

1 **Rule 24. Briefs.**

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

4 (a)(1) A complete list of all parties to the proceeding in the court or agency whose
5 judgment or order is sought to be reviewed, except where the caption of the case on
6 appeal contains the names of all such parties [and except as provided in subsection \(d\)](#).

7 The list should be set out on a separate page which appears immediately inside the
8 cover.

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

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

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

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

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

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

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

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

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

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

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

43 (a)(11) An addendum to the brief or a statement that no addendum is necessary
44 under this paragraph. ~~The~~ Except in cases involving termination of parental rights or
45 adoption, the addendum shall be bound as part of the brief unless doing so makes the
46 brief unreasonably thick. In cases involving termination of parental rights or adoption,
47 the addendum shall be separately bound. If the addendum is bound separately, the
48 addendum shall contain a table of contents. The addendum shall contain a copy of:

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

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

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

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

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

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

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

70 (d) References in briefs to parties. Counsel will be expected in their briefs and oral
71 arguments to keep to a minimum references to parties by such designations as
72 "appellant" and "appellee." ~~It promotes clarity to use the designations used in the lower~~
73 ~~court or in the agency proceedings, or the actual names of parties, or descriptive terms~~
74 ~~such as "the employee," "the injured person," "the taxpayer," etc. To promote clarity,~~
75 ~~counsel are encouraged to use the designations used in the lower court or in the~~
76 ~~agency proceedings; descriptive terms such as "the employee," "the injured person," or~~
77 ~~"the taxpayer"; or the actual names of parties. Counsel shall avoid references by name~~
78 ~~to minors or to biological, adoptive, or foster parents in cases involving termination of~~
79 ~~parental rights or adoption. With respect to the names of minors or parents in cases~~
80 ~~involving termination of parental rights or adoption, counsel are encouraged to use~~
81 ~~descriptive terms such as "child," "the 11-year old," "mother," "adoptive parent," and~~
82 ~~"foster father."~~

83 (e) References in briefs to the record. References shall be made to the pages of the
84 original record as paginated pursuant to Rule 11(b) or to pages of any statement of the
85 evidence or proceedings or agreed statement prepared pursuant to Rule 11(f) or 11(g).
86 References to pages of published depositions or transcripts shall identify the sequential
87 number of the cover page of each volume as marked by the clerk on the bottom right
88 corner and each separately numbered page(s) referred to within the deposition or
89 transcript as marked by the transcriber. References to exhibits shall be made to the

90 exhibit numbers. If reference is made to evidence the admissibility of which is in
91 controversy, reference shall be made to the pages of the record at which the evidence
92 was identified, offered, and received or rejected.

93 (f) Length of briefs.

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

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

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

103 (f)(1)(C) Certificate of compliance. A brief submitted under Rule 24(f)(1) must include
104 a certificate by the attorney or an unrepresented party that the brief complies with the
105 type-volume limitation. The person preparing the certificate may rely on the word or line
106 count of the word processing system used to prepare the brief. The certificate must
107 state either the number of words in the brief or the number of lines of monospaced type
108 in the brief.

109 (f)(2) Page limitation. Unless a brief complies with Rule 24(f)(1), a principal briefs
110 shall not exceed 30 pages, and a reply briefs shall not exceed 15 pages, exclusive of
111 pages containing the table of contents, tables of citations and any addendum containing
112 statutes, rules, regulations, or portions of the record as required by paragraph (a) of this
113 rule.

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

116 (g) Briefs in cases involving cross-appeals. If a cross-appeal is filed, the party first
117 filing a notice of appeal shall be deemed the appellant, unless the parties otherwise
118 agree or the court otherwise orders. Each party shall be entitled to file two briefs.

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

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

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

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

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

130 (g)(5)(A) The appellant's Brief of Appellant is acceptable if it contains no more than
131 14,000 words or it uses a monospaced face and contains no more than 1,300 lines of
132 text.

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

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

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

141 (g)(6) Certificate of Compliance.

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

143 (g)(7) Page Limitation.

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

148 (h) Permission for over length brief. While such motions are disfavored, the court for
149 good cause shown may upon motion permit a party to file a brief that exceeds the page,
150 word, or line limitations of this rule. The motion shall state with specificity the issues to
151 be briefed, the number of additional pages, words, or lines requested, and the good
152 cause for granting the motion. A motion filed at least seven days prior to the date the
153 brief is due or seeking three or fewer additional pages, 1,400 or fewer additional words,
154 or 130 or fewer lines of text need not be accompanied by a copy of the brief. A motion
155 filed within seven days of the date the brief is due and seeking more than three
156 additional pages, 1,400 additional words, or 130 lines of text shall be accompanied by a
157 copy of the finished brief. If the motion is granted, the responding party is entitled to an
158 equal number of additional pages, words, or lines without further order of the court.
159 Whether the motion is granted or denied, the draft brief will be destroyed by the court.

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

164 (j) Citation of supplemental authorities. When pertinent and significant authorities
165 come to the attention of a party after that party's brief has been filed, or after oral
166 argument but before decision, a party may promptly advise the clerk of the appellate
167 court, by letter setting forth the citations. An original letter and nine copies shall be filed
168 in the Supreme Court. An original letter and seven copies shall be filed in the Court of
169 Appeals. There shall be a reference either to the page of the brief or to a point argued
170 orally to which the citations pertain, but the letter shall state the reasons for the
171 supplemental citations. The body of the letter must not exceed 350 words. Any
172 response shall be made within seven days of filing and shall be similarly limited.

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

178 **Advisory Committee Notes**

179 Rule 24(a)(9) now reflects what Utah appellate courts have long held. See *In re*
180 *Beesley*, 883 P.2d 1343, 1349 (Utah 1994); *Newmeyer v. Newmeyer*, 745 P.2d 1276,
181 1278 (Utah 1987). "To successfully appeal a trial court's findings of fact, appellate
182 counsel must play the devil's advocate. "Attorneys must extricate themselves from the
183 client's shoes and fully assume the adversary's position. In order to properly discharge
184 the marshalling duty..., the challenger must present, in comprehensive and fastidious
185 order, every scrap of competent evidence introduced at trial which supports the very
186 findings the appellant resists." *ONEIDA/SLIC, v. ONEIDA Cold Storage and Warehouse,*
187 *Inc.*, 872 P.2d 1051, 1052-53 (Utah App. 1994)(alteration in original)(quoting *West*
188 *Valley City v. Majestic Inv. Co.*, 818 P.2d 1311, 1315 (Utah App. 1991)). See also *State*
189 *ex rel. M.S. v. Salata*, 806 P.2d 1216, 1218 (Utah App. 1991); *Bell v. Elder*, 782 P.2d
190 545, 547 (Utah App. 1989); *State v. Moore*, 802 P.2d 732, 738-39 (Utah App. 1990).

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

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