection (b) which fail to comply with this rule will not be  
157 accepted. Failure to comply may result in dismissal of a civil the appeal or the a petition  
158 for review. Failure to file a docketing statement within the time period provided in  
159 subsection (b) in a criminal case may result in a finding of contempt or other sanction if  
160 appellant is represented by counsel, and may result in dismissal of the appeal if  
161 appellant is not represented by counsel. An issue not listed in the docketing statement  
162 may nevertheless be raised in appellant's opening brief.

163 (g) Appeals from interlocutory orders. When a petition for permission to appeal from  
164 an interlocutory order is granted under Rule 5, a docketing statement shall not be filed  
165 unless otherwise ordered.

#### 166 **Advisory Committee Notes**

167 The content of the docket statement has been slightly reordered to first state  
168 information governing the jurisdiction of the court.

169 The docket statement and briefs contain a new section requiring a statement of the  
170 applicable standard of review, with citation of supporting authority, for each issue  
171 presented on appeal.

172 The content of the docket statement has been reordered and brought into conformity  
173 with revised Rule 4, Utah Rules of Appellate Procedure. This rule is satisfied by a  
174 docketing statement in compliance with form 7.