

1       **Rule 24. Briefs.**

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

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

8       (a)(2) A table of contents, including the contents of the addendum, with page references.

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

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

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

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

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

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

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

28       (a)(8) Summary of arguments. The summary of arguments, suitably paragraphed, shall be a  
29 succinct condensation of the arguments actually made in the body of the brief. It shall not be a

30 mere repetition of the heading under which the argument is arranged.

31 (a)(9) An argument. The argument shall contain the contentions and reasons of the appellant  
32 with respect to the issues presented, including the grounds for reviewing any issue not preserved  
33 in the trial court, with citations to the authorities, statutes, and parts of the record relied on. A  
34 party challenging a fact finding must first marshal all record evidence that supports the  
35 challenged finding. A party seeking to recover attorney's fees incurred on appeal shall state the  
36 request explicitly and set forth the legal basis for such an award.

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

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

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

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

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

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

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

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

57 (c) Reply brief. The appellant may file a brief in reply to the brief of the appellee, and if the  
58 appellee has cross-appealed, the appellee may file a brief in reply to the response of the appellant

59 to the issues presented by the cross-appeal. Reply briefs shall be limited to answering any new  
60 matter set forth in the opposing brief. The content of the reply brief shall conform to the  
61 requirements of paragraphs (a)(2), (3), (9), and (10) of this rule. No further briefs may be filed  
62 except with leave of the appellate court.

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

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

77 (f) Length of briefs.

78 (f)(1) Type-volume limitation.

79 (f)(1)(A) A principal brief is acceptable if it contains no more than 14,000 words or it uses a  
80 monospaced face and contains no more than 1,300 lines of text; and a reply brief is acceptable if  
81 it contains no more than 7,000 words or it uses a monospaced face and contains no more than  
82 650 lines of text.

83 (f)(1)(B) Headings, footnotes and quotations count toward the word and line limitations, but  
84 the table of contents, table of citations, and any addendum containing statutes, rules, regulations  
85 or portions of the record as required by paragraph (a) of this rule do not count toward the word  
86 and line limitations.

87 (f)(1)(C) Certificate of compliance. A brief submitted under Rule 24(f)(1) must include a

88 certificate by the attorney or an unrepresented party that the brief complies with the type-volume  
89 limitation. The person preparing the certificate may rely on the word or line count of the word  
90 processing system used to prepare the brief. The certificate must state either the number of  
91 words in the brief or the number of lines of monospaced type in the brief.

92 (f)(2) Page limitation. ~~Except by permission of the court, Unless a brief complies with~~  
93 Rule 24(f)(1), a principal briefs shall not exceed 30 50 pages, and a reply briefs shall not exceed  
94 15 25 pages, exclusive of pages containing the table of contents, tables of citations and any  
95 addendum containing statutes, rules, regulations, or portions of the record as required by  
96 paragraph (a) of this rule.

97 In cases involving cross-appeals, paragraph (g) of this rule sets forth the length of briefs.

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

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

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

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

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

112 (g)(5) Type-Volume Limitation.

113 (g)(5)(A) The appellant's Brief of Appellant is acceptable if it contains no more than 14,000  
114 words or it uses a monospaced face and contains no more than 1,300 lines of text.

115 (g)(5)(B) The appellee's Brief of Appellee and Cross-Appellant is acceptable if it contains no  
116 more than 16,500 words or it uses a monospaced face and contains no more than 1,500 lines of

117 text.

118 (g)(5)(C) The appellant's Reply Brief of Appellant and Brief of Cross-Appellee is acceptable  
119 if it contains no more than 14,000 words or it uses a monospaced face and contains no more than  
120 1,300 lines of text.

121 (g)(5)(D) The appellee's Reply Brief of Cross-Appellant is acceptable if it contains no more  
122 than half of the type volume specified in Rule 24(g)(5)(A).

123 (g)(6) Certificate of Compliance.

124 A brief submitted under Rule 24(g)(5) must comply with Rule 24(f)(1)(C).

125 (g)(7) Page Limitation.

126 Unless it complies with Rule 24(g)(5) and (6), the appellant's Brief of Appellant must not  
127 exceed 30 pages; the appellee's Brief of Appellee and Cross-Appellant, 35 pages; the appellant's  
128 Reply Brief of Appellant and Brief of Cross-Appellee, 30 pages; and the appellee's Reply Brief  
129 of Cross-Appellant, 15 pages.

130 (h) Permission for over length brief. While such motions are disfavored, the court for good  
131 cause shown may upon motion permit a party to file a brief that exceeds the page, word, or line  
132 limitations of this rule. The motion shall state with specificity the issues to be briefed, the  
133 number of additional pages, words, or lines requested, and the good cause for granting the  
134 motion. A motion filed at least seven days prior to the date the brief is due or seeking three five  
135 or fewer additional pages, 1,400 or fewer additional words, or 130 or fewer lines of text need not  
136 be accompanied by a copy of the brief. A motion filed within seven days of the date the brief is  
137 due and seeking more than three 5 additional pages, 1,400 additional words, or 130 lines of text  
138 shall be accompanied by a copy of the finished brief. If the motion is granted, the responding  
139 party is entitled to an equal number of additional pages, words, or lines without further order of  
140 the court. Whether the motion is granted or denied, the draft brief will be destroyed by the court.

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

145 (j) Citation of supplemental authorities. When pertinent and significant authorities come to

146 the attention of a party after that party's brief has been filed, or after oral argument but before  
147 decision, a party may promptly advise the clerk of the appellate court, by letter setting forth the  
148 citations. An original letter and nine copies shall be filed in the Supreme Court. An original letter  
149 and seven copies shall be filed in the Court of Appeals. There shall be a reference either to the  
150 page of the brief or to a point argued orally to which the citations pertain, but the letter shall state  
151 the reasons for the supplemental citations. The body of the letter must not exceed 350 words.  
152 Any response shall be made within seven days of filing and shall be similarly limited.

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

#### 158 159 **Advisory Committee Notes**

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

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