

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 of
6 all such parties. The list should be set out on a separate page which appears immediately inside the
7 cover.

8 (a)(2) A table of contents, including the contents of the addendum, with page references. (a)(3) A
9 table of authorities with cases alphabetically arranged and with parallel citations, rules, statutes and
10 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 paragraphed, 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 in
40 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 a
43 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
49 paragraph (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
51 statement 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 paragraph (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 to
61 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
66 record as paginated pursuant to Rule 11(b) or to pages of any statement of the evidence or
67 proceedings or agreed statement prepared pursuant to Rule 11(f) or 11(g). References to pages of
68 published depositions or transcripts shall identify the sequential number of the cover page of each
69 volume as marked by the clerk on the bottom right corner and each separately numbered page(s)
70 referred to within the deposition or transcript as marked by the transcriber. References to exhibits
71 shall be made to the exhibit numbers. If reference is made to evidence the admissibility of which is
72 in controversy, reference shall be made to the pages of the record at which the evidence was
73 identified, offered, and received or rejected.

74 (f) Length of briefs. Except by permission of the court, principal briefs shall not exceed 50
75 pages, and reply briefs shall not exceed 25 pages, exclusive of pages containing the table of contents,
76 tables of citations and any addendum containing statutes, rules, regulations, or portions of the record
77 as required by paragraph (a) of this rule. In cases involving cross-appeals, paragraph (g) of this rule
78 sets 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 for the purposes of this rule and Rule 26, unless the parties
81 otherwise agree or the court otherwise orders. The brief of the appellant shall not exceed 50 pages in
82 length. The brief of the appellee/cross-appellant shall contain the issues and arguments involved in
83 the cross-appeal as well as the answer to the brief of the appellant and shall not exceed 50 pages in
84 length. The appellant shall then file a brief which contains an answer to the original issues raised by
85 the appellee/cross-appellant and a reply to the appellee's response to the issues raised in the
86 appellant's opening brief. The appellant's second brief shall not exceed 25 pages in length. The
87 appellee/cross-appellant may then file a second brief, not to exceed 25 pages in length, which

88 contains only a reply to the appellant's answers to the original issues raised by the appellee/cross-
89 appellant's first brief. The lengths specified by this rule are exclusive of table of contents, table of
90 authorities, and addenda and may be exceeded only by permission of the court. The court shall grant
91 reasonable requests, for good cause shown.

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

96 (I) Citation of supplemental authorities. When pertinent and significant authorities come to the
97 attention of a party after that party's brief has been filed, or after oral argument but before decision, a
98 party may promptly advise the clerk of the appellate court, by letter setting forth the citations. An
99 original letter and nine copies shall be filed in the Supreme Court. An original letter and seven
100 copies shall be filed in the Court of Appeals. There shall be a reference either to the page of the brief
101 or to a point argued orally to which the citations pertain, but the letter shall without argument state
102 the reasons for the supplemental citations. Any response shall be made within 7 days of filing and
103 shall be similarly limited.

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

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109 Advisory Committee Note. Rule 24 (a)(9) now reflects what Utah appellate courts have long
110 held. *See In re Beesley*, 883 P.2d 1343, 1349 (Utah 1994); *Newmeyer v. Newmeyer*, 745 P.2d 1276,
111 1278 (Utah 1987). "To successfully appeal a trial court's findings of fact, appellate counsel must
112 play the devil's advocate. 'Attorneys must extricate themselves from the client's shoes and fully
113 assume the adversary's position. In order to properly discharge the marshalling duty..., the challenger
114 must present, in comprehensive and fastidious order, every scrap of competent evidence introduced
115 at trial which *supports* the very findings the appellant resists.'" *ONEIDA/SLIC, v. ONEIDA Cold*
116 *Storage and Warehouse, Inc.*, 872 P.2d 1051, 1052-53 (Utah App. 1994) (alteration in

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117 original)(quoting *West Valley City v. Majestic Inv. Co.*, 818 P.2d 1311, 1315 (Utah App. 1991)). See
118 also *State ex rel. M.S. v. Salata*, 806 P.2d 1216, 1218 (Utah App. 1991); *Bell v. Elder*, 782 P.2d 545,
119 547 (Utah App. 1989); *State v. Moore*, 802 P.2d 732, 738-39 (Utah App. 1990).

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

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