

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

91 Appellant.

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

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

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

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

116 (k) Requirements and sanctions. All briefs under this rule must be concise, presented with  
117 accuracy, logically arranged with proper headings and free from burdensome, irrelevant, immaterial  
118 or scandalous matters. Briefs which are not in compliance may be disregarded or stricken, on motion  
119 or sua sponte by the court, and the court may assess attorney fees against the offending lawyer.

120 Advisory Committee Note. Rule 24 (a)(9) now reflects what Utah appellate courts have long

121 held. See *In re Beesley*, 883 P.2d 1343, 1349 (Utah 1994); *Newmeyer v. Newmeyer*, 745 P.2d 1276,  
122 1278 (Utah 1987). "To successfully appeal a trial court's findings of fact, appellate counsel must  
123 play the devil's advocate. 'Attorneys must extricate themselves from the client's shoes and fully  
124 assume the adversary's position. In order to properly discharge the marshalling duty..., the challenger  
125 must present, in comprehensive and fastidious order, every scrap of competent evidence introduced  
126 at trial which supports the very findings the appellant resists.'" *ONEIDA/SLIC, v. ONEIDA Cold  
127 Storage and Warehouse, Inc.*, 872 P.2d 1051, 1052-53 (Utah App. 1994) (alteration in  
128 original)(quoting *West Valley City v. Majestic Inv. Co.*, 818 P.2d 1311, 1315 (Utah App. 1991)).  
129 See also *State ex rel. M.S. v. Salata*, 806 P.2d 1216, 1218 (Utah App. 1991); *Bell v. Elder*, 782 P.2d  
130 545, 547 (Utah App. 1989); *State v. Moore*, 802 P.2d 732, 738-39 (Utah App. 1990).

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

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