

Agenda

Advisory Committee on Rules of Appellate Procedure

September 1, 2016

12:00 to 1:30 p.m.

Scott M. Matheson Courthouse

450 South State Street

Judicial Council Room

Administrative Office of the Courts, Suite N31

Welcome and approval of minutes	Tab 1	Joan Watt
Consideration of comments: <ul style="list-style-type: none">• Rule 2. Suspension of Rules• Rule 14. Review of administrative orders: how obtained; intervention• Rule 25A. Challenging the constitutionality of a statute or ordinance• Rule 52. Child welfare appeals	Tab 2	
Consideration for publication: <ul style="list-style-type: none">• Rule 24. Briefs• Rule 24A. Briefs in cross-appeals• Rule 26. Filing of briefs• Rule 27. Form of briefs	Tab 3	Judge Voros, Judge Orme, Troy Booher, Paul Burke, Marian Decker, Rod Parker, Lori Seppi
Discussion of “e-filing” rules	Tab 4	Judge Voros, Judge Orme, Paul Burke, Rod Parker, Clark Sabey, Mary Westby
Status of proposed rules amendments	Tab 5	

Committee Webpage: http://www.utcourts.gov/committees/appellate_procedure/

Meeting Schedule. All meetings are from 12:00 to 1:30 at the Administrative Office of the Courts in the Matheson Courthouse.

October 6, 2016

November 3, 2016

December 1, 2016

January 5, 2017

February 2, 2017

March 2, 2017

April 6, 2017
May 4, 2017
June 1, 2017
September 7, 2017

October 5, 2017
November 2, 2017
December 7, 2017

Tab 1

MINUTES

**SUPREME COURT’S ADVISORY COMMITTEE ON THE
UTAH RULES OF APPELLATE PROCEDURE**

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84114

Judicial Council Room
Thursday, June 2, 2016
12:00 p.m. to 1:30 p.m.

PRESENT

Joan Watt- Chair
Troy Booher
Paul Burke
Marian Decker
R. Shawn Gunnarson
Alan Mouritsen
Judge Gregory Orme
Adam Pace – Recording Secretary
Rodney Parker
Bridget Romano
Clark Sabey
Lori Seppi
Tim Shea-Staff
Ann Marie Taliaferro
Judge Fred Voros
Mary Westby

EXCUSED

1. Welcome and approval of minutes

Joan Watt

This is Mr. Shea’s last meeting because he is retiring. The committee thanked him for his service. Ms. Watt then invited a motion to approve the minutes from the May meeting.

Mr. Parker moved to approve the May minutes. Mr. Booher seconded the motion and it passed unanimously.

2. Priority of Pending Issues

Tim Shea

Mr. Shea presented a list of pending issues to be discussed in future meetings, with suggested levels of priority for the order in which they should be addressed. Judge Voros commented that

the proposed amendment to Rule 14 would not take much time to discuss. It was discussed and resolved at the end of the meeting (see notes on other business below).

Mr. Shea reported that the e-filing system is still delayed, and will not be complete anytime in 2016. The committee discussed the status of the e-filing amendments, and whether any of them should be adopted before the e-filing system is complete. Mr. Parker asked Mr. Shea to prepare a memorandum with his recommendations. Mr. Burke made a motion to refer this issue to the e-filing subcommittee to meet no more than twice about it and then decide how to proceed. He also moved that as changes to the rules are made going forward, the e-filing amendments that have not yet been adopted should be updated so they are current when the time comes to implement them. Mr. Booher suggested that it would be most efficient to have the e-filing subcommittee keep the amendments updated.

Mr. Burke's motion was seconded by Mr. Parker, and it passed unanimously.

3. Rule 4(f) motion to reinstate the time to appeal

Tim Shea

The committee continued its discussion of whether to recommend imposing a time limit on motions to reinstate the period for filing a direct appeal in criminal cases under Rule 4(f). Mr. Shea reported his research that showed there were 5 cases since 2010 where these motions were filed. Ms. Westby commented that more motions were probably filed, but they may have been titled differently and so would not be included in the search results. She said that if a time limit is imposed, a two-year limit would be better than one year. Ms. Decker recommended imposing a one or two-year time limit. Ms. Watt opposed imposing a time limit. Judge Voros said he thought a time-limit should not be imposed, but if it is, that the court should warn the defendant about it at sentencing. At the conclusion of the discussion, Mr. Parker made a motion for the committee to recommend that no change be made to Rule 4(f).

Mr. Parker's motion was seconded by Mr. Booher. The motion passed, with Ms. Decker and Ms. Romano opposed.

4. Criminal Records in PCRA cases. URCP 65C.

Tim Shea

Mr. Shea proposed making a recommendation to the civil rules committee that it amend Utah R. Civ. P. 65(c) to say that all records in a criminal case under review are part of the trial court record in a PCRA appeal. This issue came up during the last discussion on electronic filing rules, and how to link to the record of a case that is not on appeal, such as in PCRA cases. The committee agreed with this proposal, and Mr. Shea said he would raise it with the civil committee.

5. Rule 25A. Challenging the constitutionality of a statute or ordinance BR/TB/SG/CS

Ms. Romano reported the subcommittee's recommendations on the new proposed Rule 25A requiring parties to serve their briefs on the Attorney General (or the county or municipal attorney, as the case may be) if a party challenges the constitutionality of a statute or ordinance. Mr. Burke suggested that the addresses for service should be stated in the rule itself, rather than in the advisory committee note. The committee discussed the proposed language in subpart (a)(5) and agreed to revise it to say that "If a party does not serve a brief as required by this rule, *and supplemental briefing is subsequently ordered as a result of that failure*, a court may order that party to pay the costs, expenses, and attorney fees of any party affected by that failure. The committee also agreed that all references in the rule to "ordinance" should be revised to say "*county or municipal ordinance*."

Ms. Romano moved to recommend adopting the rule with the proposed revisions. Mr. Gunnarson seconded the motion and it passed unanimously.

Ms. Romano also suggested that the criminal rules committee should consider a similar amendment.

6. Rule 37 Suggestion of mootness; voluntary dismissal **Judge Voros**

Discussion of this issue was tabled until the next meeting.

7. Rule 40. Attorney's or party's certificate; sanctions and discipline. **Tim Shea**

Mr. Sabey suggested that the references to "discipline" orders in the proposed Rule 40 should be changed to say "disciplinary" orders. Mr. Shea agreed to make this change. Further discussion of this issue was tabled until the next meeting.

8. Other Business

Judge Voros proposed revising Rule 14, subpart (a) to say "When a statute provides for judicial review or appeal to the Supreme Court or Court of Appeals..." in place of the current language which says "When judicial review by the Supreme Court or the Court of Appeals is provided by statute..." He explained this language needs to be clarified because there are some statutes that refer to appeals of administrative decisions, even though the court normally refers to them as petitions for review.

Mr. Gunnarson moved to recommend adopting this change to Rule 14. Mr. Burke seconded the motion and it passed unanimously.

9. Adjourn

The meeting was adjourned at 1:34 p.m. The next meeting will be held on September 1, 2016.

Tab 2

August 22, 2016

To: Appellate Rules Committee
From: James N. Ishida
RE: Summary of Public Comments - Proposed Amendments to Appellate Rules 2, 14, and 52, and new Rule 25A

We received three comments following publication of the proposed amendments to URAP 2, 14, and 52, and new Rule 25A.

- A. Appellate Rule 2 (adds Rule 14(a) to the list of rules that the court cannot suspend) (comment period closed July 1, 2016)

We received [two comments](#) on the proposed amendment to URAP 2, which added URAP 14(a) to the list of rules that the appellate court may not suspend. Both commentators suggest that citation to Rule 14(a), without clarification, is too broad and over inclusive. For instance, current URAP 2 provides that the appellate court may under certain circumstances suspend the requirements of the rules, except for the following provisions: URAP 4(a), 4(b), 4(e), 5(a), 48, 52, and 59. The commentators note that the rules referred to in URAP 2 deal only with deadlines, whereas URAP 14(a) sets forth not only the time to file a petition for review of an administrative order, but it also include instructions on the content of the petition. The commentators say that the proposed amendment should be limited to just the time deadlines in Rule 14(a), and not include the rest of the rule dealing with the contents of the petition.

- B. Appellate Rule 14 (provisions for service, proof of service, and paying filing fees, have been consolidated in URAP Rule 21) (comment period closed July 16, 2016)

No comment.

- C. New Appellate Rule 25A (new rule that describes the procedures for serving a brief on the attorney general or county or municipal attorney when challenging the constitutionality of a statute or ordinance) (comment period closed July 16, 2016)

[One comment](#) correcting typographical error.

- D. Appellate Rule 52 (describes the effect of post-trial motions in child welfare proceedings using language similar to URAP 4) (comment period closed June 25, 2016)

No comment.

1 **Rule 2. Suspension of Rules.**

2 In the interest of expediting a decision, the appellate court, on its own motion or for extraordinary
3 cause shown, may, except as to the provisions of Rules [4\(a\)](#), [4\(b\)](#), [4\(e\)](#), [5\(a\)](#), [14\(a\)](#), [48](#), [52](#), and [59](#),
4 suspend the requirements or provisions of any of these rules in a particular case and may order
5 proceedings in that case in accordance with its direction.

6 **Advisory Committee Note**

7 ~~Rule [4\(b\)](#) is added to the list of those rules that the appellate court may not suspend. The former list~~
8 ~~of rules that the appellate court could may not suspend concerned procedures and time limits that confer~~
9 ~~jurisdiction upon the court. Under Rule [4\(b\)](#), lists the post-judgment motions ~~listed that~~ must be filed in a~~
10 ~~timely manner in the trial court. If the motions are not timely filed in a timely manner, the appellant may~~
11 ~~not take advantage of Rule [4\(b\)](#), that which allows 30 days from the disposition of the motion to file the~~
12 ~~appeal. Both appellate courts treat the f~~ailure to file post-judgment motions in a timely manner ~~as is~~ a
13 ~~jurisdictional defect. Burgers v. Meredith, 652 P.2d 1320 (Utah 1982).~~

14

Rule 14. Review of administrative orders: how obtained; intervention.

~~(a) Petition for review of order; joint petition. When judicial review by the Supreme Court or the Court of Appeals is provided by statute. When a statute provides for judicial review by or appeal to the Supreme Court or the Court of Appeals~~ of an order or decision of an administrative agency, board, commission, committee, or officer (hereinafter the term "agency" shall include agency, board, commission, committee, or officer), a party seeking review must file a petition for review ~~shall be filed~~ with the clerk of the appellate court within the time prescribed by statute, or if there is no time prescribed, then within 30 days after the date of the written decision or order. The petition ~~shall~~ must specify the parties seeking review and ~~shall~~ must designate the respondent(s) and the order or decision, or part thereof, to be reviewed. In each case, the agency ~~shall~~ must be named respondent. The State of Utah ~~shall be deemed is~~ a respondent if ~~so~~ required by statute, even ~~though if~~ not ~~so~~ designated in the petition. If two or more persons are entitled to petition for review of the same order and their interests are such as to make joinder practicable, they may file a joint petition for review and may thereafter proceed as a single petitioner.

~~(b) Filing fees. At the time of filing any petition for review, the party obtaining the review shall pay to the clerk of the appellate court the filing fee established by law. The clerk of the appellate court shall accept a petition for review regardless of whether the filing fee has been paid. Failure to pay the required filing fee within a reasonable time may result in dismissal.~~

~~(c) (b) Service of petition. A copy of the petition for review shall be served by the petitioner on the named respondent(s), upon all other parties to the proceeding before the agency, and upon the Attorney General of Utah, if the state is a party, in the manner prescribed by Rule 3(e). The petitioner, at the time of filing the petition for review, shall also file with the clerk of the appellate court a certificate reflecting service upon all parties to the agency proceeding who have been served. The petitioner must serve the petition on the respondents and all parties to the proceeding before the agency in a manner provided by Rule 21.~~

~~(d) (c) Intervention. Any person who seeks to intervene in a proceeding under this rule shall serve upon all parties to the proceeding and upon all parties who participated before the agency, and may file with the clerk of the appellate court a motion for leave to intervene. The motion shall must contain a concise statement of the interest of the moving party and the grounds upon on which intervention is sought. A motion for leave to intervene shall must be filed within 40 days of the date on which the petition for review is filed.~~

Advisory Committee Notes

The provisions for service, proof of service, and paying filing fees, formerly found in this rule, have been consolidated in Rule 21.

- Formatted: Font: Bold
- Formatted: Font: Not Italic
- Formatted: Hyperlink, Font: Not Italic
- Formatted: Font: Not Italic

Rule 25A. Challenging the constitutionality of a statute or ordinance.

(a) Notice to the Attorney General or the county or municipal attorney; penalty for failure to give notice.

(a)(1) When a party challenges the constitutionality of a statute in an appeal or petition for review in which the Attorney General has not appeared, every party must serve its principal brief and any subsequent brief on the Attorney General on or before the date the brief is filed.

(a)(2) When a party challenges the constitutionality of a county or municipal ordinance in an appeal or petition for review in which the responsible county or municipal attorney has not appeared, every party must serve its principal brief and any subsequent brief on the county or municipal attorney on or before the date the brief is filed.

(a)(3) If an appellee or cross-appellant is the first party to challenge the constitutionality of a statute or ordinance, the appellant must serve its principal brief on the Attorney General or the county or municipal attorney no more than 7 days after receiving the appellee's or the cross-appellant's brief and must serve its reply brief on or before the date it is filed.

(a)(4) Every party must serve its brief on the Attorney General by email or mail at the following address and must file proof of service with the court.

<u>Email</u>	<u>Mail</u>
<u>notices@agutah.gov</u>	<u>Office of the Utah Attorney General</u>
	<u>Attn: Utah Solicitor General</u>
	<u>320 Utah State Capitol</u>
	<u>P.O. Box 142320</u>
	<u>Salt Lake City, Utah 84114-2320</u>

(a)(5) If a party does not serve a brief as required by this rule and supplemental briefing is ordered as a result of that failure, a court may order that party to pay the costs, expenses, and attorney fees of any other party affected by that failure.

(b) Notice by the Attorney General or county or municipal attorney; amicus brief.

(b)(1) Within 14 days after service of the brief that presents a constitutional challenge the Attorney General or other government attorney will notify the appellate court whether it intends to file an amicus brief. The Attorney General or other government attorney may seek up to an additional 7 days' extension of time from the court. Should the Attorney General or other government attorney decline to file an amicus brief, that entity should plainly state the reasons therefor.

(b)(2) If the Attorney General or other government attorney declines to file an amicus brief, the briefing schedule is not affected.

(b)(3) If the Attorney General or other government attorney intends to file an amicus brief, that brief will come due 30 days after the notice of intent is filed. Each governmental entity may file a motion to extend that time as provided under Rule 22. On a governmental entity filing a notice of a

31 intent, the briefing schedule established under Rule 13 is vacated, and the next brief of a party will
32 come due 30 days after the amicus brief is filed.

33 **(c) Call for the views of the Attorney General or county or municipal attorney.** Any time a party
34 challenges the constitutionality of a statute or ordinance, the appellate court may call for the views of the
35 Attorney General or of the county or municipal attorney and set a schedule for filing an amicus brief and
36 supplemental briefs by the parties, if any.

37

1 **Rule 52. Child welfare appeals.**

2 **(a) Time for appeal.** A notice of appeal from an order in a child welfare proceeding, as defined in
3 Rule 1(f), must be filed within 15 days of the entry of the order appealed from. ~~If a timely post judgment~~
4 ~~motion is filed pursuant to Utah Rules of Civil Procedure 50(b), 52(b), or 59, the time for appeal shall run~~
5 ~~from the entry of the order disposing of the motion.~~

6 **(b) Time for appeal extended by certain motions.**

7 (b)(1) If a party timely files in the trial court any of the following, the time for all parties to appeal
8 from the judgment runs from the entry of the dispositive order:

9 (b)(1)(A) A motion for judgment under Rule 50(b) of the Utah Rules of Civil Procedure;

10 (b)(1)(B) A motion to amend or make additional findings of fact, whether or not an alteration
11 of the judgment would be required if the motion is granted, under Rule 52(b) of the Utah Rules of
12 Civil Procedure;

13 (b)(1)(C) A motion to alter or amend the judgment under Rule 59 of the Utah Rules of Civil
14 Procedure; or

15 (b)(1)(D) A motion for a new trial under Rule 59 of the Utah Rules of Civil Procedure.

16 (b)(2) A notice of appeal filed after announcement or entry of judgment, but before entry of an
17 order disposing of any motion listed in paragraph (b), will be treated as filed after entry of the order
18 and on the day thereof, except that the notice of appeal is effective to appeal only from the underlying
19 judgment. To appeal from a final order disposing of any motion listed in paragraph (b)(1), a party
20 must file a notice of appeal or an amended notice of appeal within the prescribed time measured from
21 the entry of the order.

22 ~~**(b)-(c) Time for cross-appeal.** A notice of cross-appeal may be filed within the 15 days for filing a~~
23 ~~notice of appeal or~~ If a timely notice of appeal is filed by a party, any other party may file a notice of
24 appeal within 5 days after a the first notice of appeal is was filed, or within the time otherwise prescribed
25 by paragraphs (a) and (b) of this rule, whichever period last expires.

26 ~~**(c)-(d) Appeals of interlocutory orders.**~~ Appeals from interlocutory orders are governed by Rule 5.
27

Tab 3

1 **Rule 24. Principal and reply Briefs.**

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

4 **(a)(1) A list of current and former parties.** ~~A complete~~ The list of parties must include:

5 (a)(1)(A) all parties to the proceeding in the appellate court and their counsel; and

6 (a)(1)(B) listed separately, all parties to the proceeding in the court or agency whose
7 judgment or order is sought to be reviewed under review that are not parties in the appellate court
8 proceeding, except where the caption of the case on appeal contains the names of all such
9 parties. The list should be set out on a separate page which appears immediately inside the
10 cover.

11 **(a)(2) A table of contents,** ~~including the contents of the addendum, with page references~~ The
12 table of contents must list the sections of the brief with page numbers and the items in the addendum
13 with the item number. The table of contents should link to the section of the brief or to the item in the
14 addendum.

15 **(a)(3) A table of authorities,** ~~with~~ The table of authorities must list all cases alphabetically
16 arranged and with parallel citations, rules, statutes, and other authorities cited, with references to the
17 pages of the brief where on which they are cited.

18 **(a)(4) An introduction.** ~~A brief statement showing the jurisdiction of the appellate court. The~~
19 introduction should describe the nature and context of the dispute and explain why the party should
20 prevail on appeal.

21 **(a)(5) A statement of the issue.** ~~A~~ The statement of the issues must set forth the issue
22 presented for review, including for each issue:

23 (a)(5)(A) the standard of appellate review with supporting authority; and

24 (a)(5)(A) (a)(5)(B) citation to the record showing that the issue was preserved in the trial court
25 for review; or (a)(5)(B) a statement of grounds for seeking review of an issue not preserved in the
26 trial court.

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

31 **(a)(7) ~~(a)(6)~~ A statement of the case.** ~~The statement shall first indicate briefly the nature of the~~
32 case, the course of proceedings, and its disposition in the court below. A statement of the facts
33 relevant to of the case must include, with citations to the record:

34 (a)(6)(A) the facts of the case, to the extent necessary to understand the issues presented for
35 review; shall follow. All statements of fact and references to the proceedings below shall be
36 supported by citations to the record in accordance with paragraph (e) of this rule.

37 (a)(6)(B) the procedural history of the case, to the extent necessary to understand the issues
38 presented for review; and

39 (a)(6)(C) the disposition in the court or agency whose judgment or order is under review.

40 ~~(a)(8)~~ **(a)(7) A Summary of the arguments.** The summary of the arguments, suitably
41 paragraphed, shall be must contain a succinct condensation statement of the arguments ~~actually~~
42 made in the body of the brief. It shall not be a mere repetition of the heading under which the
43 argument is arranged.

44 ~~(a)(9)~~ **(a)(8) An argument.** The argument ~~shall contain the contentions and reasons of the~~
45 ~~appellant with respect to the issues presented, including the grounds for reviewing any issue not~~
46 ~~preserved in the trial court~~ must explain, with reasoned analysis supported by citations to the
47 authorities, statutes, legal authority and parts of the record, relied on why the party should prevail on
48 appeal. A party challenging a fact finding must first marshal all record evidence that supports the
49 challenged finding.

50 **(a)(9) A claim for attorney fees.** A party seeking to recover attorney's fees ~~incurred on appeal~~
51 ~~shall~~ must state the request explicitly and set forth the legal basis for ~~such an award.~~

52 **(a)(10) A short conclusion.** The conclusion may summarize the party's position and must state
53 stating the precise specific relief sought on appeal.

54 **(a)(11) A certificate of compliance.** The filer must certify that the brief complies with:

55 (a)(11)(A) paragraph (g), governing the number of pages or words (The filer may rely on the
56 word count of the word processing system used to prepare the brief.); and

57 (a)(11)(B) Rule 21, governing public and private records.

58 ~~(a)(11)~~ **(a)(12) An addendum.** ~~to the brief or a statement that no addendum is necessary under~~
59 ~~this paragraph. The addendum shall be bound as part of the brief unless doing so makes the brief~~
60 ~~unreasonably thick. If the addendum is bound separately, the addendum shall contain a table of~~
61 ~~contents. The Subject to Rule 21(g), the addendum shall~~ must contain a copy of:

62 ~~(a)(11)(A)~~ **(a)(12)(A)** any constitutional provision, statute, rule, or regulation of central
63 importance cited in the brief but not reproduced verbatim in the brief;

64 ~~(a)(11)(B)~~ **(a)(12)(B)** in cases being reviewed on certiorari, a copy of the Court of Appeals opinion; in all
65 cases any court opinion of central importance to the appeal but not available to the court as part
66 of a regularly published reporter service; and ~~(a)(12)(B)~~ **(a)(12)(B)** the order, judgment, opinion, or decision
67 under review and any related minute entries, findings of fact, and conclusions of law; and

68 ~~(a)(11)(C)~~ **(a)(12)(C)** materials in the record on appeal that are the subject of
69 the dispute and that are of central importance to the determination of the appeal issues presented
70 for review, such as the challenged jury instructions, findings of fact and conclusions of law,
71 memorandum decision, the transcript of the court's oral decision, or the contract or document
72 subject to construction pages, insurance policies, leases, search warrants, or real estate
73 purchase contracts.

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

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

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

80 ~~(e)~~ **(b) Reply brief.** The appellant or petitioner may file a reply brief in reply to the brief of the
81 appellee, and if the appellee has cross-appealed, the appellee may file a brief in reply to the response of
82 the appellant to the issues presented by the cross-appeal. A reply ~~Reply~~ briefs shall must be limited to
83 answering any new matter set forth responding to the facts and arguments raised in the opposing
84 appellee's or respondent's principal brief. The ~~content of the reply~~ reply ~~brief shall conform to the requirements~~
85 of paragraphs (a)(2), (3), (9), and (10) of this rule must include:

86 (b)(1) a table of contents, as required by paragraph (a)(2);

87 (b)(2) a table of authorities, as required by paragraph (a)(3);

88 (b)(3) an argument, as required by paragraph (a)(8);

89 (b)(4) a conclusion as required by paragraph (a)(10); and

90 (b)(5) a certificate of compliance, as required by paragraph (a)(11).

91 **(c) No further briefs; joining or adopting the brief of another party.** No further briefs may be filed
92 except with leave of the appellate court. More than one party may join in a single brief. Any party may
93 adopt by reference any part of the brief of another.

94 **(d) References in briefs to parties and others.** Counsel will be expected in their briefs and oral
95 arguments to keep to a minimum references to parties by such designations as "appellant" and
96 "appellee." ~~It promotes clarity to use the designations used in the lower court or in the agency~~
97 proceedings, or the actual names of parties, or descriptive terms such as "the employee," "the injured
98 person," "the taxpayer," etc. Parties and other persons and entities should be referred to consistently by
99 the term, phrase, or name most pertinent to the issues on appeal. These may include descriptive terms
100 based on the person or entity's role in the dispute, or the designations used in the trial court or agency, or
101 the names of parties. Unless germane to an issue on appeal, a party should not be described solely by
102 the party's procedural role in the case. The surname of a minor must not be used without consent from
103 the minor, nor may the surnames of a minor's biological, adoptive, or foster parents be used.

104 **(e) References in briefs to the record.**

105 (e)(1) Statements of fact and references to proceedings in the court or agency whose judgment or
106 order is under review must be supported by citation to the record. References shall be made to A
107 citation must identify the pages of the original record as paginated pursuant to Rule 11(b) or to pages
108 of any statement of the evidence or proceedings or agreed statement prepared pursuant to Rule 11(f)
109 or 11(g) marked by the clerk. References to pages of published depositions or transcripts shall
110 identify the sequential number of the cover page of each volume as marked by the clerk on the

111 bottom right corner and each separately numbered page(s) referred to within the deposition or
112 transcript as marked by the transcriber.

113 (e)(2) ~~R-A~~ references to an exhibits shall be made to must set forth the exhibit numbers. If the
114 reference is made to evidence the admissibility of which is in controversy, the reference shall be
115 made to must set forth the pages of the record at which the evidence was identified, offered, and
116 received or rejected.

117 **(f) References to legal authority.** A reference to an opinion of the Utah Supreme Court or the Utah
118 Court of Appeals issued on or after January 1, 1999, must include the universal citation (e.g., 2015 UT
119 99, ¶ 3; or 2015 UT App 320, ¶ 6).

120 **(f)-(g) Length of briefs.**

121 (f)(1) ~~Type-volume limitation.~~

122 (f)(1)(A) ~~In an appeal involving the legality of a death sentence, a principal brief is acceptable~~
123 ~~if it contains no more than 28,000 words or if it uses a monospaced face and contains no more~~
124 ~~than 2,600 lines of text; and a reply brief is acceptable if it contains no more than 14,000 words or~~
125 ~~if it uses a monospaced face and contains no more than 1,300 lines of text. In all other appeals, a~~
126 ~~principal brief is acceptable if it contains no more than 14,000 words or it uses a monospaced~~
127 ~~face and contains no more than 1,300 lines of text; and a reply brief is acceptable if it contains no~~
128 ~~more than 7,000 words or it uses a monospaced face and contains no more than 650 lines of~~
129 ~~text.~~

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

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

139 (f)(2) ~~Page limitation. Unless a brief complies with Rule 24(f)(1), a principal briefs shall not exceed~~
140 ~~30 pages, and a reply briefs shall not exceed 15 pages, exclusive of pages containing the table of~~
141 ~~contents, tables of citations and any addendum containing statutes, rules, regulations, or portions of~~
142 ~~the record as required by paragraph (a) of this rule.~~

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

144 g)(1) Unless a brief complies with the following page limits, it must comply with the following word
145 limits:

<u>Type of brief</u>	<u>Page limit</u>	<u>Word limit</u>
<u>Legality of death sentence, principal brief</u>	<u>60</u>	<u>28,000</u>

Legality of death sentence, reply brief	30	14,000
Other cases, principal brief	30	14,000
Other cases, reply brief	15	7,000

146 (g)(2) Headings, footnotes, and quotations count toward the page or word limit, but the table of
 147 contents, table of authorities, and addendum do not.

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

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

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

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

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

160 (g)(5) ~~Type-Volume Limitation.~~

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

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

166 (g)(5)(C) ~~The appellant's Reply Brief of Appellant and Brief of Cross-Appellee is acceptable if~~
 167 ~~it contains no more than 14,000 words or it uses a monospaced face and contains no more than~~
 168 ~~1,300 lines of text.~~

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

171 (g)(6) ~~Certificate of Compliance. A brief submitted under Rule 24(g)(5) must comply with Rule~~
 172 ~~24(f)(1)(C).~~

173 (g)(7) ~~Page Limitation. Unless it complies with Rule 24(g)(5) and (6), the appellant's Brief of~~
 174 ~~Appellant must not exceed 30 pages; the appellee's Brief of Appellee and Cross-Appellant, 35 pages;~~
 175 ~~the appellant's Reply Brief of Appellant and Brief of Cross-Appellee, 30 pages; and the appellee's~~
 176 ~~Reply Brief of Cross-Appellant, 15 pages.~~

177 **(h) Permission for to file over-length brief.** ~~While such motions are~~ Although overlength briefs are
 178 disfavored, the court for good cause shown may upon a party may file a motion permit a party for leave to
 179 file a brief that exceeds the page, or word, or line limitations of this rule. The motion shall must state with
 180 specificity the issues to be briefed, the number of additional pages, or words, or lines requested, and the

181 good cause for granting the motion. A motion filed at least ~~seven~~ 7 days ~~prior to the date before~~ the brief
 182 is due or seeking three or fewer additional pages, ~~or 1,400 or fewer additional words, or 130 or fewer~~
 183 ~~lines of text~~ need not be accompanied by a copy of the proposed brief. A motion filed ~~within seven days of~~
 184 ~~the date the brief is due and seeking more than three additional pages, 1,400 additional words, or 130~~
 185 ~~lines of text shall be accompanied by~~ Otherwise, a copy of the finished-proposed brief must accompany
 186 the motion. If the motion is granted, the responding party is entitled to an equal number of additional
 187 pages, ~~or words, or lines~~ without further order of the court. Whether the motion is granted or denied, the
 188 ~~draft court will destroy the proposed brief will be destroyed by the court.~~

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

193 **(i) Sanctions.** The court on motion or on its own initiative may strike or disregard a brief that contains
 194 burdensome, irrelevant, immaterial or scandalous matters, and the court may assess attorney fees for the
 195 violation.

196 ~~**(j) Citation-Notice of supplemental authorities.**~~ When ~~pertinent and significant authorities~~ authority
 197 whose interpretation determines or is of central importance to the issues comes to the attention of a party
 198 after ~~that party's brief has been filed, or after briefing or~~ oral argument but before decision, ~~a~~ that party
 199 may ~~promptly advise the clerk of the appellate court, by letter~~ file a notice of supplemental authority
 200 setting forth:

201 ~~(j)(1) the citations to the authority;~~ An original letter and nine copies shall be filed in the Supreme
 202 Court. An original letter and seven copies shall be filed in the Court of Appeals. There shall be

203 ~~(j)(2) a reference either to the page of the brief or to a point argued orally to which the citations~~
 204 ~~pertain authority applies;~~ but the letter shall state and

205 ~~(j)(3) the reasons for the supplemental citations relevance of the authority.~~

206 The body of the ~~letter-notice~~ must not exceed 350 words. Any other party may file a response ~~shall be~~
 207 ~~made within seven~~ no later than 7 days of filing and shall be similarly limited after service of the notice.
 208 The body of the response must not exceed 350 words.

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

213 **Advisory Committee Notes**

214 The rule reflects the marshaling requirement articulated in State v. Nielsen, 2014 UT 10, 326 P.3d
 215 645, which holds that the failure to marshal is no longer a technical deficiency that will result in default,
 216 but is the manner in which an appellant carries its burden of persuasion when challenging a finding or
 217 verdict based upon evidence.

218 ~~Briefs that do not comply with the technical requirements of this rule are subject to Rule 27(e).~~

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

221 **2017 amendments**

222 The 2017 amendments substantially change the organization and content of briefs. An important
223 objective of the amendments is to present the party's case in logical order, in measured increments, and
224 without unnecessary repetition. The principal brief of each party must meet the same requirements.

225 **Paragraph (a)(4).** A party's principal brief should include an introduction. The author should focus the
226 introduction on the important features of the case. The introduction to one case may be only a few
227 sentences, while a more complex case may require a few paragraphs or perhaps a few pages. The
228 objective of the introduction is to give the reader a sense of the forest before detailing the trees.

229 **Paragraph (a)(6).** The statement of the case should describe the facts surrounding the dispute and
230 procedural history of the litigation, but only to the extent that these are necessary to understand the
231 issues. Describing a fact or circumstance or proceeding that has no bearing on the issues adds words of
232 no value and distracts the reader. When stating a fact or describing a proceeding, a concise narrative is
233 sometimes a better presentation than a numbered, itemized list. The party must cite to the places in the
234 record that support the statement.

235 **Paragraph (a)(8).** State v. Nielsen, 2014 UT 10, 326 P.3d 645, holds that the failure to marshal
236 evidence is not a technical deficiency resulting in default, but is the manner in which an appellant carries
237 its burden of persuasion when challenging a finding or verdict. The 2017 amendments remove the
238 reference to marshalling, but an appellant must nevertheless marshal the evidence when needed to carry
239 its burden of persuasion.

240 **Paragraph (a)(11).** The certificate of compliance is expanded to include not only compliance with the
241 limit on the length of the brief, but also compliance with the public/private record requirements of Rule 21.
242 Briefs, including the addendum containing trial court records, are public documents, increasingly available
243 on the Internet. However, many trial court records are not public. If the author needs to include a non-
244 public document in an addendum or non-public information in the body of the brief, Rule 21 requires that
245 an identical, public brief be filed, but with the non-public information removed.

246 **Paragraph (b).** The purpose of a reply brief is to respond to the facts and arguments presented in an
247 appellee's principal brief, not to reiterate points already made in the appellant's principal brief, nor to
248 introduce new matters that should have been raised in that brief. Although not required, it is good practice
249 to summarize the point that is being responded to.

250 **Paragraph (d).** Describing the actors in a dispute and litigation presents a challenge to the author of
251 a brief. Consistency promotes clarity; having chosen a term, phrase, name, or initials to define a party,
252 person, or entity, the author should use it throughout a brief.

253 The name of a minor is often a private record and caution should be used to avoid including other
254 names or information from which a minor might be identified. A minor's surname should be used only with

255 the informed consent of a mature minor. The author may file a private brief for the parties and the court
256 using the minor’s name while simultaneously filing an otherwise identical public brief with the minor’s
257 name omitted, redacted, reduced to initials, or substituted with a placeholder name. A minor may be
258 referred to by a descriptive term such as “the child,” “the 11-year old,” or “the sister.” The biological,
259 adoptive, or foster parents of minors may be referred to by their relation to the minor, such as “mother,”
260 “adoptive parent,” or “foster father.”

261 While the name of an adult is usually a public record, the author should recognize the intrusion into
262 the lives of victims, witnesses, and others who are not principals in the dispute caused by a brief
263 published on the Internet. Also, the use of names is disfavored when clarity and discretion can be
264 promoted by use of a reference based on the person’s role in the dispute or the case. Parties and other
265 persons and entities should generally be referred to by their role in the dispute, such as “employee,”
266 “Defendant Employer,” or “the Taxpayer.” Descriptions such as “witness” or “neighbor” can also useful to
267 orient the reader while respecting the interests of non-parties. The reference chosen should be the one
268 most relevant to the matters on appeal.

269 **Paragraph (g).** Because of the increasing rarity of monospaced font, the 2017 amendments
270 eliminated the number of lines as a measure of a brief’s length. And to improve the clarity of Rule 24, the
271 2017 amendments moved the requirements for briefs in a cross-appeal to Rule 24A.

272

1 **Rule 24A. Briefs in cross-appeals.**

2 **(a) Party designation.** The party first filing a notice of appeal is the appellant. The party filing a
3 second or subsequent notice of appeal is the cross-appellant. The parties may change the designation of
4 parties by stipulation filed with the court, or the court may order a different designation of parties. Each
5 party is entitled to file two briefs.

6 **(b) Appellant's principal brief.** The appellant must file a principal brief that presents the issues
7 raised in the appeal.

8 **(c) Cross-appellant's principal brief.** The cross-appellant must then file one brief, that first
9 responds to the appellant's issues raised in the appeal and then, in the same brief, presents the issues
10 raised in the cross-appeal. The brief may include a single introduction, statement of the issue, statement
11 of the case, and conclusion.

12 **(d) Appellant's reply brief.** The appellant must then file one brief that first replies to the cross-
13 appellant's response to the issues raised in the appeal and then responds to the issues raised in the
14 cross-appeal.

15 **(e) Cross-appellant's reply brief.** The cross-appellant may file a reply brief that replies to the
16 appellant's response to the issues raised in cross-appeal.

17 **(f) No further briefs.** No further briefs may be filed except with leave of the appellate court.

18 **(g) Length of briefs.**

19 g)(1) Unless a brief complies with the following page limits, it must comply with the following word
20 limits:

Type of brief	Page limit	Word limit
Appellant's principal brief	30	14,000
Cross-appellant's principal brief	45	21,000
Appellant's reply brief	30	14,000
Cross-appellant's reply brief	15	7,000

21 g)(2) Headings, footnotes, and quotations count toward the page or word limit, but the table of
22 contents, table of authorities, and addendum do not.

23 **(h) Applicability of Rule 24.** Except as provided in this rule, Rule [24](#) applies to briefs in a cross-
24 appeal.

25

1 **Rule 26. Filing and service of briefs.**

2 **(a) Time for service and filing briefs.** Briefs shall be deemed filed on the date of the postmark if
3 first-class mail is utilized.

4 ~~(a)(1) The appellant's shall serve and file a principal brief within is due~~ 40 days after the date of
5 the notice from the clerk of the appellate court pursuant to under Rule 13. If a motion for summary
6 disposition of the appeal or a motion to remand for determination of ineffective assistance of counsel
7 is filed after the ~~Rule 13 briefing notice is sent, service and filing of appellant's principal brief shall be~~
8 within is due 30 days from ~~the denial of such the~~ motion.

9 ~~(a)(2) The appellee's principal brief, or in cases involving a cross-appeal, the appellee/cross-~~
10 ~~appellant's, shall serve and file a principal brief within is due~~ 30 days after service filing of the
11 appellant's brief.

12 ~~(a)(3) In cases involving cross-appeals, the~~ The appellant's shall serve and file the second reply
13 brief described in Rule 24(g) within is due 30 days after service filing of the appellee's ~~/ or the~~ cross-
14 appellant's principal brief. A reply brief may be served and filed by the appellant or the
15 appellee/cross-appellant in cases involving cross-appeals. If a reply brief is filed, it shall be served
16 and filed within 30 days after the filing and service of the appellee's brief or the appellant's second
17 ~~brief in cases involving cross-appeals.~~ If oral argument is scheduled fewer than 35 days after the filing
18 of the appellee's or the cross-appellant's principal brief, the reply brief must be filed at least 5-7 days
19 ~~prior to before~~ oral argument.

20 ~~(a)(5) By stipulation filed with the court in accordance with Rule 21(a) before the expiration of the~~
21 period sought to be extended, the parties may extend each of ~~such~~ periods for no more than 30 days.
22 A motion for ~~enlargement extension~~ of time need not accompany the stipulation. ~~No such stipulation~~
23 ~~shall be effective unless it is filed prior to the expiration of the period sought to be extended.~~

24 **(b) Number of copies to be filed and served.** For matters pending in the Supreme Court, ten copies
25 of each brief, one of which shall contain an original signature, shall be filed with the Clerk of the Supreme
26 Court. For matters pending in the Court of Appeals, eight copies of each brief, one of which shall contain
27 an original signature, shall be filed with the Clerk of the Court of Appeals. Two copies shall be served on
28 counsel for each party separately represented.

29 **~~(e)~~(b) Consequence of failure to file briefs.**

30 ~~(b)(1) If an appellant fails to file a principal brief within the original or extended time provided in~~
31 ~~this rule, or within the time as may be extended by order of the appellate court, an appellee may~~
32 ~~move for dismissal of to dismiss~~ the appeal. If an appellee fails to file a principal brief within the
33 original or extended time provided by this rule, or within the time as may be extended by order of the
34 appellate court, an appellant may move that the appellee not be heard at oral argument.

35 ~~(b)(2) If a cross-appellant fails to file its principal brief within the original or extended time, an~~
36 appellant may move to dismiss the cross-appeal. If an appellant fails to file a reply brief within the

37 original or extended time responding to the issues presented in a cross-appeal, a cross-appellant
38 may move that the appellant not be heard at oral argument on those issues.

39 **(d)-(c) Return of record to the clerk.** Each party, upon the filing of its brief, ~~shall~~ must return ~~the~~ any
40 records or exhibits to the clerk of the court having custody ~~pursuant to these rules.~~

41

1 **Rule 27. Form of briefs, and other documents; courtesy copies.**

2 **(a) Paper size; printing margins.** Briefs shall be typewritten, printed or prepared by photocopying or
3 other duplicating or copying process that will produce clear, black and permanent copies equally legible to
4 printing, on opaque, unglazed paper 8 1/2 inches wide and 11 inches long, and shall be securely bound
5 along the left margin. Paper may be recycled paper, with or without deinking. The printing must be double
6 spaced, except for matter customarily single spaced and indented. Margins shall be at least one inch on
7 the top, bottom and sides of each page. Page numbers may appear in the margins.

8 **(b) Typeface.** Either a proportionally spaced or monospaced typeface in a plain, roman style may be
9 used. A proportionally spaced typeface must be 13-point or larger for both text and footnotes. A
10 monospaced typeface may not contain more than ten characters per inch for both text and footnotes.

11 **(c) Binding.** Briefs shall be printed on both sides of the page, and bound with a compact-type binding
12 so as not unduly to increase the thickness of the brief along the bound side. Coiled plastic and spiral type
13 bindings are not acceptable.

14 **(d) Color of cover; contents of cover.** The cover of the opening brief of appellant shall be blue; that
15 of appellee, red; that of intervenor, guardian ad litem, or amicus curiae, green; that of any reply brief, or in
16 cases involving a cross appeal, the appellant's second brief, gray; that of any petition for rehearing, tan;
17 that of any response to a petition for rehearing, white; that of a petition for certiorari, white; that of a
18 response to a petition for certiorari, orange; and that of a reply to the response to a petition for certiorari,
19 yellow. All brief covers shall be of heavy cover stock. There shall be adequate contrast between the
20 printing and the color of the cover. The cover of all briefs shall set forth in the caption the full title given to
21 the case in the court or agency from which the appeal was taken, as modified pursuant to Rule 3(g), as
22 well as the designation of the parties both as they appeared in the lower court or agency and as they
23 appear in the appeal. In addition, the covers shall contain: the name of the appellate court; the number of
24 the case in the appellate court opposite the case title; the title of the document (e.g., Brief of Appellant);
25 the nature of the proceeding in the appellate court (e.g., Appeal, Petition for Review); the name of the
26 court and judge, agency or board below; and the names and addresses of counsel for the respective
27 parties designated as attorney for appellant, petitioner, appellee, or respondent, as the case may be. The
28 names of counsel for the party filing the document shall appear in the lower right and opposing counsel in
29 the lower left of the cover. In

30 **(a) Form of all documents.** All documents must conform to the following format:

31 (a)(1) portrait aspect, 8½ inches wide by 11 inches long, black text on white background;

32 (a)(2) font: Georgia 12 point;

33 (a)(3) margins: 1.85 inches (sides); 1.7 inches (top and bottom);

34 (a)(4) tables: may exceed the side margins if necessary;

35 (a)(5) line spacing: 1.15 or 15 point;

36 (a)(6) paragraph spacing: 10 point;

37 (a)(7) endnotes: prohibited;

38 (a)(8) justification: full;

39 (a)(9) hyphenation: optional;

40 (a)(10) footnotes and block quotes: the same as other text, except that block quotes must be
 41 indented an additional one-half inch; and

42 (a)(11) header: title of document left justified, case number centered, and page number right
 43 justified.

44 **(b) Additional requirements for briefs, petitions for writ of certiorari and petitions for**
 45 **rehearing.**

46 (b)(1) In addition to the requirements of paragraph (a), the cover of a brief, petition for rehearing,
 47 response to a petition for rehearing, petition for certiorari, response to a petition for certiorari, and a
 48 reply to the response to a petition for certiorari must include centered and stacked in the following
 49 order:

50 (b)(1)(A) appellate case number;

51 (b)(1)(B) appellate court;

52 (b)(1)(C) parties;

53 (b)(1)(D) trial court;

54 (b)(1)(E) trial court judge;

55 (b)(1)(F) trial court number;

56 (b)(1)(G) title of document; and

57 (b)(1)(H) names of counsel filing the document.

58 (b)(2) the second page of a brief, petition for rehearing, response to a petition for rehearing,
 59 petition for certiorari, response to a petition for certiorari, and a reply to the response to a petition for
 60 certiorari, must include:

61 (b)(2)(A) a list of all parties and their counsel as required by Rule 24; and

62 (b)(2)(B) in criminal cases, the cover of the defendant's brief shall also indicate whether the
 63 defendant is presently incarcerated in connection with the case on appeal and if whether the brief
 64 is an Anders brief.

65 **(c) Courtesy copies.** No later than 7 days after filing the following, the filer must deliver to the clerk
 66 of the appellate court 6 courtesy copies. Courtesy copies must be printed on both sides of the page, and
 67 bound so that they lie reasonably flat. If there is an addendum, it must be bound as part of the brief,
 68 petition, response or reply unless doing so makes the document unreasonably thick. If the addendum is
 69 bound separately, it must contain a table of contents. The cover of the courtesy copies must be of heavy
 70 stock with adequate contrast between the printing and the color of the cover. If bound separately, the
 71 cover of an addendum must be the same color as the brief with which it is filed. The color of the cover
 72 must be as follows:

73 (c)(1) appellant's principal brief, blue;

74 (c)(2) appellee's or cross-appellant's principal brief, red;

75 (c)(3) brief of an intervenor, guardian ad litem, or amicus curiae, green; and

76 (c)(4) appellant’s or cross-appellant’s reply brief, gray.

77 ~~(e)-(d) Effect of non-compliance with rules. The clerk shall examine all briefs before filing. If they~~
78 ~~are~~ A brief, petition for writ of certiorari, or petition for rehearing not prepared in accordance with these
79 rules, ~~they will not be filed but shall be returned to be properly prepared~~ is subject to being struck. The
80 clerk ~~shall retain one copy of the non-complying brief and~~ will promptly notify the party shall to file within 7
81 days a brief, petition for writ of certiorari, or petition for rehearing prepared in compliance with these rules
82 ~~within 5 days. The party whose brief has been rejected under this provision shall immediately notify the~~
83 ~~opposing party in writing of the lodging. The~~ Upon a showing of extraordinary circumstances, the clerk
84 may grant additional time for bringing a brief, petition for writ of certiorari, or petition for rehearing into
85 compliance ~~only under extraordinary circumstances. This rule is paragraph does not intended to permit~~
86 ~~significant substantive changes in a~~ briefs, petition for writ of certiorari, or petition for rehearing.

87 **Advisory Committee Note**

88 ~~The change from the term "pica size" to "ten characters per inch" is intended to accommodate the~~
89 ~~widespread use of word processors. The definition of pica is print of approximately ten characters per~~
90 ~~inch. The amendment is not intended to prohibit proportionally spaced printing.~~

91 An Anders brief is a brief filed pursuant to Anders v. California, 386 U.S. 793, 97 S.Ct. 1396 (1967), in
92 cases where counsel believes no nonfrivolous appellate issues exist. In order for an Anders-type brief to
93 be accepted by either the Utah Court of Appeals or the Utah Supreme Court, counsel must comply with
94 specific requirements that are more rigorous than those set forth in Anders. See, e.g. State v. Wells, 2000
95 UT App 304, 13 P.3d 1056 (per curiam); In re D.C., 963 P.2d 761 (Utah App. 1998); State v. Flores, 855
96 P.2d 258 (Utah App. 1993) (per curiam); Dunn v. Cook, 791 P.2d 873 (Utah 1990); and State v. Clayton,
97 639 P.2d 168 (Utah 1981).

98 2017 Amendments

99 The new format for documents will make the document more easily read on a screen. Paragraph (a)
100 establishes the requirements for all appellate filings, and paragraph (b) establishes the additional
101 requirements for briefs and the specified petitions. Most of the items for the cover page are self-
102 explanatory. The title of the brief or petition should describe the document and the party filing it, such as
103 Appellant’s Principal Brief, Cross-Appellant’s Reply Brief, or Appellee’s Petition for Writ of Certiorari. If
104 fewer than all appellants or appellees join in a brief, the title should include the parties on whose behalf
105 the brief is filed.

106 Paragraph (c) is intended as a temporary adjustment to electronic filing.

107

Tab 4

1 **Rule 3. Appeal as of right: how taken.**

2 **(a) Filing appeal from final orders and judgments.** An appeal may be taken from a district or
3 juvenile court to the appellate court with jurisdiction over the appeal from all final orders and judgments,
4 except as otherwise provided by law, by filing a notice of appeal with the clerk of the trial court within the
5 time allowed by Rule 4. Failure of an appellant to take any step other than the timely filing of a notice of
6 appeal does not affect the validity of the appeal, but is ground only for ~~such action as~~ the appellate court
7 deems appropriate, which may include dismissal of the appeal or other sanctions short of dismissal, as
8 well as the award of attorney fees.

9 **(b) Joint or consolidated appeals.** If two or more parties are entitled to appeal from a judgment or
10 order and their interests ~~are such as to~~ make joinder practicable, they may file a joint notice of appeal or
11 may join in an appeal of another party after filing separate timely notices of appeal. Joint appeals may
12 proceed as a single appeal with a single appellant. Individual appeals may be consolidated by order of
13 the appellate court ~~upon on its own motion initiative or upon on~~ motion of a party, or ~~by on~~ stipulation of
14 the parties ~~to the separate appeals.~~

15 **(c) Designation of parties.** The party taking the appeal ~~shall be known as is~~ the appellant and the
16 adverse party ~~as is~~ the appellee. The title of the action or proceeding ~~shall is not be~~ changed in
17 consequence of the appeal, except where otherwise directed by the appellate court. In original
18 proceedings in the appellate court, the party making the original application ~~shall be known as is~~ the
19 petitioner and any other party ~~as is~~ the respondent.

20 **(d) Content of notice of appeal.** The notice of appeal ~~shall must~~ specify the party or parties taking
21 the appeal; ~~shall~~ designate the judgment or order, or part thereof, appealed from; ~~shall~~ designate the
22 court from which the appeal is taken; and ~~shall~~ designate the court to which the appeal is taken.

23 **(e) Service of notice of appeal.** ~~The party taking the appeal shall give notice of the filing of a notice~~
24 ~~of appeal by serving each party to the judgment or order in accordance with the requirements of the court~~
25 ~~from which the appeal is taken. If counsel of record is served, the certificate of service shall designate the~~
26 ~~name of the party represented by that counsel.~~

27 **(f) Filing fee in civil appeals.** ~~At the time of filing any notice of separate, joint, or cross appeal in a~~
28 ~~civil case, the party taking the appeal shall pay to the clerk of the trial court the filing fee established by~~
29 ~~law. The clerk of the trial court shall accept a notice of appeal regardless of whether the filing fee has~~
30 ~~been paid. Failure to pay the filing fee within a reasonable time may result in dismissal.~~

31 **(g)-(e) Docketing of appeal.** Upon the filing of the notice of appeal, the clerk of the trial court shall
32 immediately transmit a certified copy of the notice of appeal, showing the date of its filing, and a
33 ~~statement by the clerk will promptly notify the clerk of the appellate court of the appeal, indicating whether~~
34 the filing fee was paid and whether the cost bond required by Rule 6 was filed. ~~Upon receipt of the copy~~
35 ~~of the notice of appeal, the clerk of the appellate court shall enter the appeal upon the docket.~~

36 **Advisory Committee Notes**

37 ~~The designation of parties is changed to conform to the designation of parties in the federal appellate~~
38 ~~courts.~~

39 ~~The rule is amended to make clear that the mere designation of an appeal as a "cross-appeal" does~~
40 ~~not eliminate liability for payment of the filing and docketing fees. But for the order of filing, the cross-~~
41 ~~appellant would have been the appellant and so should be required to pay the established fees.~~

42 The provisions for service, proof of service, and paying filing fees, formerly found in this rule, have
43 been consolidated in Rule 21.

44

1 **Rule 5. Discretionary appeals from interlocutory orders.**

2 **(a) Petition for permission to appeal.** An appeal from an interlocutory order may be sought by any
3 party by filing a petition for permission to appeal from the interlocutory order with the clerk of the appellate
4 court with jurisdiction over the case within 20 days after the entry of the order of the trial court, ~~with proof~~
5 ~~of service on all other parties to the action.~~ A timely appeal from an order certified under Rule [54\(b\)](#), Utah
6 Rules of Civil Procedure, that the appellate court determines is not final may, in the discretion of the
7 appellate court, be considered by the appellate court as a petition for permission to appeal an
8 interlocutory order. The appellate court may direct the appellant to file a petition that conforms to the
9 requirements of paragraph (c) ~~of this rule.~~

10 **(b) Fees and copies Notice of petition.** ~~For a petition presented to the Supreme Court, the~~
11 ~~petitioner shall file with the Clerk of the Supreme Court an original and five copies of the petition, together~~
12 ~~with the fee required by statute. For a petition presented to the Court of Appeals, the petitioner shall file~~
13 ~~with the Clerk of the Court of Appeals an original and four copies of the petition, together with the fee~~
14 ~~required by statute. The petitioner shall serve the petition on the opposing party and must file notice of the~~
15 ~~filing of the petition on with the trial court. If an order is issued authorizing the appeal, the clerk of the~~
16 ~~appellate court shall immediately give notice of the order by mail to the respective parties and shall~~
17 ~~transmit a certified copy of the order, together with a copy of the petition, to the trial court where the~~
18 ~~petition and order shall be filed in lieu of a notice of appeal.~~

19 **(c) Content of petition.**

20 (c)(1) The petition ~~shall~~ must contain:

21 (c)(1)(A) A concise statement of facts material to a consideration of the issue presented and
22 the order sought to be reviewed;

23 (c)(1)(B) The issue presented expressed in the terms and circumstances of the case but
24 without unnecessary detail, and a demonstration that the issue was preserved in the trial court.
25 Petitioner must state the applicable standard of appellate review and cite supporting authority;

26 (c)(1)(C) A statement of the reasons why an immediate interlocutory appeal should be
27 permitted, including a concise analysis of the statutes, rules or cases believed to be determinative
28 of the issue stated; and

29 (c)(1)(D) A statement of the reason why the appeal may materially advance the termination of
30 the litigation.

31 (c)(2) If the appeal is subject to assignment by the Supreme Court to the Court of Appeals, the
32 phrase "Subject to assignment to the Court of Appeals" ~~shall~~ must appear immediately under the title
33 of the document, i.e. Petition for Permission to Appeal. Appellant may then set forth in the petition a
34 concise statement why the Supreme Court should decide the case.

35 (c)(3) The petitioner ~~shall~~ must attach a copy of or link to the order of the trial court from which an
36 appeal is sought and any related findings of fact and conclusions of law and opinion. Other

37 ~~documents parts of the record~~ that may be relevant to determining whether to grant permission to
38 appeal may be referenced by identifying trial court docket entries of the documents.

39 **(d) Page limitation.** A petition for permission to appeal ~~shall~~may not exceed 20 pages, excluding
40 table of contents, if any, and the addenda.

41 ~~**(e) Service in criminal and juvenile delinquency cases.** Any petition filed by a defendant in a
42 criminal case originally charged as a felony or by a juvenile in a delinquency proceeding shall be served
43 on the Criminal Appeals Division of the Office of the Utah Attorney General.~~

44 ~~**(f)**~~**(e) Response; no reply.** No petition will be granted in the absence of a request by the court for a
45 response. No response to a petition for permission to appeal will be received unless requested by the
46 court. Within ~~40~~14 days after an order requesting a response, any other party may oppose or concur with
47 the petition. Any response to a petition for permission to appeal ~~shall be~~is subject to the same page
48 limitation set out in ~~subsection paragraph (d), and may refer to parts of the record that may be relevant to~~
49 determining whether to grant permission to appeal by identifying trial court docket entries of the
50 documents. ~~An original and five copies of the answer shall be filed in the Supreme Court. An original and~~
51 ~~four copies shall be filed in the Court of Appeals. The respondent shall serve the response on the~~
52 ~~petitioner.~~ The petition and any response ~~shall~~will be submitted without oral argument unless otherwise
53 ordered. No reply in support of a petition for permission to appeal ~~shall be~~is permitted, unless requested
54 by the court.

55 ~~**(g)**~~**(f) Grant of permission.** An appeal from an interlocutory order may be granted only if ~~it appears~~
56 ~~that~~ the order involves substantial rights and may materially affect the final decision or that a
57 determination of the correctness of the order before final judgment will better serve the administration and
58 interests of justice. The order permitting the appeal may set forth the particular issue or point of law ~~which~~
59 that will be considered and may be on ~~such~~ terms, including the filing of a bond for costs and damages,
60 ~~as determined by the appellate court may determine.~~ ~~The clerk of the appellate court shall immediately~~
61 ~~give the parties and trial court notice by mail or by electronic order of any order granting or denying the~~
62 ~~petition.~~ If the petition is granted, the appeal ~~shall be~~is deemed to have been filed and docketed by the
63 granting of the petition. All proceedings subsequent to the granting of the petition ~~shall~~will be as, and
64 within the time required, for appeals from final judgments except that no docketing statement ~~shall~~may
65 be filed under Rule 9 unless ~~the court otherwise orders~~ ordered, and no cross-appeal may be filed under
66 ~~rule~~ Rule 4(d).

67 **(g) Notice of order.** The clerk of the appellate court will promptly transmit the order granting or
68 denying the petition to the parties and trial court. If the order grants the petition, the clerk of the appellate
69 court will promptly transmit a copy of the petition to the trial court.

70 **(h) Stays pending interlocutory review.** The appellate court will not ~~consider~~grant an application
71 for a stay pending disposition of an interlocutory appeal until the petitioner has filed a petition for
72 interlocutory appeal.

73 **(i) Cross-petitions not permitted.** A cross-petition for permission to appeal a non-final order is not
74 permitted by this rule. All parties seeking to appeal from an interlocutory order must comply with
75 ~~subsection-paragraph (a)-of this rule.~~

76 The provisions for service, proof of service, and paying filing fees, formerly found in this rule, have
77 been consolidated in Rule 21.

78

1 **Rule 9. Docketing statement.**

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

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

11 **(c) Content of docketing statement in a civil case.** The docketing statement in an appeal arising
12 from a civil case ~~shall must~~ include:

13 (c)(1) A concise statement of the nature of the proceeding and the effect of the order appealed,
14 and the district court case number, e.g., "This appeal is from a final judgment of the First District
15 Court granting summary judgment in case number 001900055."

16 (c)(2) The following dates relevant to a determination of the timeliness of the notice of appeal and
17 the jurisdiction of the appellate court:

18 (c)(2)(i) The date of entry of the final judgment or order from which the appeal is taken.

19 (c)(2)(ii) The date the notice of appeal was filed in the trial court.

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

22 (c)(2)(iv) If ~~any~~ motions listed in Rule 4(b) ~~were was~~ filed, the date ~~such the~~ motion was filed
23 in the trial court and the date of entry of ~~any the~~ order disposing of ~~such the~~ motion.

24 (c)(2)(v) If the appellant is an inmate confined in an institution ~~and is invoking Rule 21(f)~~, the
25 date the notice of appeal was deposited in the institution's internal mail system.

26 (c)(2)(vi) If a motion to reinstate the time to appeal was filed pursuant to Rule 4(g), the date of
27 the order disposing of ~~such the~~ motion.

28 (c)(3) If the appeal is taken from an order certified as final pursuant to Rule 54(b) of the Utah
29 Rules of Civil Procedure, a statement of what claims and parties remain before the trial court for
30 adjudication.

31 (c)(4) A statement of at least one substantial issue appellant intends to assert on appeal. An
32 issue not raised in the docketing statement may nevertheless be raised in the brief of the appellant;
33 conversely, an issue raised in the docketing statement does not have to be included in the brief of the
34 appellant.

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

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

37 **(d) Content of a docketing statement in a criminal case.** The docketing statement in an appeal
38 arising from a criminal case ~~shall~~must include:

39 (d)(1) A concise statement of the nature of the proceeding, including the highest degree of any of
40 the charges in the trial court, and the district court case number, e.g., “This appeal is from a judgment
41 of conviction and sentence of the Third District Court on a third degree felony charge in case number
42 001900055.”

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

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

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

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

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

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

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

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

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

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

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

66 **(e) Content of a docketing statement in a review of an administrative order.** The docketing
67 statement in a case arising from an administrative proceeding ~~shall~~must include:

68 (e)(1) A concise statement of the nature of the proceedings and the effect of the order appealed,
69 e.g., “This petition is from an order of the Workforce Appeals Board denying reconsideration of the
70 denial of benefits.”

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

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

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

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

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

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

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

81 (e)(7) ~~Copies~~ A copy of the following documents must be attached to ~~each copy~~ of the docketing
82 statement:

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

84 (e)(7)(ii) In appeals arising from an order of the Public Service Commission, any application
85 for rehearing filed pursuant to Utah Code Section [54-7-15](#).

86 **(f) Consequences of failure to comply.** In a civil appeal, failure to file a docketing statement within
87 the time period provided in ~~subsection-paragraph~~ (b) may result in dismissal of a civil appeal or a petition
88 for review. In a criminal case, failure to file a docketing statement within the time period provided in
89 ~~subsection-paragraph~~ (b) may result in a finding of contempt or other sanction.

90 **(g) Appeals from interlocutory orders.** When a petition for permission to appeal from an
91 interlocutory order is granted under Rule [5](#), a docketing statement ~~shall~~ may not be filed unless otherwise
92 ordered.

93 **Advisory Committee Notes**

94 ~~The content of the docketing statement has been slightly reordered to first state information governing~~
95 ~~the jurisdiction of the court.~~

96 ~~The docketing statement and briefs contain a new section requiring a statement of the applicable~~
97 ~~standard of review, with citation of supporting authority, for each issue presented on appeal.~~

98 ~~The content of the docketing statement has been reordered and brought into conformity with revised~~
99 ~~Rule 4, Utah Rules of Appellate Procedure.~~ This rule is satisfied by a docketing statement in compliance
100 with ~~form 7~~ the forms found at <http://www.utcourts.gov/howto/appeals/#forms>.

101 The provisions for service formerly found in this rule, have been consolidated in Rule 21.

102

1 **Rule 10. Motion for summary disposition.**

2 **(a) Time for filing; grounds for motion.** The court, on motion or its own initiative must dismiss an
3 appeal or petition for review if the court lacks jurisdiction; or may summarily affirm the order or judgment
4 under review if no substantial question is presented; or may summarily reverse on the basis of manifest
5 error.

6 (a)(1) A party may ~~move~~ at any time file a motion to dismiss the appeal or the petition for review
7 on the basis that the appellate court lacks jurisdiction.

8 (a)(2) Within ~~40~~ 14 days after the docketing statement or an order granting a petition under Rule
9 ~~5(e)~~ 5 is ~~served~~ filed, a party may ~~move~~ file a motion:

10 (a)(2)(A) To affirm the order or judgment ~~which is the subject of~~ under review on the basis
11 that the grounds for review are so insubstantial as not to merit further proceedings and
12 consideration by the appellate court there is no substantial question; or

13 (a)(2)(B) To reverse the order or judgment ~~which is the subject of~~ under review on the basis
14 of manifest error.

15 **(b) Number of copies; fForm of motion.** ~~For matters pending in the Supreme Court, an original and~~
16 ~~seven copies of a motion made pursuant to this rule shall be filed with the Clerk of the Supreme Court.~~
17 ~~For matters pending in the Court of Appeals, an original and four copies shall be filed with the Clerk of the~~
18 ~~Court of Appeals. The motion shall~~ must be in the form prescribed by Rule 23.

19 **(c) Filing of response.** ~~The~~ Within 14 days after the motion is filed, the party moved against shall
20 have ~~10 days from the service of such a motion in which to~~ may file a response. For matters pending in
21 the Supreme Court, an original response and seven copies shall be filed in the Supreme Court. For
22 matters pending in the Court of Appeals, an original response and four copies shall be filed in the Court of
23 Appeals.

24 **(d) Submission of motion; suspension of further proceedings.** Upon the filing of a response or
25 the expiration of time therefor, the motion ~~shall~~ will be submitted to the court for consideration and an
26 appropriate order. The time for taking other steps in the appellate procedure is suspended pending
27 disposition of a motion to affirm or reverse or dismiss.

28 **(e) Ruling of court.** ~~The court, upon its own motion, and on such notice as it directs, may dismiss an~~
29 ~~appeal or petition for review if the court lacks jurisdiction; or may summarily affirm the judgment or order~~
30 ~~which is the subject of review, if it plainly appears that no substantial question is presented; or may~~
31 ~~summarily reverse in cases of manifest error.~~

32 **(f) e Deferral of ruling.** ~~As to any issue raised by a motion for summary disposition, the~~ The court
33 may defer its ruling until plenary presentation and consideration of the case.

34

1 **Rule 11. The trial court record on appeal.**

2 **(a) Composition of the record on appeal.** ~~The original papers~~ All documents and exhibits filed in
3 the trial court, including the presentence report in criminal matters, and the transcript of proceedings, if
4 any, the index prepared by the clerk of the trial court, and the docket sheet, shall ~~constitutes~~ constitute the trial court
5 record on appeal in all cases. A copy of the record certified by the clerk of the trial court to conform to the
6 original may be substituted for the original as the record on appeal. Only those papers prescribed under
7 paragraph (d) of this rule shall be transmitted to the appellate court.

8 **(b) ~~Pagination and indexing of record.~~**

9 ~~(b)(1) Immediately upon filing of the notice of appeal, the clerk of the trial court shall securely~~
10 ~~fasten the record in a trial court case file, with collation in the following order:~~

11 ~~(b)(1)(A) the index prepared by the clerk;~~

12 ~~(b)(1)(B) the docket sheet;~~

13 ~~(b)(1)(C) all original papers in chronological order;~~

14 ~~(b)(1)(D) all published depositions in chronological order;~~

15 ~~(b)(1)(E) all transcripts prepared for appeal in chronological order;~~

16 ~~(b)(1)(F) a list of all exhibits offered in the proceeding; and~~

17 ~~(b)(1)(G) in criminal cases, the presentence investigation report.~~

18 ~~(b)(2)(A) The clerk shall mark the bottom right corner of every page of the collated index,~~
19 ~~docket sheet, and all original papers as well as the cover page only of all published depositions~~
20 ~~and the cover page only of each volume of transcripts constituting the record with a sequential~~
21 ~~number using one series of numerals for the entire record.~~

22 ~~(b)(2)(B) If a supplemental record is forwarded to the appellate court, the clerk shall collate~~
23 ~~the papers, depositions, and transcripts of the supplemental record in the same order as the~~
24 ~~original record and mark the bottom right corner of each page of the collated original papers as~~
25 ~~well as the cover page only of all published depositions and the cover page only of each volume~~
26 ~~of transcripts constituting the supplemental record with a sequential number beginning with the~~
27 ~~number next following the number of the last page of the original record.~~

28 ~~(b)(3) The clerk shall prepare a chronological index of the record. The index shall contain a~~
29 ~~reference to the date on which the paper, deposition or transcript was filed in the trial court and the~~
30 ~~starting page of the record on which the paper, deposition or transcript will be found.~~

31 ~~(b)(4) Clerks of the trial and appellate courts shall establish rules and procedures for checking out~~
32 ~~the record after pagination for use by the parties in preparing briefs for an appeal or in preparing or~~
33 ~~briefing a petition for writ of certiorari.~~

34 **(c) Duty of appellant.** After filing the notice of appeal, the appellant, or in the event that more than
35 one appeal is taken, each appellant, shall comply with the provisions of paragraphs (d) and (e) of this rule
36 and shall take any other action necessary to enable the clerk of the trial court to assemble and transmit
37 the record. A single record shall be transmitted.

38 **~~(d) Papers on appeal.~~**

39 ~~(d)(1) Criminal cases. All of the papers in a criminal case shall be included by the clerk of the trial~~
 40 ~~court as part of the record on appeal.~~

41 ~~(d)(2) Civil cases. Unless otherwise directed by the appellate court upon sua sponte motion or motion~~
 42 ~~of a party, the clerk of the trial court shall include all of the papers in a civil case as part of the record on~~
 43 ~~appeal.~~

44 ~~(d)(3) Agency cases. Unless otherwise directed by the appellate court upon sua sponte motion or~~
 45 ~~motion of a party, the agency shall include all papers in the agency file as part of the record.~~

46 **~~(e) The transcript of proceedings; duty of appellant to order; notice to appellee if partial~~**
 47 **~~transcript is ordered.~~**

48 ~~(e)(1) Request for transcript; time for filing. Within 10 days after filing the notice of appeal, the~~
 49 ~~appellant shall, order the transcript(s) online at www.utcourts.gov, specifying the entire proceeding or~~
 50 ~~parts of the proceeding to be transcribed that are not already on file. The appellant shall serve on the~~
 51 ~~appellee a designation of those parts of the proceeding to be transcribed. If the appellant desires a~~
 52 ~~transcript in a compressed format, appellant shall include the request for a compressed format within~~
 53 ~~the request for transcript. If no such parts of the proceedings are to be requested, within the same~~
 54 ~~period the appellant shall file a certificate to that effect with the clerk of the appellate court and serve~~
 55 ~~a copy of that certificate on the appellee.~~

56 ~~(e)(2) Transcript required of all evidence regarding challenged finding or conclusion. If the~~
 57 ~~appellant intends to urge on appeal that a finding or conclusion is unsupported by or is contrary to the~~
 58 ~~evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding~~
 59 ~~or conclusion. Neither the court nor the appellee is obligated to correct appellant's deficiencies in~~
 60 ~~providing the relevant portions of the transcript.~~

61 ~~(e)(3) Cross designation by appellee. If the appellant does not order the entire transcript, the~~
 62 ~~appellee may, within 10 days after the service of the designation or certificate described in paragraph~~
 63 ~~(e)(1) of this rule, file and serve on the appellant a designation of additional parts to be included.~~

64 **(b) Access to the record; exhibits.** The electronic record is available through the e-filing system.
 65 Upon application and a showing of good cause, the clerk of the appellate court will print the requested
 66 parts of the record for a self-represented party. The trial court clerk must scan into the trial court record
 67 exhibits capable of being scanned, such as documents and photographs. Upon request by a party or the
 68 clerk of the appellate court, the clerk of the trial court will transmit to the appellate court an exhibit not
 69 capable of being scanned.

70 **~~(f) (c) Agreed statement as the record on appeal.~~** ~~In lieu of~~ Instead of the record on appeal as defined
 71 in paragraph (a) ~~of this rule,~~ the parties may prepare and sign a statement of the case, showing how the
 72 issues ~~presented by the appeal arose and were decided,~~ in the trial court and setting forth only so many
 73 of the facts averred and proved or sought to be proved as are essential to a decision of the issues
 74 presented. If the statement conforms to the truth, it, together with ~~such any~~ such any additions as the trial court

75 ~~may consider~~ necessary ~~fully to present the issues raised by the appeal, shall will~~ be approved and
 76 entered by in the trial court record. The clerk of the trial court ~~shall transmit the statement to~~ will promptly
 77 notify the clerk of the appellate court within the time prescribed by Rule 12(b)(2) of entry of the statement.
 78 The clerk of the trial court shall transmit the index of the record to the clerk of the appellate court upon
 79 approval of the statement by the trial court.

80 **~~(g)~~(d) Statement of evidence or proceedings when no report was made or when transcript is**
 81 **unavailable.** If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is
 82 unavailable, or if the appellant is impecunious and unable to afford a transcript in a civil case, the
 83 appellant may prepare a statement of the evidence or proceedings from the best available means,
 84 including recollection. The statement ~~shall must~~ be served on the appellee, who may serve objections or
 85 propose amendments within ~~40~~ 14 days after service. The statement and any objections or proposed
 86 amendments ~~shall must~~ be submitted to the trial court for settlement and approval and, as settled and
 87 approved, ~~shall be included by the clerk of the trial court in the record on appeal~~ will be entered in the trial
 88 court record. The clerk of the trial court will promptly notify the clerk of the appellate court of entry of the
 89 statement.

90 **~~(h)~~(e) Correction or modification of the record.**

91 (e)(1) If a party claims that the transcript of a hearing is incorrect, the appellate court may
 92 compare the transcript to the audio or video record or may remand the case to the trial court to
 93 compare the records. If the transcript does not correctly reflect the content of the audio or video
 94 record, the court will order the court reporter or official court transcriber to correct the transcript.

95 (e)(2) If any difference other than an incorrect transcript arises as to whether the record truly
 96 discloses what occurred in the trial court, the difference shall must be submitted to and settled by that
 97 court and the record made to conform to the truth. If anything material to either party is misstated or is
 98 omitted from the record by error, by accident, or because the appellant did not order a transcript of
 99 proceedings that the appellee needs to respond to issues raised in the Brief of Appellant, ~~the parties~~
 100 ~~by stipulation,~~ the trial court, or the appellate court, ~~either before or after the record is transmitted,~~ on
 101 motion of a party or on its own initiative, may direct that the omission or misstatement be corrected
 102 and, if necessary, ~~that a supplemental record be certified and transmitted~~ entered in the trial court
 103 record. The moving party, or the court if it is acting on its own initiative, ~~shall must~~ serve on the
 104 parties a statement of the proposed changes. Within ~~40~~ 14 days after service, any party may serve
 105 objections to the proposed changes. All other questions as to the form and content of the record ~~shall~~
 106 must be presented to the appellate court.

107 **Advisory Committee Notes**

108 The rule is amended to make applicable in the Supreme Court a procedure of the Court of Appeals
 109 for preparing a transcript where the record is maintained by an electronic recording device. The rule is
 110 modified slightly from the former Court of Appeals rule to make it the appellant's responsibility, not the
 111 clerk's responsibility, to arrange for the preparation of the transcript.

112 The clerk of the appellate court will not print the record unless the self-represented party shows good
113 cause for doing so. Inmates of the Utah State Prison, for example, are not allowed to use computers and
114 so do not have access to the electronic file. Every state courthouse has computers for free public use, as
115 do most libraries. The clerk will not print the record unless the self-represented party shows why this
116 access is not sufficient. The clerk will print only those parts of the record that are necessary for the
117 appeal. Even when printing is appropriate, the clerk will not necessarily print the entire record.
118

1 **Rule 12. ~~Transmission of the record~~ Transcripts.**

2 **(a) Time for filing request for transcript.** Within 14 days after filing the notice of appeal, the
3 appellant must order online at www.utcourts.gov a transcript of the entire proceeding or desired parts of
4 the proceeding or file a certificate that no parts of the proceeding need to be transcribed. The appellant
5 must serve on the appellee a designation of the parts of the proceeding to be transcribed or the certificate
6 that no parts of the proceeding need to be transcribed.

7 **(b) Transcript required of all evidence regarding challenged finding.** If the appellant intends to
8 urge on appeal that a finding or conclusion is unsupported by or is contrary to the evidence, the appellant
9 must include in the record a transcript of all evidence relevant to the finding or conclusion. Neither the
10 court nor the appellee is obligated to correct appellant's deficiencies in providing the relevant portions of
11 the transcript.

12 **(c) Cross-designation by appellee.** If the appellant does not order the entire transcript, the appellee
13 may, within 14 days after the filing of the designation or certificate described in paragraph (a), order
14 additional parts of the proceeding to be transcribed.

15 **~~(a)(d) Duty to prepare and file transcript; request for enlargement of time; notice to appellate~~**
16 **court** **Assignment of reporter or transcriber; payment of fee.**

17 ~~(a)(1)-(d)(1)~~ Upon receipt of a request for a transcript, the clerk of the appellate court shall ~~will~~
18 assign the preparation of the transcript to the court reporter who reported the proceedings or, if
19 recorded on video or audio equipment, to an official court transcriber and notify the requesting party
20 of the assignment. ~~By stipulation of the parties approved by the appellate court, a person other than~~
21 ~~an official court transcriber may transcribe a recorded hearing.~~

22 ~~(a)(2)-(d)(2)~~ A party requesting a transcript shall ~~must~~ make satisfactory arrangements for paying
23 the fee to the reporter or transcriber and notify the clerk of the appellate court of the date on which
24 satisfactory arrangements were made. The transcript shall ~~must~~ be completed and filed within 30
25 days after that date. ~~Upon completion of the transcript, the reporter and, if applicable, the transcriber~~
26 ~~must certify that the transcript is a true and correct record of the court hearing or of the file provided~~
27 ~~by the clerk of the appellate court. The reporter or transcriber must prepare an index of its contents~~
28 ~~and file the electronic file through the transcript management program.~~

29 ~~(a)(3)~~ The reporter or transcriber may request from the clerk of the appellate court an
30 enlargement of time in which to file the transcript. The request for enlargement of time shall be in
31 writing and shall contain the elements stated in CJA 5-201(1). If filed prior to the expiration of the
32 transcript preparation period, the request shall make a showing of good cause. If filed after the
33 expiration of the period, the request shall make a showing of extraordinary circumstances beyond the
34 control of the reporter or transcriber. The reporter or transcriber shall provide a copy of the request to
35 the parties. The clerk of the appellate court shall provide written notice of the disposition of the
36 request for enlargement of time to the reporter or transcriber and the parties.

37 ~~(a)(4) Upon completion of the transcript, the reporter and, if applicable, the transcriber shall certify~~
38 ~~that the transcript is a true and correct record of the court hearing or of the file provided by the clerk of~~
39 ~~the appellate court. The reporter or transcriber shall prepare an index of its contents and file the~~
40 ~~electronic file through the transcript management program. The original hard copy of the transcript~~
41 ~~and index shall be filed with the clerk of the trial court. At the request of the person ordering the~~
42 ~~transcript or at the request of the appellate court, the reporter or transcriber shall file the transcript in~~
43 ~~a compressed format that places multiple complete pages of the original transcript upon each page of~~
44 ~~compressed transcript. The compressed transcript shall retain the page and line numbers of the~~
45 ~~original transcript. A compressed transcript may be certified as a correct copy of the original.~~

46 **~~(b) Transmittal of record on appeal to appellate court.~~**

47 ~~(b)(1) Transmittal of index. Within 20 days from the date of request from the appellate court, the~~
48 ~~trial court, juvenile court, or government agency shall transmit a certified copy of the index prepared~~
49 ~~pursuant to Rule 11(b) to the clerk of the appellate court.~~

50 ~~(b)(2) Transmittal of non-paginated record. Within 7 days from the date of request from the~~
51 ~~appellate court, the trial court, juvenile court, or government agency shall transmit the papers and any~~
52 ~~transcripts on file to the clerk of the appellate court. These papers may be sent "as is," without~~
53 ~~pagination, and will be used by the appellate court for purposes of preliminary review. If the appeal is~~
54 ~~not summarily dismissed, the record will be returned for indexing and pagination.~~

55 ~~(b)(3) Transmittal of paginated record. Within 20 days from the date of request from the appellate~~
56 ~~court, the trial court, juvenile court, or government agency shall transmit the papers, transcripts and~~
57 ~~exhibits in the appeal to the appellate court.~~

58 ~~(b)(4) Transmission of exhibits. Documents of unusual bulk or weight, and physical exhibits other~~
59 ~~than documents, photographs, or binders, shall not be transmitted by the trial court, juvenile court, or~~
60 ~~government agency unless directed to do so by a party or by the clerk of the appellate court. A party~~
61 ~~must make advance arrangements with the clerks for the transportation and receipt of exhibits of~~
62 ~~unusual bulk or weight.~~

63 ~~(b)(5) Checking out record on appeal. During the briefing period, counsel for the parties who are~~
64 ~~members of the Utah State Bar in good standing may, as officers of the court, check out the record~~
65 ~~upon written request to the clerk of court of the court in possession of the record on appeal. The~~
66 ~~record may be mailed by registered mail or other reputable overnight carrier, return receipt requested,~~
67 ~~provided that counsel requesting mailing makes advance arrangements with the clerk and pays the~~
68 ~~cost of shipping. The record may be picked up in person by counsel, or his or her authorized agent.~~
69 ~~Counsel shall be responsible for promptly returning the record to the court not later than when the~~
70 ~~party's brief is filed.~~

71 ~~**(c) Expedited transmittal of parts of the record.** If prior to the time the record is transmitted the~~
72 ~~record is required in the appellate court, the clerk of the trial court at the request of any party or of the~~
73 ~~appellate court shall transmit to the appellate court such parts of the original record as designated.~~

74 **(e) Request for extension of time.**

75 (e)(1) The reporter or transcriber may file with the appellate court a written request showing good
76 cause for an extension of time in which to file the transcript. The request must be filed before
77 expiration of the deadline sought to be extended. The request must state the reasons for the request
78 and the date on which the reporter or transcriber will file the transcript. The clerk of the appellate court
79 will notify the reporter or transcriber of the disposition of the request.

80 (e)(2) If a reporter or transcriber fails to file a transcript with the trial court and notify the clerk of
81 the appellate court of the filing within the original or extended time, the reporter or transcriber will be
82 subject to disciplinary action under Code of Judicial Administration Rule 5-202 and may be ordered to
83 appear and show cause why sanctions should not be imposed.

84 **Advisory Committee Notes**

85 ~~The amendment keeps the requirement that the court reporter acknowledge the receipt of the request~~
86 ~~for transcript. Formerly, that acknowledgment was to appear at the foot of the request itself. Rule 12 now~~
87 ~~treats the acknowledgment as a separate document. The content of the acknowledgment includes a~~
88 ~~statement regarding the satisfactory arrangement for payment. Until satisfactory arrangements for~~
89 ~~payment have been made, the reporter is under no obligation to prepare the transcript.~~

90 ~~Rule 12 is amended to impose upon the court reporters the same standard of "good cause" and the~~
91 ~~same procedures now applicable to parties in seeking an extension of time for preparation of the~~
92 ~~transcript.~~

93

1 **Rule 13. Notice of ~~filing by clerk~~ briefing schedule.**

2 ~~Upon receipt of the index transmitted by the clerk of the trial court pursuant to Rule 12(b) or Rule~~
3 ~~11(f), the~~ The clerk of the appellate court shall file the index and shall immediately give notice to will notify
4 all parties of the date on which it was filed and the date on which the appellant's brief is due pursuant to
5 under Rule [26](#).

6

1 **Rule 14. Review of administrative orders: how obtained; intervention.**

2 **(a) Petition for review of order; joint petition.** ~~When judicial review by the Supreme Court or the~~
 3 ~~Court of Appeals is provided by statute~~ When a statute provides for judicial review by or appeal to the
 4 Supreme Court or the Court of Appeals of an order or decision of an administrative agency, board,
 5 commission, committee, or officer (hereinafter the term "agency" shall include agency, board,
 6 commission, committee, or officer), a party seeking review must file a petition for review ~~shall be filed with~~
 7 ~~the clerk of the appellate court within the time prescribed by statute, or if there is no time prescribed, then~~
 8 ~~within 30 days after the date of the written decision or order. The petition shall~~ must specify the parties
 9 seeking review and ~~shall~~ must designate the respondent(s) and the order or decision, or part thereof, to
 10 be reviewed. In each case, the agency ~~shall~~ must be named respondent. The State of Utah ~~shall be~~
 11 ~~deemed~~ is a respondent if ~~so~~ required by statute, even ~~though~~ if not ~~so~~ designated in the petition. If two or
 12 more persons are entitled to petition for review of the same order and their interests are such as to make
 13 joinder practicable, they may file a joint petition for review and may thereafter proceed as a single
 14 petitioner.

15 **(b) Filing fees.** ~~At the time of filing any petition for review, the party obtaining the review shall pay to~~
 16 ~~the clerk of the appellate court the filing fee established by law. The clerk of the appellate court shall~~
 17 ~~accept a petition for review regardless of whether the filing fee has been paid. Failure to pay the required~~
 18 ~~filing fee within a reasonable time may result in dismissal.~~

19 **(c) Service of petition.** ~~A copy of the petition for review shall be served by the petitioner on the~~
 20 ~~named respondent(s), upon all other parties to the proceeding before the agency, and upon the Attorney~~
 21 ~~General of Utah, if the state is a party, in the manner prescribed by Rule 3(e). The petitioner, at the time~~
 22 ~~of filing the petition for review, shall also file with the clerk of the appellate court a certificate reflecting~~
 23 ~~service upon all parties to the agency proceeding who have been served. The petitioner must serve the~~
 24 ~~petition on the respondents and all parties to the proceeding before the agency in a manner provided by~~
 25 Rule 21.

26 **(d) Intervention.** ~~Any person who seeks to intervene in a proceeding under this rule shall serve~~
 27 ~~upon all parties to the proceeding and upon all parties who participated before the agency, and may file~~
 28 ~~with the clerk of the appellate court a motion for leave to intervene. The motion shall~~ must contain a
 29 concise statement of the interest of the moving party and the grounds ~~upon~~ on which intervention is
 30 sought. A motion ~~for leave to intervene shall~~ must be filed within 40 days of the date on which the petition
 31 for review is filed.

32 **Advisory Committee Notes**

33 The provisions for service, proof of service, and paying filing fees, formerly found in this rule, have
 34 been consolidated in Rule 21.

1 **Rule 16. The agency record on appeal.**

2 **(a) Composition of the record on appeal.** The original ~~papers~~ documents and exhibits filed in the
3 trial court with the agency, including the ~~presentence report in criminal matters,~~ the transcript of
4 proceedings, if any, the index prepared by the ~~clerk of the trial court~~ agency, and the docket sheet, if any,
5 ~~shall constitute~~ the agency record on appeal in all cases. A copy of the record certified by the ~~clerk of the~~
6 ~~trial court~~ agency to conform to the original may be substituted for the original as the record on appeal.
7 ~~Only those papers prescribed under paragraph (d) of this rule shall be transmitted to the appellate court.~~
8 The agency must include all documents and exhibits in the agency file as part of the record unless
9 otherwise directed by the appellate court on its own initiative or motion of a party.

10 **(b) Pagination and indexing of record.**

11 (b)(1) Immediately upon filing of the ~~notice of appeal petition,~~ the ~~clerk of the trial court~~ agency
12 ~~shall~~ must securely fasten and collate the record in a trial court case file, with collation in the following
13 order:

14 (b)(1)(A) ~~the~~ a chronological index prepared by the clerk of the record that contains a
15 reference to the date on which the document, deposition or transcript was filed and the starting
16 page of the record on which the document, deposition or transcript is found;

17 (b)(1)(B) the docket sheet, if any;

18 (b)(1)(C) all original ~~papers~~ documents in chronological order;

19 (b)(1)(D) all published depositions in chronological order;

20 (b)(1)(E) all transcripts prepared for appeal in chronological order; and

21 (b)(1)(F) a list of all exhibits offered in the proceeding; ~~and~~

22 ~~(b)(1)(G) in criminal cases, the presentence investigation report.~~

23 (b)(2)(A) ~~The clerk shall~~ agency must mark the bottom right corner of every page of the collated
24 index, docket sheet, and all ~~original papers~~ documents as well as the cover page only of all published
25 depositions and the cover page only of each volume of transcripts ~~constituting the record~~ with a
26 sequential number using one series of numerals for the entire record.

27 ~~(b)(2)(B)-(b)(3)~~ The agency will transmit a single record unless there is a supplemental record. If a
28 supplemental record is forwarded to the appellate court transmitted, the ~~clerk shall~~ agency must
29 collate the ~~papers~~ documents, depositions, and transcripts of the supplemental record in the same
30 order as the original record and mark the bottom right corner of each page of the collated original
31 ~~papers~~ documents as well as the cover page only of all published depositions and the cover page
32 only of each volume of transcripts constituting the supplemental record with a sequential number
33 beginning with the number next following the number of the last page of the original record.

34 (b)(3) ~~The clerk shall prepare a chronological index of the record. The index shall contain a~~
35 reference to the date on which the paper, deposition or transcript was filed in the trial court and the
36 starting page of the record on which the paper, deposition or transcript will be found.

37 ~~(b)(4) Clerks of the trial~~ The agency and the appellate courts shall will establish rules and
 38 procedures for checking out the record after pagination for use by the parties in preparing briefs ~~for~~
 39 ~~an appeal or in preparing or briefing a petition for writ of certiorari.~~

40 **(c) Duty of ~~appellant~~ petitioner.** ~~After filing the notice of appeal, the appellant, or in the event that~~
 41 ~~more than one appeal is taken, each appellant, shall~~ Each petitioner must comply with the provisions of
 42 paragraphs (d) and (e) of this rule Rule 12 and shall take any other action necessary to enable the clerk
 43 ~~of the trial court~~ agency to assemble and transmit the record. ~~A single record shall be transmitted.~~

44 **~~(d) Papers on appeal.~~**

45 ~~(d)(1) Criminal cases. All of the papers in a criminal case shall be included by the clerk of the trial~~
 46 ~~court as part of the record on appeal.~~

47 ~~(d)(2) Civil cases. Unless otherwise directed by the appellate court upon sua sponte motion or motion~~
 48 ~~of a party, the clerk of the trial court shall include all of the papers in a civil case as part of the record on~~
 49 ~~appeal.~~

50 ~~(d)(3) Agency cases. Unless otherwise directed by the appellate court upon sua sponte motion or~~
 51 ~~motion of a party, the agency shall include all papers in the agency file as part of the record.~~

52 **(e) The transcript of proceedings; duty of ~~appellant~~ petitioner to order; notice to ~~appellee~~**
 53 **respondent if partial transcript is ordered.**

54 ~~(e)(1) Request for transcript; time for filing. Within 40-14 days after filing the notice of appeal~~
 55 ~~petition for review, the appellant shall,~~ petitioner must order from the agency a transcript of the entire
 56 proceeding or desired parts of the proceeding or file a certificate that no parts of the proceeding need
 57 to be transcribed. The appellant must serve on the respondent a designation of the parts of the
 58 proceeding to be transcribed or the certificate that no parts of the proceeding need to be
 59 transcribed~~order the transcript(s) online at , specifying the entire proceeding or parts of the~~
 60 ~~proceeding to be transcribed that are not already on file. The appellant shall serve on the appellee a~~
 61 ~~designation of those parts of the proceeding to be transcribed. If the appellant desires a transcript in a~~
 62 ~~compressed format, appellant shall include the request for a compressed format within the request for~~
 63 ~~transcript. If no such parts of the proceedings are to be requested, within the same period the~~
 64 ~~appellant shall file a certificate to that effect with the clerk of the appellate court and serve a copy of~~
 65 ~~that certificate on the appellee.~~

66 ~~(e)(2) Transcript required of all evidence regarding challenged finding or conclusion. If the~~
 67 ~~appellant-petitioner intends to urge on appeal that a finding or conclusion is unsupported by or is~~
 68 ~~contrary to the evidence, the appellant shall~~ petitioner must include in the record a transcript of all
 69 evidence relevant to ~~such~~ the finding or conclusion. Neither the court nor the ~~appellee-respondent~~ is
 70 obligated to correct ~~appellant's~~ petitioner's deficiencies in providing the relevant portions of the
 71 transcript.

72 ~~(e)(3) Cross-designation by appellee-respondent. If the appellant-petitioner does not order the~~
 73 ~~entire transcript, the appellee-respondent may, within 40-14 days after the service-filing of the~~

74 designation or certificate described in paragraph (e)(1) ~~of this rule, file and serve on the appellant a~~
75 ~~designation of additional parts to be included~~ order additional parts of the proceeding to be
76 transcribed.

77 **(f) Agreed statement as the record on appeal.** ~~In lieu of the record on appeal as defined in~~
78 ~~paragraph (a) of this rule, the parties may prepare and sign a statement of the case, showing how the~~
79 ~~issues presented by the appeal arose and were decided in the trial court and setting forth only so many of~~
80 ~~the facts averred and proved or sought to be proved as are essential to a decision of the issues~~
81 ~~presented. If the statement conforms to the truth, it, together with such additions as the trial court may~~
82 ~~consider necessary fully to present the issues raised by the appeal, shall be approved by the trial court.~~
83 ~~The clerk of the trial court shall transmit the statement to the clerk of the appellate court within the time~~
84 ~~prescribed by Rule 12(b)(2). The clerk of the trial court shall transmit the index of the record to the clerk of~~
85 ~~the appellate court upon approval of the statement by the trial court.~~

86 **(g) Statement of evidence or proceedings when no report was made or when transcript is**
87 **unavailable.** ~~If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is~~
88 ~~unavailable, or if the appellant is impecunious and unable to afford a transcript in a civil case, the~~
89 ~~appellant may prepare a statement of the evidence or proceedings from the best available means,~~
90 ~~including recollection. The statement shall be served on the appellee, who may serve objections or~~
91 ~~propose amendments within 10 days after service. The statement and any objections or proposed~~
92 ~~amendments shall be submitted to the trial court for settlement and approval and, as settled and~~
93 ~~approved, shall be included by the clerk of the trial court in the record on appeal.~~

94 **(h)-(f) Correction or modification of the record.**

95 (f)(1) For the duration of the review, including any proceedings on writ of certiorari, the agency must
96 maintain and make available to the parties any audio or video record of the agency proceedings. The
97 agency may collect a fee authorized by law for access to the record.

98 (f)(2) If a party claims that the transcript of a hearing is incorrect, the appellate court may compare the
99 transcript to the audio or video record or may remand the case to the agency to compare the records. If
100 the transcript does not correctly reflect the content of the audio or video record, the agency or court will
101 order the court reporter or official court transcriber to correct the transcript.

102 (f)(3) If any difference other than an incorrect transcript arises as to whether the record truly discloses
103 what occurred in the trial court agency, the difference shall must be submitted to and settled by that court
104 the agency and the record made to conform to the truth. If anything material to either party is misstated or
105 is omitted from the record by error, by accident, or because the appellant petitioner did not order a
106 transcript of proceedings that the appellee respondent needs to respond to issues raised in the Brief of
107 Appellant, the parties by stipulation, the trial court, agency or the appellate court, either before or after the
108 record is transmitted, on motion of a party or on its own initiative, may direct that the omission or
109 misstatement be corrected and entered in the agency record and, if necessary, that a supplemental
110 record be certified and transmitted. The moving party, or the court if it is acting on its own initiative, shall

111 ~~must~~ serve on the parties a statement of the proposed changes. Within ~~40-14~~ days after service, any
112 party may serve objections to the proposed changes. All other questions as to the form and content of the
113 record ~~shall~~must be presented to the appellate court.

114 **(g) Transmission of the record.** The clerk of the appellate court will request the index, a non-
115 paginated record, or a paginated record. The agency will transmit the index within 21 days; the non-
116 paginated record within 7 days; and the paginated record within 21 days.

117 **(h) Checking out record.** During the briefing period, counsel for the parties may check out the
118 agency record from the agency or court in possession of the record. Unless picked up in person or by an
119 authorized agent, the record must be delivered and returned by a shipping method that tracks the
120 shipment. Counsel must pay the cost of shipping. Counsel must return the record promptly and not later
121 than when the party's brief is filed.

122 **Advisory Committee Notes**

123 The rule is amended to make applicable in the Supreme Court a procedure of the Court of Appeals
124 for preparing a transcript where the record is maintained by an electronic recording device. The rule is
125 modified slightly from the former Court of Appeals rule to make it the appellant's responsibility, not the
126 clerk's responsibility, to arrange for the preparation of the transcript.

127

1 **Rule 19. Extraordinary writs.**

2 **(a) ~~Service of a petition for extraordinary writ to a judge or agency; petition; service and~~**
3 **~~filing.~~** An application for an extraordinary writ referred to in Rule 65B, Utah Rules of Civil Procedure,
4 directed to a judge, agency, person or entity shall be made by filing a petition with the clerk of the
5 appellate court. ~~Service of the petition shall be made on the respondent judge, agency, person, or~~
6 ~~entity and on all parties to the action or case in the trial court or agency. In the event of an original~~
7 ~~petition in the appellate court where no~~

8 (a)(1) Unless an action is pending in the a trial court or agency, the a petition shall for an
9 extraordinary writ under Utah Rule of Civil Procedure 65B must be served personally on the
10 respondent judge, agency, person or entity by any of the methods in Utah Rule of Civil Procedure
11 4 of the Utah Rules of Civil Procedure and service shall be made by the most direct means
12 available must be served on all persons or associations whose interests might be substantially
13 affected by the most direct means available.

14 (a)(2) If an action is pending in a trial court or agency, a petition for an extraordinary writ must
15 be served on the respondent judge, agency, person, or entity and on all parties to the action in
16 the trial court or agency by any of the methods allowed by Rule 21.

17 (a)(3) If imprisoned, the petitioner may mail the petition by United States mail, postage
18 prepaid to the Attorney General of Utah or the county attorney of the county if imprisoned in a
19 county jail.

20 **(b) Contents of petition and filing fee.** ~~A~~ The petition for an extraordinary writ shall must contain the
21 following:

22 (b)(1) A statement of all persons or associations, by name or by class, whose interests might be
23 substantially affected;

24 (b)(2) A statement of the issues presented and of the relief sought;

25 (b)(3) A statement of the facts necessary to an understanding of the issues presented by the
26 petition;

27 (b)(4) A statement of the reasons why no other plain, speedy, or adequate remedy exists and why
28 the writ should issue;

29 (b)(5) Except in cases where the writ is directed to a district court, a statement explaining why it is
30 impractical or inappropriate to file the petition ~~for a writ~~ in the district court;

31 ~~Copies~~ (b)(6) A copy of or a link to any order or opinion or parts of the record which may be
32 essential to an understanding of the matters set forth in the petition;

33 (b)(7) A memorandum of points and authorities in support of the petition; and

34 (b)(8) The prescribed filing fee, unless waived by the court.

35 (b)(9) ~~Where~~ If emergency relief is sought, the petition must comply with Rule 23C(b), including
36 any additional requirements set forth by that ~~subpart~~ paragraph.

37 (b)(10) ~~Where~~If the subject of the petition is an interlocutory order, the petition must state
 38 whether a petition for interlocutory appeal has been filed and, if so, summarize its status or, if not,
 39 state why interlocutory appeal is not a plain, speedy or adequate remedy.

40 **(c) Response to petition.** The judge, agency, person, or entity and all parties in the action other than
 41 the petitioner ~~shall be~~are deemed respondents for all purposes. Two or more respondents may respond
 42 jointly. If any respondent does not desire to appear in the proceedings, that respondent may advise the
 43 clerk of the appellate court and all parties by letter, but the allegations of the petition ~~shall~~are not thereby
 44 ~~be deemed~~ admitted. ~~Where~~If emergency relief is sought, Rule ~~23C(d)~~shall applyapplies. Otherwise,
 45 within ~~seven~~14 days after service of the petition, any respondent or any other party may file a response
 46 in opposition or concurrence, which includes supporting authority.

47 **(d) Review and disposition of petition.** The court ~~shall~~may render a decision based on the petition
 48 and any timely response, ~~or it may~~ require briefing or the submission of further information, and may hold
 49 oral argument ~~at its discretion~~. If additional briefing is required, the briefs ~~shall~~must comply with Rules ~~24~~
 50 and ~~27~~. If emergency relief is sought, Rule 23C(f) applies to requests for hearings in emergency matters.
 51 ~~With regard to emergency petitions submitted under Rule 23C, and where~~If emergency relief is sought
 52 and consultation with other members of the court cannot be timely obtained, a single judge or justice may
 53 grant or deny the petition, subject to review by the court at the earliest possible time. With regard to all
 54 petitions, a single judge or justice may deny the petition if it is frivolous on its face or fails to materially
 55 comply with the requirements of this rule or Rule ~~65B~~, Utah Rules of Civil Procedure. The denial of a
 56 petition by a single judge or justice may be reviewed by the appellate court upon ~~specific~~ request filed
 57 within ~~seven~~7 days of notice of disposition, but ~~such~~the request ~~shall~~may not include any additional
 58 argument or briefing.

59 **(e) Transmission of record.** ~~In reviewing a petition for extraordinary writ, the~~The appellate court
 60 may order the record, or any relevant portion ~~thereof~~, to be transmitted.

61 **(f) Number of copies.** ~~For a petition presented to the Supreme Court, petitioner shall file with the~~
 62 ~~clerk of the court an original and five copies of the petition. For a petition pending in the Supreme Court,~~
 63 ~~respondent shall file with the clerk of the court an original and five copies of the response. For a petition~~
 64 ~~presented to the Court of Appeals, petitioner shall file with the clerk of the court an original and four~~
 65 ~~copies of the petition. For a petition pending in the Court of Appeals, respondent shall file with the clerk of~~
 66 ~~the court an original and four copies of the response.~~

67 **(g)-(f) Issuance of extraordinary writ by appellate court sua sponte on its own initiative.** The
 68 appellate court, in aid of its own jurisdiction in extraordinary cases, may issue a writ ~~of certiorari sua~~
 69 ~~sponte on its own initiative~~ directed to a judge, agency, person, or entity. A copy of the writ ~~shall~~must be
 70 served on the named respondents in the manner and by an individual authorized to accomplish personal
 71 service under Rule ~~4~~, Utah Rules of Civil Procedure. In addition, copies of the writ ~~shall~~must be
 72 transmitted by the clerk of the appellate court, by the most direct means available, to all persons or
 73 associations whose interests might be substantially affected by the writ. The respondent and the persons

74 or associations whose interests are substantially affected may, within ~~four~~ 4 business days of the
75 issuance of the writ, petition the court to dissolve or amend the writ. The petition ~~shall~~ must be
76 accompanied by a concise statement of the reasons for dissolution or amendment of the writ.
77

1 **Rule 20. Habeas corpus proceedings.**

2 **(a) Application for an original writ; when appropriate.** If a petition for a writ of habeas corpus is
3 filed in the appellate court or submitted to a justice or judge ~~thereof of the court~~, it will be referred to the
4 appropriate district court unless it is shown on the face of the petition to the satisfaction of the appellate
5 court that the district court is unavailable or other exigent circumstances exist. If a petition is initially filed
6 in a district court or is referred to a district court by the appellate court and the district court denies or
7 dismisses the petition, ~~a re-filing of the order may be appealed, but the petition may not be refiled with the~~
8 ~~appellate court is inappropriate; the proper procedure in such an instance is an appeal from the order of~~
9 ~~the district court.~~

10 **(b) Procedure on original petition.**

11 (b)(1) A habeas corpus proceeding may be commenced by filing a petition with the clerk of the
12 appellate court or, in emergency situations, with a justice or judge of the court. ~~For matters pending in~~
13 ~~the Supreme court, an original petition and seven copies shall be filed in the Supreme Court. For~~
14 ~~matters pending in the Court of Appeals, an original petition and four copies shall be filed in the Court~~
15 ~~of Appeals. The petitioner shall serve a copy of the petition must be served on the respondent~~
16 ~~pursuant to by any of the methods provided for service of process in Rule 4 of the Utah Rules of Civil~~
17 ~~Procedure but, if imprisoned, the petitioner may mail by United States mail, postage prepaid, a copy~~
18 ~~of the petition to the Attorney General of Utah or the county attorney of the county if imprisoned in a~~
19 ~~county jail. Such service is in lieu of service upon the named respondent, and a certificate of mailing~~
20 ~~under oath that a copy was mailed to the Attorney General or county attorney must be filed with the~~
21 ~~clerk of the appellate court. In emergency situations, an order to show cause may be issued by the~~
22 ~~court, or a single justice or judge if the court is not available, and a stay or injunction may be issued to~~
23 ~~preserve the court's jurisdiction until such time as the court can hear argument on whether a writ~~
24 ~~should issue.~~

25 (b)(2) If the petition is not referred to the district court, the attorney general or the county attorney,
26 as the case may be, ~~shall must answer the petition or otherwise plead within ~~ten~~ 14 days after service~~
27 ~~of a copy of the petition. When a responsive pleading or motion is filed or an order to show cause is~~
28 ~~issued, the court shall will set the case for hearing and the clerk shall will give notice to the parties.~~

29 (b)(3) The clerk of the appellate court ~~shall will~~, if the petitioner is imprisoned or ~~is a person~~
30 ~~otherwise~~ in the custody of the state or any political subdivision ~~thereof~~, give notice of the time for the
31 filing of memoranda and for oral argument, to the attorney general, the county attorney, or the city
32 attorney, depending on where the petitioner is held and whether the petitioner is detained pursuant to
33 state, county, or city law. Similar notice ~~shall will~~ be given to any other person or ~~an~~ association
34 detaining the petitioner not in custody of the state.

35 **(c) Contents of petition and attachments.** The petition ~~shall must~~ include the following:

36 (c)(1) A statement of where the petitioner is detained, by whom the petitioner is detained, and the
37 reason, if known, why ~~the respondent has detained~~ the petitioner is detained.

38 (c)(2) A brief statement of the reasons why the detention is ~~deemed~~ unlawful. The petition ~~shall~~
39 must state in plain and concise language:

40 (c)(2)(A) the facts giving rise to each claim that the confinement or detention is in violation of
41 a state order or judgment or a ~~constitutional~~ right established by the United States Constitution or
42 the Constitution of the State of Utah or is otherwise illegal;

43 (c)(2)(B) whether an appeal was taken from the judgment or conviction pursuant to which a
44 petitioner is incarcerated; and

45 (c)(2)(C) whether the allegations of illegality were raised in the appeal and decided by the
46 appellate court.

47 (c)(3) A statement indicating whether any other petition for a writ of habeas corpus based on the
48 same or similar grounds has been filed and the reason why relief was denied.

49 (c)(4) ~~Copies~~ A copy of or a link to the court order or legal process, court opinions and findings
50 pursuant to which the petitioner is detained or confined, affidavits, copies of orders, and other
51 supporting written documents ~~shall~~ must be attached to the petition or ~~it shall be stated by the~~
52 petitioner must state why the same they are not attached.

53 **(d) Contents of answer.** The answer ~~shall~~ must concisely set forth specific admissions, denials, or
54 affirmative defenses to the allegations of the petition and must state plainly and unequivocally whether
55 the respondent has, or at any time has had, the person designated in the petition under control and
56 restraint and, if so, the cause for the restraint. The answer ~~shall~~ must not contain citations of legal
57 authority or legal argument.

58 **(e) Other provisions.**

59 (e)(1) If the respondent cannot be found or if the respondent does not have the person in custody,
60 the writ and any other process issued may be served ~~upon~~ on anyone having the petitioner in
61 custody, in the manner and with the same effect as if that person had been made respondent in the
62 action.

63 (e)(2) If the respondent refuses or avoids service, or attempts wrongfully to carry the person
64 imprisoned or restrained out of the county or state after service of the writ, the person serving the writ
65 ~~shall~~ must immediately arrest the respondent or other person so resisting, for presentation, together
66 with the person designated in the writ, forthwith before the court.

67 (e)(3) At the time of the issuance of the writ, the court may, if it appears that the person detained
68 will be carried out of the jurisdiction of the court or will suffer some irreparable injury before
69 compliance with the writ can be enforced, cause a warrant to issue, reciting the facts and directing the
70 sheriff to bring the detained person before the court to be dealt with according to law.

71 (e)(4) The respondent ~~shall~~ must appear at the proper time and place with the person designated
72 or show good cause for not doing so. If the person designated has been transferred, the respondent
73 must state when and to whom the transfer was made, and the reason and authority for the transfer.

74 The writ ~~shall~~may not be disobeyed for any defect of form or misdescription of the person restrained
75 or of the respondent, if enough is stated to show the meaning and intent.

76 (e)(5) The ~~person restrained~~petitioner may waive any rights to be present at the hearing, in which
77 case the writ ~~shall~~will be modified accordingly. Pending a determination of the matter, the court may
78 place ~~such person~~the petitioner in the custody of an individual or association as may be deemed
79 proper.

80 **Advisory Committee Note**

81 The amendments make clear that an original writ for habeas corpus should be filed only in the District
82 Court. An application to an appellate court ~~must~~that does not demonstrate on the face of the petition the
83 unavailability of the District Court. ~~Petitions that do not contain such documentation will~~ or exigent
84 circumstances may be summarily referred to the District Court. The clarification seeks to halt the practice
85 ~~by some pro se petitioners~~ of simultaneously filing the same petition in different courts.

86 The amendments simplify the procedures for service ~~of petitions upon~~on the respondent by
87 incarcerated petitioners. The former rule required service by summons on the respondent. The
88 amendments allow service on the Attorney General or county attorney by mail.

89

1 **Rule 21. Filing and service.**

2 **(a) Filing. Papers**

3 (a)(1) Any filing required or permitted to be filed by these rules shall must be filed with the clerk of
4 the appropriate court. Filing may be accomplished by mail addressed to the clerk. Except as provided
5 in subpart (f), filing is not considered timely unless the papers are received by the clerk within the time
6 fixed for filing, except that briefs shall be deemed filed on the date of the postmark if first class mail is
7 utilized. If a motion requests relief which may be granted by a single justice or judge, the justice or
8 judge may accept the motion, note the date of filing, and transmit it to the clerk. Courtesy briefs must
9 be bound as required in Rule 27. Otherwise, if a paper document is filed, the pages must not be
10 bound or stapled.

11 (a)(2) Unless filed by an inmate confined in an institution, a filing must be received by the clerk
12 within the time fixed for filing. A filing by an inmate confined in an institution is timely filed if it is
13 deposited in the institution’s internal mail system on or before the last day for filing with first-class
14 postage prepaid. An inmate must include in the certificate of service a statement under penalty of
15 Utah Code Section 78B-5-705 required by paragraph (d).

16 (a)(3) Filing by a self-represented party may be by delivery or by mail or email addressed to the
17 clerk of the court. Before [date] filing by a lawyer may be by delivery or electronic filing or by mail or
18 email addressed to the clerk of the court. After [date] filing by a lawyer must be by electronic filing.

19 (a)(4) The filer must pay any fee established by law at the time of filing, but the clerk will accept
20 the filing regardless of whether the fee has been paid. Failure to pay the filing fee within a reasonable
21 time may result in dismissal.

22 **(b) Service of all papers documents required. Copies of all papers**

23 (b)(1) Service on counsel or party. Any document filed with the appellate court shall, at or
24 before the time of filing, must be served on all other parties to the appeal or review at or before the
25 time of filing. Service on a party represented by counsel shall must be made on counsel of record, or,
26 if the party is not represented by counsel, upon on the party at the last known address.

27 (b)(2) Served documents must be filed. A copy of any paper document required by these rules
28 to be served on a party shall must be filed with the court and accompanied by proof of service.

29 (b)(3) Service on the attorney general. Any document filed by a defendant in a criminal case
30 originally charged as a felony or by a juvenile in a delinquency proceeding must be served on the
31 Criminal Appeals Division of the Office of the Utah Attorney General.

32 **(c) Manner of service.** ~~Service may be personal or by mail. Personal service includes delivery of the~~
33 ~~copy to a clerk or other responsible person at the office of counsel. Service by mail is complete on~~
34 ~~mailing. Unless personal service is required, service may be by:~~

35 (c)(1) submitting it for electronic filing if the person being served has an electronic filing account,
36 except a petition for review under Rule 14;

37 (c)(2) emailing it to the email address provided by the person or to the email address on file with
38 the Utah State Bar;

39 (c)(3) mailing it to the person’s last known address;

40 (c)(4) handing it to the person;

41 (c)(5) leaving it at the person’s office with a person in charge or, if no one is in charge, leaving it
42 in a receptacle intended for receiving deliveries or in a conspicuous place; or

43 (c)(6) leaving it at the person’s dwelling house or usual place of abode with a person of suitable
44 age and discretion who resides there.

45 **(d) Proof of service.** ~~Papers presented for~~ A filing shall must contain or be filed with an
46 acknowledgment of service by the person served or a certificate of service in the form of a statement of
47 stating the date and manner of service, the names of the persons served, and the addresses at which
48 they were served. The certificate of service may appear on or be affixed to the papers filed. If counsel of
49 record is served, the certificate of service shall must designate the name of the party represented by that
50 counsel. The certificate of service of a service by an inmate must also state under penalty of Utah Code
51 Section 78B-5-705 the date the filing was deposited in the institution’s internal mail system and state that
52 first-class postage was prepaid.

53 **(e) Signature.** ~~All papers documents filed in the appellate court shall must be signed by counsel of~~
54 record or by a party who is not represented by counsel. A person may sign a document using any form of
55 signature recognized by law. If a document is electronically signed, the document may contain a typed
56 representation of a signature, such as “s/name.”

57 ~~(f) Papers filed by an inmate confined in an institution are timely filed if they are deposited in the~~
58 institution's internal mail system on or before the last day for filing. Timely filing may be shown by a
59 notarized statement or written declaration setting forth the date of deposit and stating that first class
60 postage has been prepaid.

61 **(f) Filing a notarized document.** ~~Except when required by statute a filing need not be verified or~~
62 accompanied by affidavit. If a rule requires an affidavit or a notarized, verified, or acknowledged
63 signature, the person may submit a declaration pursuant to Utah Code Section 78B-5-705. If a statute
64 requires an affidavit or a notarized, verified, or acknowledged signature and the party electronically files
65 the document, the party may:

66 (f)(1) electronically file the original affidavit with a notary acknowledgment as provided by Utah
67 Code Section 46-1-16(7);

68 (f)(2) electronically file a scanned image of the affidavit;

69 (f)(3) electronically file the affidavit with a conformed signature; or

70 (f)(4) if the filer does not have an electronic filing account, present the original affidavit to the clerk
71 of the court, who will electronically file a scanned image and return the original to the filer.

72 The filer must keep the original affidavit of anyone other than the filer safe and available for inspection
73 upon request until the action is concluded.

74 **(g) Filings containing other than public information and records.** If a filing, including an
 75 addendum, contains non-public information, the filer must also file a version with all such information
 76 removed. Non-public information means information classified as private, controlled, protected,
 77 safeguarded, sealed, juvenile court legal, or juvenile court social, or any other information to which the
 78 right of public access is restricted by statute, rule, order, or caselaw.

79 **Advisory Committee Notes**

80 Paragraph (e) is added to Rule 21 to consolidate various signature provisions formerly found in other
 81 ~~sections of the rules.~~

82 2015 amendments

83 Records are classified as public, private, controlled, protected, safeguarded, sealed, juvenile court
 84 legal, or juvenile court social by Code of Judicial Administration Rule 4-202.02. The right of public access
 85 might also be restricted by [Title 63G, Chapter 2, Government Records Access and Management Act](#), by
 86 other statutes, rules, or caselaw, or by court order. If a filing contains information or records that are not
 87 public, Rule 21(g) requires the filer to file an unredacted version for the court and a version for the public
 88 that does not contain the confidential information.

89 2016 amendments

90 The provisions for service, proof of service, and paying filing fees, formerly found in other rules, have
 91 been consolidated in this rule.

92 The addresses of the clerks of court are:

Clerk of the Supreme Court
supremecourt@utcourts.gov
POB 140210
Salt Lake City, UT 84114-0210

Clerk of the Court of Appeals
courtofappeals@utcourts.gov
POB 140230
Salt Lake City, UT 84114-0230

93

1 **Rule 21A. Hyperlinks.**

2 **(a) Required and permitted links.** If a filing cites to an electronic document in the record, the citation
3 in a filing by a lawyer must link to the document, and the citation in a filing by a self-represented party
4 may link to the document. If a citation to a document does not link to the document, the filer must include
5 the document in an addendum.

6 **(b) Displayed text of link.**

7 (b)(1) The displayed text of a link to a document must be set forth as follows:

8 (b)(1)(A) For a single case:

- District Court D:#:#
- Juvenile Court J:#:#
- Justice Court U:#:#
- Court of Appeals A:#:#
- Supreme Court S:#:#

9 The alpha character designates the court in which the document has been filed, the first
10 hashtag is the docket number of the document, and the second hashtag is the PDF page number
11 on which the reference begins.

12 (b)(1)(B) For multiple cases:

- District Court D1:#:#
 D2:#:#
- Juvenile Court J1:#:#
 J2:#:#
- Justice Court U1:#:#
 U2:#:#
- Court of Appeals A1:#:#
 A2:#:#
- Supreme Court S1:#:#
 S2:#:#

13 The alpha character designates the court in which the document has been filed, the digit is
14 the sequence of the case assigned by the computer, the first hashtag is the docket number of the
15 document, and the second hashtag is the PDF page number on which the reference begins.

16 (b)(2) A party may set forth a further reference to a document to aid the reader, such as a
17 document title, paragraph number, section number, etc., but the reference must not interfere with the
18 text string described in paragraph (b)(1).

19 **(c) Displayed text of citation.** If the citation in a filing by a self-represented party does not link to the
20 document, the document must be attached in an addendum to the filing, and the displayed text of the
21 citation must include the name of the document and the page number on which the document begins.

22 **Advisory Committee Notes**

23 The electronic filing application recognizes the text strings specified in this rule and automatically
24 generates the link to the document and page specified by the author. For the application to work, the text
25 string must be created precisely as described in this rule. If there are any deviations—even minor
26 deviations—the application will not recognize the text string.

27 Most appeals involve only one case, and the text string should be as specified in paragraph (b)(1)(A).
28 If an appeal involves two or more cases, the text string should be as specified in paragraph (b)(1)(B).

29 Examples of multiple cases include:

- 30 • separate trial court cases that are consolidated on appeal; and
- 31 • a case not on appeal that is associated with the case that is on appeal, such as the previous
32 criminal case is associated with the appeal of a post-conviction relief case.

33 For more information and instructions on creating links, see the court’s webpage [URL for webpage
34 describing links].

35

1 **Rule 22. Computation and enlargement ~~extensions~~ of time.**

2 **(a) Computation of time.** ~~In computing any period of time prescribed by these rules, by an order of~~
3 ~~the court, or by any applicable statute, the day of the act, event, or default from which the designated~~
4 ~~period of time begins to run shall not be included. The last day of the period shall be included, unless it is~~
5 ~~a Saturday, a Sunday, or a legal holiday, in which event the period extends until the end of the next day~~
6 ~~that is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed,~~
7 ~~without reference to any additional time under subsection (d), is less than 11 days, intermediate~~
8 ~~Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule, "legal~~
9 ~~holiday" includes days designated as holidays by the state or federal governments. A time period~~
10 ~~specified in a rule, order, or statute is computed according to this paragraph unless the rule, order, or~~
11 ~~statute specifies a different method of computing time.~~

12 (a)(1) When the period is stated in days or a longer unit of time:

13 (a)(1)(A) exclude the day of the event that triggers the period:

14 (a)(1)(B) count every day, including intermediate Saturdays, Sundays, and legal holidays;

15 and

16 (a)(1)(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal
17 holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or
18 legal holiday.

19 (a)(2) When the period is stated in hours:

20 (a)(2)(A) begin counting immediately on the occurrence of the event that triggers the period;

21 (a)(2)(B) count every hour, including hours during intermediate Saturdays, Sundays, and
22 legal holidays; and

23 (a)(2)(C) if the period would end on a Saturday, Sunday, or legal holiday, the period
24 continues to run until the same time on the next day that is not a Saturday, Sunday, or legal
25 holiday.

26 (a)(3) Unless the court orders otherwise, if the clerk's office is inaccessible:

27 (a)(3)(A) on the last day for filing under paragraph (a)(1), then the time for filing is extended to
28 the first accessible day that is not a Saturday, Sunday or legal holiday; or

29 (a)(3)(B) during the last hour for filing under paragraph (a)(2), then the time for filing is
30 extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal
31 holiday.

32 (a)(4) Unless a different time is set by a statute or court order, filing on the last day means:

33 (a)(4)(A) for electronic filing, before midnight; and

34 (a)(4)(B) for filing by other means, before the clerk's office is scheduled to close.

35 (a)(5) The "next day" is determined by continuing to count forward when the period is measured
36 after an event and backward when measured before an event.

37 (a)(6) "Legal holiday" means the day for observing:

- 38 (a)(6)(A) New Year's Day;
 39 (a)(6)(B) Dr. Martin Luther King, Jr. Day;
 40 (a)(6)(C) Washington and Lincoln Day;
 41 (a)(6)(D) Memorial Day;
 42 (a)(6)(E) Independence Day;
 43 (a)(6)(F) Pioneer Day;
 44 (a)(6)(G) Labor Day;
 45 (a)(6)(H) Columbus Day;
 46 (a)(6)(I) Veterans' Day;
 47 (a)(6)(J) Thanksgiving Day;
 48 (a)(6)(K) Christmas; and
 49 (a)(6)(L) any day designated by the Governor or Legislature as a state holiday.
- 50 (a)(7) When the specified time is after service and service is made only by mail, 3 days are added
 51 after the period would otherwise expire.
- 52 **(b) Enlargement-Extension of time.**
- 53 (b)(1) ~~Motions~~ A motion for an ~~enlargement-extension~~ of time for filing a ~~briefs beyond the time~~
 54 ~~permitted by stipulation of the parties under Rule 26(a)~~ is not favored.
- 55 (b)(2) The court for good cause shown may upon motion ~~enlarge-extend~~ the time prescribed by
 56 these rules or by its order for doing any act, or may permit an act to be done after the expiration of
 57 ~~such~~ time, but the court may not ~~enlarge-extend~~ the time for filing a notice of appeal or a petition for
 58 ~~review from an order of an administrative agency of a jurisdictional deadline~~, except as specifically
 59 expressly authorized by law. For the purpose of this rule, good cause includes, but is not limited to,
 60 the complexity of the case on appeal, engagement in other litigation, and extreme hardship to
 61 counsel.
- 62 (b)(3) A motion for an ~~enlargement-extension~~ of time ~~shall~~ must be filed ~~prior to~~ before the
 63 expiration of the time for which the ~~enlargement-extension~~ is sought.
- 64 (b)(4) A motion for ~~enlargement-an extension~~ of time ~~shall~~ must state:
- 65 (b)(4)(A) with particularity the good cause for granting the motion;
 66 (b)(4)(B) whether the movant has previously been granted an ~~enlargement-extension~~ of time
 67 and, if so, the number and duration of ~~such enlargements~~ extensions;
 68 (b)(4)(C) when the time will expire for doing the act for which the ~~enlargement of time~~
 69 extension is sought; and
 70 (b)(4)(D) the date on which the act for which the ~~enlargement of time-extension~~ is sought will
 71 be completed.
- 72 (b)(5)(A) If the good cause relied ~~upon-on~~ is engagement in other litigation, the motion shall:
 73 (b)(5)(A)(i) identify ~~such-the~~ litigation by caption, number and court;

74 (b)(5)(A)(ii) describe the action of the court in the other litigation on a motion for
75 continuance;

76 (b)(5)(A)(iii) state the reasons why the other litigation should take precedence over the
77 subject appeal;

78 (b)(5)(A)(iv) state the reasons why associated counsel cannot prepare the brief for timely
79 filing or relieve the movant in the other litigation; and

80 (b)(5)(A)(v) identify any other relevant circumstances.

81 (b)(5)(B) If the good cause relied ~~upon~~ on is the complexity of the appeal, the movant ~~shall~~
82 must state the reasons why the appeal is so complex that an adequate brief cannot reasonably
83 be prepared by the due date.

84 (b)(5)(C) If the good cause relied ~~upon~~ on is extreme hardship to counsel, the movant ~~shall~~
85 must state ~~in detail~~ the nature of the hardship.

86 (b)(5)(D) All facts supporting good cause ~~shall~~ must be stated with ~~specificity~~ particularity.
87 Generalities, such as "the motion is not for the purpose of delay" or "counsel is engaged in other
88 litigation," are insufficient.

89 ~~(c) Ex parte motion. Except as to enlargements of time for filing and service of briefs under Rule~~
90 ~~26(a), a party may file one ex parte motion for enlargement of time not to exceed 14 days if no~~
91 ~~enlargement of time has been previously granted, if the time has not already expired for doing the act for~~
92 ~~which the enlargement is sought, and if the motion otherwise complies with the requirements and~~
93 ~~limitations of paragraph (b) of this rule.~~

94 ~~(d) Additional time after service by mail. Whenever a party is required or permitted to do an act~~
95 ~~within a prescribed period after service of a paper and the paper is served by mail, 3 days shall be added~~
96 ~~to the prescribed period.~~

97 (c) Motion acted on by clerk. The clerk of the court may act on a motion to extend time:

98 (c)(1) without waiting for a response; and

99 (c)(2) after the deadline has expired, but the motion must be filed before the deadline has
100 expired.

101 **Advisory Committee Note**

102 A motion to enlarge time must be filed prior to the expiration of the time sought to be enlarged. A
103 specific date on which the act will be completed must be provided. The court may grant an extension of
104 time after the original deadline has expired, but the motion to enlarge the time must be filed prior to the
105 deadline.

106 Counsel should note that there is no penalty for seeking an enlargement of time in filing briefs.
107 However, both appellate courts place appeals in the oral argument queue in accordance with the priority
108 of the case and the date of the completion of briefing. Delays in the completion of briefing will likely delay
109 the date of oral argument.

110 If a rule, order, or statute specifies “business” days or “court” days for purposes of calculating a
111 deadline, the calculation is made under paragraph (a), but an intervening Saturday, Sunday, or holiday is
112 not included in the calculation.
113

1 **Rule 23. Motions.**

2 **(a) Content of motion.** Unless another form is elsewhere prescribed by these rules, an application
3 for an order or other relief ~~shall must~~ be made by filing a motion ~~for such order or relief with proof of~~
4 ~~service on all other parties.~~ The motion ~~shall must~~ contain or be accompanied by the following:

- 5 (a)(1) A specific and clear statement of the relief sought;
- 6 (a)(2) A particular statement of the factual grounds;
- 7 (a)(3) If the motion is for other than an ~~enlargement~~ extension of time, a memorandum of points
8 and authorities in support; and
- 9 (a)(4) Affidavits and papers, where appropriate.

10 **(b) Response.** Any party may file a response to a motion within ~~40-14~~ days after ~~service-filing~~ of the
11 motion; however, the court may, for good cause ~~shown~~, ~~dispense with~~, shorten or extend the time for
12 responding to ~~any a motion or act on a motion without waiting for a response.~~

13 **(c) Reply.** The moving party may file a reply only to answer new matter raised in the response. A
14 reply, if any, ~~may must~~ be filed no later than ~~5-7~~ days after filing of the response, but the court may rule
15 on the motion without awaiting a reply.

16 **(d) Determination of motions for procedural orders.** Notwithstanding ~~the provisions of paragraph~~
17 ~~(a) of this rule as to motions generally,~~ a motions for a procedural orders which do that does not
18 substantially affect the rights of the parties or the ultimate disposition of the appeal, including any motion
19 under Rule 22(b), may be acted upon at any time, on without awaiting a response or reply. Pursuant to
20 rule or order of the ~~The court, motions for specified types of procedural orders may be disposed of by the~~
21 ~~clerk by order may permit the clerk of the court to act on a motion for a procedural order.~~ The court may
22 review ~~a disposition by action of the clerk upon on~~ motion of a party or upon on its own motion initiative.

23 **(e) Power of a single justice or judge to entertain motions.** ~~In addition to the authority expressly~~
24 ~~conferred by these rules or by law, a~~ A single justice or judge of the court may entertain and may grant or
25 deny any request for relief which under these rules may properly be sought by rule on any motion, except
26 that a single justice or judge may not dismiss or otherwise determine an appeal or other proceeding, and
27 except that the court may provide by order or rule that any motion or class of motions must be acted upon
28 by the court. The action of a single justice or judge may be reviewed by the court. The court may review a
29 ruling by a justice or judge on motion of a party or on its own initiative.

30 **(f) Form of papers; number of copies.**

31 ~~(f)(1) Only the original of a motion to enlarge time shall be filed. The number of required copies of~~
32 ~~motions for summary disposition shall be governed by Rule 10(b). For other motions presented to the~~
33 ~~Supreme Court, the movant shall file with the clerk of the court an original and three copies. For other~~
34 ~~motions pending in the Supreme Court, the respondent shall file an original and three copies of the~~
35 ~~response. For a motion presented to the Court of Appeals, the movant shall file with the clerk of the court~~
36 ~~an original and four copies. For a motion pending in the Court of Appeals, the respondent shall file an~~
37 ~~original and four copies of the response.~~

38 ~~(f)(2) Motions and other papers shall be typewritten on opaque, unglazed paper 8 1/2 by 11 inches in~~
39 ~~size. Paper may be recycled paper, with or without deinking. The text shall be in type not smaller than ten~~
40 ~~characters per inch. Lines of text shall be double spaced and shall be upon one side of the paper only.~~
41 ~~Consecutive sheets shall be attached at the upper left margin.~~

42 ~~(f)(3) A~~ Except as provided in Rule 27, a motion or other paper shall document must contain a caption
43 setting forth stating the name of the court, the title of the case, the docket number, and a brief ~~descriptive~~
44 title indicating describing the purpose of the ~~paper document~~. ~~The attorney shall sign all papers filed with~~
45 ~~the court with his or her individual name.~~ The attorney shall ~~give state~~ his or her business address,
46 telephone number, email address on file with the Utah State Bar, and Utah State Bar number in the upper
47 left hand corner of the first page of every paper document filed with the court except briefs, petitions for
48 writ of certiorari and petitions for rehearing. A party who is not represented by an attorney ~~shall sign any~~
49 ~~paper filed with the court and must~~ state the party's address, email address and telephone number in the
50 upper left hand corner of the first page of every document filed with the court except briefs, petitions for
51 writ of certiorari and petitions for rehearing.

52

1 **Rule 23B. Motion to remand for findings necessary to determination of ineffective assistance**
2 **of counsel claim.**

3 **(a) Grounds for motion; time.** A party to an appeal in a criminal case may move the court to remand
4 the case to the trial court for entry of findings of fact, necessary for the appellate court's determination of a
5 claim of ineffective assistance of counsel. The motion shall be available only upon a nonspeculative
6 allegation of facts, not fully appearing in the record on appeal, which, if true, could support a
7 determination that counsel was ineffective.

8 The motion shall be filed prior to the filing of the appellant's brief. Upon a showing of good cause, the
9 court may permit a motion to be filed after the filing of the appellant's brief. In no event shall the court
10 permit a motion to be filed after oral argument. Nothing in this rule shall prohibit the court from remanding
11 the case under this rule on its own motion at any time if the claim has been raised and the motion would
12 have been available to a party.

13 **(b) Content of motion; response; reply.** The content of the motion shall conform to the
14 requirements of Rule 23. The motion shall include or be accompanied by affidavits alleging facts not fully
15 appearing in the record on appeal that show the claimed deficient performance of the attorney. The
16 affidavits shall also allege facts that show the claimed prejudice suffered by the appellant as a result of
17 the claimed deficient performance. The motion shall also be accompanied by a proposed order or remand
18 that identifies the ineffectiveness claims and specifies the factual issues relevant to each such claim to be
19 addressed on remand.

20 A response shall be filed within ~~20-21~~ days after the motion is filed. The response shall include a
21 proposed order of remand that identifies the ineffectiveness claims and specifies the factual issues
22 relevant to each such claim to be addressed by the trial court in the event remand is granted, unless the
23 responding party accepts that proposed by the moving party. Any reply shall be filed within ~~40-14~~ days
24 after the response is served.

25 **(c) Order of the court.** If the requirements of parts (a) and (b) of this rule have been met, the court
26 may order that the case be temporarily remanded to the trial court for the purpose of entry of findings of
27 fact relevant to a claim of ineffective assistance of counsel. The order of remand shall identify the
28 ineffectiveness claims and specify the factual issues relevant to each such claim to be addressed by the
29 trial court. The order shall also direct the trial court to complete the proceedings on remand within 90 days
30 of issuance of the order of remand, absent a finding by the trial court of good cause for a delay of
31 reasonable length.

32 If it appears to the appellate court that the appellant's attorney of record on the appeal faces a conflict
33 of interest upon remand, the court shall direct that counsel withdraw and that new counsel for the
34 appellant be appointed or retained.

35 **(d) Effect on appeal.** Oral argument and the deadlines for briefs shall be vacated upon the filing of a
36 motion to remand under this rule. Other procedural steps required by these rules shall not be stayed by a

37 motion for remand, unless a stay is ordered by the court upon stipulation or motion of the parties or upon
38 the court's motion.

39 **(e) Proceedings before the trial court.** Upon remand the trial court shall promptly conduct hearings
40 and take evidence as necessary to enter the findings of fact necessary to determine the claim of
41 ineffective assistance of counsel. Any claims of ineffectiveness not identified in the order of remand shall
42 not be considered by the trial court on remand, unless the trial court determines that the interests of
43 justice or judicial efficiency require consideration of issues not specifically identified in the order of
44 remand. Evidentiary hearings shall be conducted without a jury and as soon as practicable after remand.
45 The burden of proving a fact shall be upon the proponent of the fact. The standard of proof shall be a
46 preponderance of the evidence. The trial court shall enter written findings of fact concerning the claimed
47 deficient performance by counsel and the claimed prejudice suffered by appellant as a result, in
48 accordance with the order of remand. Proceedings on remand shall be completed within 90 days of entry
49 of the order of remand, unless the trial court finds good cause for a delay of reasonable length.

50 **(f) Preparation and transmittal of the record.** At the conclusion of all proceedings before the trial
51 court, the clerk of the trial court and the court reporter shall immediately prepare the record of the
52 supplemental proceedings as required by these rules. ~~If the record of the original proceedings before the~~
53 ~~trial court has been transmitted to the appellate court, the clerk of the trial court shall immediately transmit~~
54 ~~the record of the supplemental proceedings upon preparation of the supplemental record. If the record of~~
55 ~~the original proceedings before the trial court has not been transmitted to the appellate court, the clerk of~~
56 ~~the court shall transmit the record of the supplemental proceedings upon the preparation of the entire~~
57 ~~record.~~

58 **(g) Appellate court determination.** Upon receipt of the record from the trial court, the clerk of the
59 court shall notify the parties of the new schedule for briefing or oral argument under these rules. Errors
60 claimed to have been made during the trial court proceedings conducted pursuant to this rule are
61 reviewable under the same standards as the review of errors in other appeals. The findings of fact
62 entered pursuant to this rule are reviewable under the same standards as the review of findings of fact in
63 other appeals.

64

1 **Rule 23C. Motion for emergency relief.**

2 **(a) Emergency relief; exception.** Emergency relief is any relief sought within a time period shorter
3 than specified by otherwise applicable rules. A motion for emergency relief filed under this Rule is not
4 sufficient to invoke the jurisdiction of the appellate court. No emergency relief will be granted in the
5 absence of a separately filed petition or notice that invokes the ~~appellate~~ jurisdiction of the appellate
6 court.

7 **(b) Content of motion.** A party seeking emergency relief ~~shall~~ must file with the appellate court a
8 motion for emergency relief containing under appropriate headings and in the order indicated:

9 (b)(1) a specification of the order from which relief is sought;

10 (b)(2) a copy of or link to any written order at issue;

11 (b)(3) a specific and clear statement of the relief sought;

12 (b)(4) a statement of the factual and legal grounds entitling the party to relief;

13 (b)(5) a statement of the facts justifying emergency action; and

14 (b)(6) a certificate that all papers filed with the court have been served ~~upon~~ on all parties by
15 submitting the document for electronic filing or by email, overnight mail, hand delivery, or facsimile, or
16 electronic transmission.

17 The motion ~~shall~~ may not exceed ~~fifteen~~ 15 pages, exclusive of any addendum containing statutes,
18 rules, regulations, or portions of the record necessary to decide the matter. It also ~~shall~~ may not seek
19 relief beyond that necessitated by the emergency circumstances justifying the motion.

20 **(c) Service in criminal and juvenile delinquency cases.** Any motion filed by a defendant in a
21 criminal case originally charged as a felony or by a juvenile in a delinquency proceeding ~~shall~~ must be
22 served on the Appeals Division of the Office of the Utah Attorney General.

23 **(d) Response; no reply.** Any party may file a response to the motion within ~~three~~ 3 business days
24 after ~~service filing~~ of the motion or whatever shorter time the appellate court may fix. The response ~~shall~~
25 may not exceed ~~fifteen~~ 15 pages, exclusive of any addendum containing statutes, rules, regulations, or
26 portions of the record necessary to decide the matter. No reply ~~shall be~~ is permitted. Unless the appellate
27 court is persuaded that an emergency ~~circumstance justifies and~~ requires a temporary stay of a ~~lower~~
28 ~~tribunal's proceedings prior to~~ before the opportunity to receive or review a response, no motion ~~shall~~ will
29 be granted before the response period expires.

30 **(e) Form of papers and number of copies.** ~~Papers filed pursuant to this rule shall comply with the~~
31 ~~requirements of Rule 23(f).~~

32 **(f) ~~(e)~~ Hearing.** A hearing on the motion will be granted only in exceptional circumstances. No motion
33 for emergency relief will be heard without the presence of an adverse party except on a showing that the
34 party (1) was served with reasonable notice of the hearing, and (2) ~~cannot be reached by telephone~~
35 attend by contemporaneous transmission from a different location.

36 ~~(g) Power of a single justice or judge to entertain motions.~~ A single justice or judge may act upon
37 a motion for emergency relief to the extent permitted by Rule 19(d) where the relief sought is an
38 extraordinary writ and by Rule 23(e) in all other cases.

39 **Advisory Committee Notes**

40 2016 amendments

41 Paragraph (g) describing the power of a single judge to act on a motion is deleted because that
42 authority is included in Rule 23.

43

1 **Rule 24. Briefs.**

2 **(a) Brief of the appellant.** The brief of the appellant ~~shall~~must 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 or
5 order is sought to be reviewed, except where the caption of the case on appeal contains the names of
6 ~~all such~~those parties. The list should be set out on a separate page which appears immediately
7 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, rules,
10 statutes 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:

13 ~~(a)(5)(A)~~ (a)(5)(A) the standard of appellate review with supporting authority; and

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

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

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

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

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

31 (a)(9) An argument. The argument ~~shall~~must contain the contentions and reasons of the
32 appellant with respect to the issues presented, including the grounds for reviewing any issue not
33 preserved in the trial court, with citations to the authorities, statutes, and parts of the record relied on.
34 A party challenging a fact finding must first marshal all record evidence that supports the challenged
35 finding. A party seeking to recover attorney's fees incurred on appeal ~~shall~~must state the request
36 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 must 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 all
45 cases any court opinion of central importance to the appeal but not available to the court as part
46 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~~ must 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 appellant.
56 ~~The appellee may refer to the addendum of the appellant.~~

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

63 **(d) References in briefs to parties.** ~~Counsel will be expected in their briefs and oral arguments to~~
64 ~~keep to a minimum references to parties by such designations~~ Parties should not be referred to as
65 "appellant" and "appellee." It promotes clarity to use the designations used in the lower trial court or ~~in the~~
66 ~~agency proceedings~~, or the actual names of parties and others, or descriptive terms such as "the
67 employee," "the injured person," "the taxpayer," etc.

68 **(e) References in briefs to the record.** ~~References shall be made to the pages of the original record~~
69 ~~as paginated pursuant to Rule 11(b) or to pages of any statement of the evidence or proceedings or~~
70 ~~agreed statement prepared pursuant to Rule 11(f) or 11(g). References to pages of published depositions~~
71 ~~or transcripts shall identify the sequential number of the cover page of each volume as marked by the~~
72 ~~clerk on the bottom right corner and each separately numbered page(s) referred to within the deposition~~
73 ~~or transcript as marked by the transcriber.~~

74 (e)(1) The displayed text of a reference to the trial court record must set forth “R:#:#” where the
 75 first digit is the docket number of the document referred to and the second digit is the PDF page
 76 number on which the reference is found.

77 (e)(2) The displayed text of a reference to the appellate court record must set forth “A:#:#” where
 78 the first digit is the docket number of the document referred to and the second digit is the PDF page
 79 number on which the reference is found.

80 (e)(3) The displayed text of a reference to the trial court or appellate court record must link to the
 81 page of the document on which the reference is found.

82 (e)(4) A party may set forth a further reference to a document to aid the reader, such as a
 83 document title, paragraph number, section number, etc.

84 (e)(5) The displayed text of a reference to an agency record must set forth the page number of
 85 the paginated record on which the reference is found.

86 ~~R (e)(6) A references to an exhibits shall be made to~~ must set forth the exhibit numbers. If the
 87 reference is ~~made to~~ evidence the admissibility of which is in controversy, the reference shall be
 88 ~~made to~~ must set forth the pages of the record at which the evidence was identified, offered, and
 89 received or rejected.

90 **(f) Length of briefs.**

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

92 (f)(1)(A) In an appeal involving the legality of a death sentence, a principal brief is acceptable
 93 if it contains no more than 28,000 words or if it uses a monospaced face and contains no more
 94 than 2,600 lines of text; and a reply brief is acceptable if it contains no more than 14,000 words or
 95 if it uses a monospaced face and contains no more than 1,300 lines of text. In all other appeals, a
 96 principal brief is acceptable if it contains no more than 14,000 words or it uses a monospaced
 97 face and contains no more than 1,300 lines of text; and a reply brief is acceptable if it contains no
 98 more than 7,000 words or it uses a monospaced face and contains no more than 650 lines of
 99 text.

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

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

109 (f)(2) Page limitation. Unless a brief complies with ~~Rule 24 paragraph~~ (f)(1), a principal briefs shall
 110 may not exceed 30 pages, and a reply briefs ~~shall~~ may not exceed 15 pages, exclusive of pages

111 containing the table of contents, tables of citations and any addendum containing statutes, rules,
112 regulations, or portions of the record as required by paragraph (a) ~~of this rule~~.

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

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

117 (g)(1) The appellant ~~shall must~~ file a Brief of Appellant, which ~~shall must~~ present the issues raised
118 in the appeal.

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

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

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

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

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

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

133 (g)(5)(C) The appellant's Reply Brief of Appellant and Brief of Cross-Appellee is acceptable if
134 it contains no more than 14,000 words or it uses a monospaced face and contains no more than
135 1,300 lines of text.

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

138 (g)(6) Certificate of Compliance. A brief submitted under ~~Rule 24 paragraph~~ (g)(5) must comply
139 with ~~Rule 24 paragraph~~ (f)(1)(C).

140 (g)(7) Page Limitation. Unless it complies with ~~Rule 24 paragraphs~~ (g)(5) and (6), the appellant's
141 Brief of Appellant must not exceed 30 pages; the appellee's Brief of Appellee and Cross-Appellant, 35
142 pages; the appellant's Reply Brief of Appellant and Brief of Cross-Appellee, 30 pages; and the
143 appellee's Reply Brief of Cross-Appellant, 15 pages.

144 **(h) Permission for to file over-length brief.** ~~While such motions are~~ A motion for permission to file
145 an overlength brief is disfavored, but the court for good cause shown may ~~upon on~~ motion permit a party
146 to file a brief that exceeds the page, word, or line limitations of this rule. The motion ~~shall must~~ state with
147 specificity the issues to be briefed, the number of additional pages, words, or lines requested, and the

148 good cause for granting the motion. A motion filed at least ~~seven-7~~ days ~~prior to~~ before the date the brief
 149 is due or seeking three or fewer additional pages, 1,400 or fewer additional words, or 130 or fewer lines of
 150 text need not be accompanied by a copy of the brief. A motion filed within ~~seven-7~~ days of the date the
 151 brief is due ~~and or~~ seeking more than three additional pages, 1,400 additional words, or 130 lines of text
 152 ~~shall must~~ be accompanied by a copy of the finished brief. If the motion is granted, the responding party
 153 is entitled to an equal number of additional pages, words, or lines without further order of the court.
 154 Whether the motion is granted or denied, the draft brief will be destroyed by the court.

155 ~~(i) Briefs in cases involving multiple appellants or appellees~~ Joining in the brief of another;
 156 referring to the brief of another. In cases involving more than one appellant or appellee, including
 157 cases consolidated for purposes of the appeal, any number of either may join in a single brief, ~~and any~~
 158 ~~appellant or appellee~~ Any other party may adopt by reference any part of the brief of another. ~~Parties may~~
 159 ~~similarly join in reply briefs.~~

160 **(j) Citation of supplemental authorities.** When pertinent and significant authorities come to the
 161 attention of a party after that party's brief has been filed, or after oral argument but before decision, a
 162 party may promptly ~~advise the clerk of the appellate court, by letter~~ file a notice of supplemental authority
 163 ~~setting forth the citations.~~ ~~An original letter and nine copies shall be filed in the Supreme Court. An~~
 164 ~~original letter and seven copies shall be filed in the Court of Appeals. There shall be a reference either to~~
 165 ~~the page of the brief or to a point argued orally to which the citations pertain applies, but the letter shall~~
 166 ~~state and~~ the reasons for the supplemental citations. The body of the ~~letter must~~ notice may not exceed
 167 350 words. Any response ~~shall be made~~ must be filed within ~~seven-7~~ days of filing the notice and ~~shall~~
 168 must be similarly limited.

169 **(k) Requirements and sanctions.** All briefs under this rule must be concise, presented with
 170 accuracy, logically arranged with proper headings and free from burdensome, irrelevant, immaterial or
 171 scandalous matters. Briefs ~~which are not in compliance~~ that do not comply may be disregarded or
 172 stricken, on motion or ~~sua sponte by~~ on the court's own initiative, and the court may assess attorney fees
 173 against the offending lawyer.

174 **Advisory Committee Notes**

175 The rule reflects the marshaling requirement articulated in [State v. Nielsen](#), 2014 UT 10, 326 P.3d
 176 645, which holds that the failure to marshal is no longer a technical deficiency that will result in default,
 177 but is the manner in which an appellant carries its burden of persuasion when challenging a finding or
 178 verdict based upon evidence.

179 Briefs that do not comply with the technical requirements of this rule are subject to Rule [27\(e\)](#).

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

1 **Rule 25. Brief of an amicus curiae or guardian ad litem.**

2 A brief of an amicus curiae or of a guardian ad litem representing a minor who is not a party to the
3 appeal may be filed only by leave of court granted on motion or at the request of the court. The motion for
4 leave may be accompanied by a proposed ~~amicus~~ brief, provided it complies with applicable rules ~~and the~~
5 ~~number of copies specified by Rule 26(b) are submitted to the court.~~ A motion for leave ~~shall~~ must identify
6 the interest of the movant and ~~shall~~ state the reasons why ~~a~~ the ~~brief of an amicus curiae or the guardian~~
7 ~~ad litem~~ is desirable. Except for a motion for leave to participate in support of, or in opposition to, a
8 petition for writ of certiorari filed pursuant to Rule ~~50(f)~~ 50(e), the motion for leave ~~shall~~ must be filed at
9 least 21 days ~~prior to~~ before the date on which the brief of the party whose position ~~as to affirmance or~~
10 ~~reversal~~ the amicus curiae or guardian ad litem will support is due, unless the court for cause shown
11 otherwise orders. Parties to the proceeding may ~~indicate their support for, or opposition to,~~ file a response
12 to the motion. Any response ~~of a party~~ to a motion for leave ~~shall~~ must be filed within ~~7~~ 14 days of ~~service~~
13 filing of the motion. If leave is granted, an amicus curiae or guardian ad litem ~~shall~~ must file its brief within
14 7 days of the time allowed the party whose position the amicus curiae or guardian ad litem will support,
15 unless the order granting leave otherwise indicates. The time for responsive briefs under Rule 26(a) ~~shall~~
16 run from the timely ~~service-filing~~ of the amicus or guardian ad litem brief or from the timely ~~service-filing~~
17 of the brief of the party whose position the amicus curiae or guardian ad litem supports, whichever is
18 later. A motion of an amicus curiae or guardian ad litem to participate in the oral argument will be granted
19 when circumstances warrant in the court's discretion.

20

1 **Rule 26. Filing and service of briefs.**

2 **(a) Time for service and filing briefs.** Briefs shall be deemed filed on the date of the postmark if
3 first-class mail is utilized.

4 (a)(1) The appellant's shall serve and file a principal brief within is due 40 days after the date of
5 the notice from the clerk of the appellate court pursuant to under Rule 13. If a motion for summary
6 disposition of the appeal or a motion to remand for determination of ineffective assistance of counsel
7 is filed after the Rule 13 briefing notice is sent, service and filing of appellant's principal brief shall be
8 within is due 30 days from the denial of such the motion.

9 (a)(2) The appellee's principal brief, or in cases involving a cross-appeal, the appellee/cross-
10 appellant's, shall serve and file a principal brief within is due 30 days after service filing of the
11 appellant's brief.

12 (a)(3) In cases involving cross-appeals, the The appellant's shall serve and file the second reply
13 brief described in Rule 24(g) within is due 30 days after service filing of the appellee's / or the cross-
14 appellant's principal brief. A reply brief may be served and filed by the appellant or the
15 appellee/cross-appellant in cases involving cross-appeals. If a reply brief is filed, it shall be served
16 and filed within 30 days after the filing and service of the appellee's brief or the appellant's second
17 brief in cases involving cross-appeals. If oral argument is scheduled fewer than 35 days after the filing
18 of the appellee's or the cross-appellant's principal brief, the reply brief must be filed at least is due 5
19 days prior to before oral argument.

20 (a)(5) By stipulation filed with the court in accordance with Rule 21(a) before the expiration of the
21 period sought to be extended, the parties may extend each of such periods for no more than 30 days.
22 A motion for enlargement extension of time need not accompany the stipulation. No such stipulation
23 shall be effective unless it is filed prior to the expiration of the period sought to be extended.

24 **(b) Number of copies to be filed and served.** For matters pending in the Supreme Court, ten copies
25 of each brief, one of which shall contain an original signature, shall be filed with the Clerk of the Supreme
26 Court. For matters pending in the Court of Appeals, eight copies of each brief, one of which shall contain
27 an original signature, shall be filed with the Clerk of the Court of Appeals. Two copies shall be served on
28 counsel for each party separately represented.

29 **(e)(b) Consequence of failure to file briefs.**

30 (b)(1) If an appellant fails to file a principal brief within the original or extended time provided in
31 this rule, or within the time as may be extended by order of the appellate court, an appellee may
32 move for dismissal of to dismiss the appeal. If an appellee fails to file a principal brief within the
33 original or extended time provided by this rule, or within the time as may be extended by order of the
34 appellate court, an appellant may move that the appellee not be heard at oral argument.

35 (b)(2) If a cross-appellant fails to file its principal brief within the original or extended time, an
36 appellant may move to dismiss the cross-appeal. If an appellant fails to file a reply brief responding to

37 the issues in a cross-appeal within the original or extended time, a cross-appellant may move that the
38 appellant not be heard at oral argument on those issues.

39 **(d)-(c) Return of record to the clerk.** Each party, upon the filing of its brief, ~~shall~~ must return ~~the~~ any
40 records or exhibits to the clerk of the court having custody ~~pursuant to these rules.~~

41

1 **Rule 27. Form of briefs, and other documents; courtesy copies.**

2 **(a) Paper size; printing margins.** Briefs shall be typewritten, printed or prepared by photocopying or
3 other duplicating or copying process that will produce clear, black and permanent copies equally legible to
4 printing, on opaque, unglazed paper 8 1/2 inches wide and 11 inches long, and shall be securely bound
5 along the left margin. Paper may be recycled paper, with or without deinking. The printing must be double
6 spaced, except for matter customarily single spaced and indented. Margins shall be at least one inch on
7 the top, bottom and sides of each page. Page numbers may appear in the margins.

8 **(b) Typeface.** Either a proportionally spaced or monospaced typeface in a plain, roman style may be
9 used. A proportionally spaced typeface must be 13-point or larger for both text and footnotes. A
10 monospaced typeface may not contain more than ten characters per inch for both text and footnotes.

11 **(c) Binding.** Briefs shall be printed on both sides of the page, and bound with a compact-type binding
12 so as not unduly to increase the thickness of the brief along the bound side. Coiled plastic and spiral type
13 bindings are not acceptable.

14 **(d) Color of cover; contents of cover.** The cover of the opening brief of appellant shall be blue; that
15 of appellee, red; that of intervenor, guardian ad litem, or amicus curiae, green; that of any reply brief, or in
16 cases involving a cross appeal, the appellant's second brief, gray; that of any petition for rehearing, tan;
17 that of any response to a petition for rehearing, white; that of a petition for certiorari, white; that of a
18 response to a petition for certiorari, orange; and that of a reply to the response to a petition for certiorari,
19 yellow. All brief covers shall be of heavy cover stock. There shall be adequate contrast between the
20 printing and the color of the cover. The cover of all briefs shall set forth in the caption the full title given to
21 the case in the court or agency from which the appeal was taken, as modified pursuant to Rule 3(g), as
22 well as the designation of the parties both as they appeared in the lower court or agency and as they
23 appear in the appeal. In addition, the covers shall contain: the name of the appellate court; the number of
24 the case in the appellate court opposite the case title; the title of the document (e.g., Brief of Appellant);
25 the nature of the proceeding in the appellate court (e.g., Appeal, Petition for Review); the name of the
26 court and judge, agency or board below; and the names and addresses of counsel for the respective
27 parties designated as attorney for appellant, petitioner, appellee, or respondent, as the case may be. The
28 names of counsel for the party filing the document shall appear in the lower right and opposing counsel in
29 the lower left of the cover. In

30 **(a) Form of all documents.** All documents must conform to the following format:

31 (a)(1) portrait aspect, 8½ inches wide by 11 inches long, black text on white background;

32 (a)(2) font: Georgia 12 point;

33 (a)(3) margins: 1.85 inches (sides); 1.7 inches (top and bottom);

34 (a)(4) tables: may exceed the side margins if necessary;

35 (a)(5) line spacing: 1.15 or 15 point;

36 (a)(6) paragraph spacing: 10 point;

37 (a)(7) endnotes: prohibited;

38 (a)(8) justification: full;

39 (a)(9) hyphenation: optional;

40 (a)(10) footnotes and block quotes: the same as other text, except that block quotes must be
 41 indented an additional one-half inch; and

42 (a)(11) header: title of document left justified, case number centered, and page number right
 43 justified.

44 **(b) Additional requirements for briefs, petitions for writ of certiorari and petitions for**
 45 **rehearing.**

46 (b)(1) In addition to the requirements of paragraph (a), the cover of a brief, petition for rehearing,
 47 response to a petition for rehearing, petition for certiorari, response to a petition for certiorari, and a
 48 reply to the response to a petition for certiorari must include centered and stacked in the following
 49 order:

50 (b)(1)(A) appellate case number;

51 (b)(1)(B) appellate court;

52 (b)(1)(C) parties;

53 (b)(1)(D) trial court;

54 (b)(1)(E) trial court judge;

55 (b)(1)(F) trial court number;

56 (b)(1)(G) title of document; and

57 (b)(1)(H) names of counsel filing the document.

58 (b)(2) the second page of a brief, petition for rehearing, response to a petition for rehearing,
 59 petition for certiorari, response to a petition for certiorari, and a reply to the response to a petition for
 60 certiorari, must include:

61 (b)(2)(A) a list of all parties and their counsel as required by Rule 24; and

62 (b)(2)(B) in criminal cases, the cover of the defendant's brief shall also indicate whether the
 63 defendant is presently incarcerated in connection with the case on appeal and if whether the brief
 64 is an Anders brief.

65 **(c) Courtesy copies.** No later than 7 days after filing the following, the filer must deliver to the clerk
 66 of the appellate court 6 courtesy copies. Courtesy copies must be printed on both sides of the page, and
 67 bound so that they lie reasonably flat. If there is an addendum, it must be bound as part of the brief,
 68 petition, response or reply unless doing so makes the document unreasonably thick. If the addendum is
 69 bound separately, it must contain a table of contents. The cover of the courtesy copies must be of heavy
 70 stock with adequate contrast between the printing and the color of the cover. If bound separately, the
 71 cover of an addendum must be the same color as the brief with which it is filed. The color of the cover
 72 must be as follows:

73 (c)(1) appellant's principal brief, blue;

74 (c)(2) appellee's or cross-appellant's principal brief, red;

75 (c)(3) brief of an intervenor, guardian ad litem, or amicus curiae, green; and

76 (c)(4) appellant’s or cross-appellant’s reply brief, gray.

77 ~~(e)-(d) Effect of non-compliance with rules. The clerk shall examine all briefs before filing. If they~~
78 ~~are~~ A brief, petition for writ of certiorari, or petition for rehearing not prepared in accordance with these
79 ~~rules, they will not be filed but shall be returned to be properly prepared is subject to being struck. The~~
80 ~~clerk shall retain one copy of the non-complying brief and will promptly notify the party shall to file within 7~~
81 days a brief, petition for writ of certiorari, or petition for rehearing prepared in compliance with these rules
82 ~~within 5 days. The party whose brief has been rejected under this provision shall immediately notify the~~
83 ~~opposing party in writing of the lodging. The~~ Upon a showing of extraordinary circumstances, the clerk
84 may grant additional time for bringing a brief, petition for writ of certiorari, or petition for rehearing into
85 compliance only under extraordinary circumstances. This rule is paragraph does not intended to permit
86 significant substantive changes in a briefs, petition for writ of certiorari, or petition for rehearing.

87 **Advisory Committee Note**

88 ~~The change from the term "pica size" to "ten characters per inch" is intended to accommodate the~~
89 ~~widespread use of word processors. The definition of pica is print of approximately ten characters per~~
90 ~~inch. The amendment is not intended to prohibit proportionally spaced printing.~~

91 An Anders brief is a brief filed pursuant to Anders v. California, 386 U.S. 793, 97 S.Ct. 1396 (1967), in
92 cases where counsel believes no nonfrivolous appellate issues exist. In order for an Anders-type brief to
93 be accepted by either the Utah Court of Appeals or the Utah Supreme Court, counsel must comply with
94 specific requirements that are more rigorous than those set forth in Anders. See, e.g. State v. Wells, 2000
95 UT App 304, 13 P.3d 1056 (per curiam); In re D.C., 963 P.2d 761 (Utah App. 1998); State v. Flores, 855
96 P.2d 258 (Utah App. 1993) (per curiam); Dunn v. Cook, 791 P.2d 873 (Utah 1990); and State v. Clayton,
97 639 P.2d 168 (Utah 1981).

98 2017 Amendments

99 The new format for documents will make the document more easily read on a screen. Paragraph (a)
100 establishes the requirements for all appellate filings, and paragraph (b) establishes the additional
101 requirements for briefs and the specified petitions. Most of the items for the cover page are self-
102 explanatory. The title of the brief or petition should describe the document and the party filing it, such as
103 Appellant’s Principal Brief or Cross-Appellant’s Reply Brief. If fewer than all appellants or appellees join in
104 a brief, the title should include the parties on whose behalf the brief is filed.

105 Paragraph (c) is intended as a temporary adjustment to electronic filing.

106

1 **Rule 29. Oral argument.**

2 **(a)(1) In cases before the Supreme Court.** Oral argument will be held unless the Supreme Court
3 determines that it will not aid the decisional process.

4 **(a)(2) In cases before the Court of Appeals.** Oral argument will be allowed in all cases in which the
5 court determines that oral argument will significantly aid the decisional process.

6 **(b)(1) Notice by Supreme Court; request for cancellation or continuance.** Not later than ~~30-28~~
7 days ~~prior to~~ before the date on which a case is calendared, the clerk ~~shall~~ will give notice of the time and
8 place of oral argument, and the time to be allowed each side. If all parties to a case believe oral argument
9 will not benefit the court, they may file a joint motion to cancel oral argument not later than ~~45-14~~ days
10 from the date of the clerk's notice. The court will grant the motion only if it determines that oral argument
11 will not aid the decisional process. A motion to continue oral argument must be supported by (1) a
12 stipulation of all parties or a statement that the movant was unable to obtain such a stipulation, and (2) an
13 affidavit ~~of counsel~~ specifying the grounds for the motion. A motion to continue filed not later than ~~45-14~~
14 days from the date of the clerk's notice may be granted on a showing of good cause. A motion to continue
15 filed thereafter will be granted only on a showing of exceptional circumstances.

16 **(b)(2) Notice by Court of Appeals; waiver of argument; continuance.** Not later than ~~30-28~~ days
17 ~~prior to~~ before the date on which a case is calendared, the clerk ~~shall~~ will give notice to all parties that oral
18 argument is to be permitted, the time and place of oral argument, and the time to be allowed each side.
19 Any party may waive oral argument by filing a written waiver with the clerk not later than ~~45-14~~ days from
20 the date of the clerk's notice. If one party waives oral argument and any other party does not, the party
21 waiving oral argument may nevertheless present oral argument. A request to continue oral argument or
22 for additional argument time must be made by motion. A motion to continue oral argument must be
23 supported by (1) a stipulation of all parties or a statement that the movant was unable to obtain such a
24 stipulation, and (2) an affidavit ~~of counsel~~ specifying the grounds for the motion. A motion to continue filed
25 not later than ~~45-14~~ days from the date of the clerk's notice may be granted on a showing of good cause.
26 A motion to continue filed thereafter will be granted only on a showing of exceptional circumstances.

27 **(c) Order of argument.** The appellant ~~shall~~ argues first and the appellee ~~shall~~ responds. The
28 appellant may reply to the appellee's argument if appellant reserved part of appellant's time for this
29 purpose. ~~Such a~~ Argument in reply ~~shall~~ must be limited to responding to points made by appellee in
30 appellee's oral argument and answering any questions from the court.

31 **(d) Cross and separate appeals.** A cross or separate appeal ~~shall~~ will be argued with the initial
32 appeal at a single argument, unless the court otherwise directs. If a case involves a separate appeal, the
33 plaintiff in the trial court action ~~below shall be~~ is deemed to be the appellant for the purpose of this rule
34 unless the parties otherwise agree or the court otherwise directs. If separate appellants support the same
35 argument, care ~~shall~~ must be taken to avoid duplication of argument. Unless otherwise agreed by the
36 parties, in cases involving a cross-appeal the appellant, as determined pursuant to Rule [24\(g\)](#), ~~shall~~ must
37 open the argument and present only the issues raised in the appellant's opening brief. The

38 appellee/cross-appellant ~~shall~~must then present an argument which answers the appellant's issues and
39 addresses original issues raised by the cross-appeal. The appellant ~~shall~~must then present an argument
40 which replies to the appellee/cross-appellant's answer to the appellant's issues and answers the issues
41 raised on the cross-appeal. The appellee/cross-appellant may then present an argument which is
42 confined to a reply to the appellant's answer to the issues raised by the cross-appeal. The court ~~shall~~will
43 grant reasonable requests, for good cause shown, for extended argument time.

44 **(e) Non-appearance of parties.** If the appellee fails to appear to present argument, the court will
45 hear argument on behalf of the appellant, if present. If the appellant fails to appear, the court may hear
46 argument on behalf of the appellee, if present. If neither party appears, the case may be decided on the
47 briefs, or the court may direct that the case be rescheduled for argument.

48 **(f) Submission on briefs.** By agreement of the parties, a case may be submitted for decision on the
49 briefs, but the court may direct that the case be argued.

50 **(g) Use of physical exhibits at argument; removal.** If physical exhibits other than documents are to
51 be used at the argument, counsel ~~shall~~must arrange to have them placed in the courtroom before the
52 court convenes on the date of the argument. After the argument, counsel ~~shall~~must remove the exhibits
53 from the courtroom unless the court otherwise directs. If exhibits are not reclaimed by counsel within a
54 reasonable time after notice is given by the clerk, they ~~shall~~will be destroyed or otherwise disposed of as
55 the clerk shall think best.

56 **Advisory Committee Notes**

57 The 2013 amendments to rules 29(a) and (b) reflect current practices. The amendment to Rule 29(c)
58 clarifies that this provision is not intended to place any limitation on the scope or timing of the questions
59 posed by an appellate court during argument.
60

1 **Rule 34. Award of costs.**

2 **(a) ~~To whom allowed~~ awarded.** Except as otherwise provided by law, if an appeal is dismissed,
 3 costs ~~shall be taxed against the appellant~~ will be awarded to the appellee unless otherwise agreed by the
 4 parties or ordered by the court; if a judgment or order is affirmed, costs ~~shall be taxed against appellant~~
 5 will be awarded to the appellee unless otherwise ordered; if a judgment or order is reversed, costs ~~shall~~
 6 ~~be taxed against the appellee~~ will be awarded to the appellant unless otherwise ordered; if a judgment or
 7 order is affirmed or reversed in part, or is vacated, costs ~~shall be allowed~~ will be awarded as ordered by
 8 the court. Costs ~~shall may~~ not be ~~allowed or taxed~~ awarded in a criminal case.

9 **(b) Costs for and against the state of Utah.** In cases involving the ~~s~~State of Utah or an agency or
 10 officer thereof, an award of costs for or against the state ~~shall be is~~ at the discretion of the court unless
 11 specifically required or prohibited by law.

12 **(c) Costs of briefs and attachments, record, bonds and other expenses on appeal.** The
 13 following may be ~~taxed~~ awarded as costs in favor of the prevailing party in the appeal: ~~the actual costs of~~
 14 ~~a printed or typewritten brief or memoranda and attachments not to exceed \$3.00 for each page; actual~~
 15 ~~costs incurred in the preparation and transmission of the record, including costs of the reporter's transcript~~
 16 unless otherwise ordered by the court; premiums paid for supersedeas or cost bonds ~~to preserve rights~~
 17 ~~pending appeal; and the fees for filing and docketing the appeal.~~

18 **(d) ~~Bill of costs taxed after remittitur~~ Costs in an appeal from a trial court.** A party claiming costs
 19 ~~shall, in an appeal from a trial court a party must claim costs in the trial court under Rule of Civil~~
 20 ~~Procedure 54 within 45-14 days after the remittitur is filed with the clerk of the trial court, serve upon the~~
 21 ~~adverse party and file with the clerk of the trial court an itemized and verified bill of costs. The adverse~~
 22 ~~party may, within 5 days of service of the bill of costs, serve and file a notice of objection, together with a~~
 23 ~~motion to have the costs taxed by the trial court. If there is no objection to the cost bill within the allotted~~
 24 ~~time, the clerk of the trial court shall tax the costs as filed and enter judgment for the party entitled thereto,~~
 25 ~~which judgment shall be entered in the judgment docket with the same force and effect as in the case of~~
 26 ~~other judgments of record. If the cost bill of the prevailing party is timely opposed, the clerk, upon~~
 27 ~~reasonable notice and hearing, shall tax the costs and enter a final determination and judgment which~~
 28 ~~shall thereupon be entered in the judgment docket with the same force and effect as in the case of other~~
 29 ~~judgments of record. The determination of the clerk shall be reviewable by the trial court upon the request~~
 30 ~~of either party made within 5 days of the entry of the judgment.~~

31 **(e) Costs in other proceedings and agency appeals.** In all other matters ~~before the court~~, including
 32 appeals from an agency, costs may be ~~allowed~~ awarded as in cases on appeal from a trial court. Within
 33 ~~45-14 days after the expiration of the time in which to file a petition for rehearing may be filed or within 45~~
 34 ~~14 days after an order denying such a petition, the party to whom costs have been awarded may file with~~
 35 the clerk of the appellate court ~~and serve upon the adverse party~~ an itemized and verified bill of costs.
 36 The adverse party may, within ~~5-7~~ days after the ~~service-filing~~ of the bill of costs file a ~~notice of an~~
 37 ~~objection and a motion to have the costs taxed by the clerk to the cost bill.~~ If no objection ~~to the cost bill~~ is

38 ~~filed within the allotted time, the clerk shall thereupon tax~~ will award the costs and enter judgment against
39 the adverse party. If the adverse party timely objects to the cost bill, the clerk, upon reasonable notice
40 and hearing, ~~shall will~~ determine and settle the costs, ~~tax the same, and enter a judgment shall be~~
41 ~~entered thereon against the adverse party for the amount awarded.~~ The determination by the clerk ~~shall~~
42 ~~be reviewable~~ will be reviewed by the court upon the request of either party made within ~~5-7~~ days of the
43 entry of judgment; unless otherwise ordered, oral argument ~~shall is not be~~ permitted. ~~A~~ An abstract of a
44 judgment under this ~~section paragraph~~ may be filed ~~with the clerk of in~~ any district court ~~in the state, who~~
45 ~~shall docket a certified copy of the same in the manner and with the same force and effect as judgments~~
46 ~~of the district court~~ under Rule of Civil Procedure 58A.

47

1 **Rule 35. Petition for rehearing.**

2 **(a) Petition for rehearing permitted.** A rehearing will not be granted in the absence of a petition for
3 rehearing. A petition for rehearing may be filed only in cases in which the court has issued an opinion,
4 memorandum decision, or per curiam decision. ~~No other petitions for rehearing will be considered.~~

5 **(b) Time for filing.** A petition for rehearing ~~may~~must be filed ~~with the clerk~~ within 14 days after
6 issuance of the opinion, memorandum decision, or per curiam decision ~~of the court~~, unless ~~the time is~~
7 ~~shortened or enlarged by otherwise ordered.~~

8 **(c) Contents of petition.** ~~The petition must comply with Rule 27 and must include a copy of the~~
9 ~~opinion, memorandum decision, or per curiam decision to which it is directed.~~ The petition ~~shall~~must
10 state with particularity the points of law or fact ~~which that~~ the petitioner claims the court has overlooked or
11 ~~misapprehended~~misunderstood and ~~shall~~must contain ~~such~~ argument in support of the petition ~~as the~~
12 ~~petitioner desires.~~ ~~Counsel for petitioner must certify that the~~ The petition must include a certification that
13 it is presentedfiled in good faith and not for delay.

14 **(d) Oral argument.** Oral argument in support of the petition will not be permitted.

15 **(e)-(d) Response.** No response to a petition for rehearing ~~will be received~~ is permitted unless
16 requested by the court. Any response ~~shall~~must be filed within 14 days after the entry of the order
17 requesting the response, unless otherwise ordered ~~by the court~~. A petition for rehearing will not be
18 granted in the absence of a request for a response.

19 **(f) Form of petition.** ~~The petition shall be in a form prescribed by Rule 27 and shall include a copy of~~
20 ~~the decision to which it is directed.~~

21 **(g) Number of copies to be filed and served.** ~~An original and 6 copies shall be filed with the court.~~
22 ~~Two copies shall be served on counsel for each party separately represented.~~

23 **(h)-(e) Length.** ~~Except by order of the court, a~~ A petition for rehearing and any response requested
24 ~~by the court shall~~ may not exceed 15 pages unless otherwise ordered.

25 **(i) Color of cover.** ~~The cover of a petition for rehearing shall be tan; that of any response to a petition~~
26 ~~for rehearing filed by a party, white; and that of any response filed by an amicus curiae, green. All brief~~
27 ~~covers shall be of heavy cover stock. There shall be adequate contrast between the printing and the color~~
28 ~~of the cover.~~

29 **(j)-(f) Action by court if granted.** ~~If a petition for rehearing is granted, the~~ The court may make a
30 final disposition of the cause without reargument, or may restore it to the calendar for reargument or
31 resubmission, or may make ~~such other~~ appropriate orders ~~as are deemed appropriate under the~~
32 ~~circumstances of the particular case.~~

33 **(k) Untimely or consecutive petitions.** ~~Petitions for rehearing that are not timely presented under~~
34 ~~this rule and consecutive petitions for rehearing will not be received by the clerk.~~

35 **(l)-(g) Amicus curiae.** An amicus curiae may not file a petition for rehearing but may file a response
36 to a petition if the court has requested a response ~~under paragraph (e) of this rule.~~

37

1 **Rule 36. Issuance of remittitur.**

2 **(a) Date of issuance.**

3 (a)(1) In the Supreme Court the remittitur ~~of the court shall will~~ issue ~~15-14~~ days after the entry of
4 the judgment. If a petition for rehearing is timely filed, the remittitur ~~of the court shall will~~ issue ~~five-7~~
5 days after the entry of the order disposing of the petition.

6 (a)(2) In the Court of Appeals the remittitur ~~of the court shall will~~ issue ~~immediately promptly~~ after
7 the expiration of the time for filing a petition for writ of certiorari. If a petition for writ of certiorari is
8 timely filed, issuance of the remittitur by the Court of Appeals ~~will automatically be is~~ stayed until the
9 Supreme Court’s disposition on the petition ~~for writ of certiorari~~. If the Supreme Court denies the
10 petition, the Court of Appeals ~~shall will~~ issue its remittitur ~~five-7~~ days after entry of the order denying
11 the petition. If the Supreme Court grants the petition, jurisdiction of the appeal ~~shall be is~~ transferred
12 to the Supreme Court, ~~and the Court of Appeals shall close its file and transfer the record on appeal,~~
13 ~~if any, to the Supreme Court.~~

14 (a)(3) The time for issuance of the remittitur may be ~~otherwise stayed, enlarged, or shortened~~
15 ~~changed by court order of the court~~. A ~~certified~~ copy of the opinion of the court, any direction as to
16 costs, and the record of the proceedings ~~shall constitutes~~ the remittitur.

17 **(b) Stay, supersedeas or injunction pending application for review to the Supreme Court of the**

18 **United States.** A stay or supersedeas of the remittitur or an injunction pending application for review to
19 the United States Supreme Court may be granted on motion and for good cause. Any motion for a stay of
20 the remittitur or for approval of a supersedeas bond or for an order suspending, modifying, restoring, or
21 granting an injunction during the pendency of the appeal ~~shall must~~ be filed in the Utah ~~Supreme Court~~.
22 ~~Reasonable notice of the motion shall be given to appellate court and served on all parties.~~ The period of
23 the stay, supersedeas or injunction ~~shall will~~ be ~~for such time as~~ ordered by the court up to and including
24 the final disposition of the application for review. A bond or other security on ~~such terms as~~ the court
25 deems appropriate may be required as a condition to ~~granting or continuing the grant or continuance of~~
26 relief under this paragraph. If the stay, supersedeas, or injunction is granted until the final disposition of
27 the application for review, the party seeking the review ~~shall must, within the time permitted for seeking~~
28 ~~the review, timely~~ file with the clerk of the court ~~which that~~ entered the decision sought to be reviewed, a
29 certified copy of the notice of appeal, petition for writ of certiorari, or other application for review, or ~~shall~~
30 ~~must~~ file a certificate that ~~such an~~ application for review has been filed. Upon ~~the filing of a copy of an the~~
31 order of the United States Supreme Court dismissing the appeal or denying the petition for a writ of
32 certiorari, the remittitur ~~shall will~~ issue immediately.

33

1 **Rule 39. Duties of the clerk.**

2 ~~(a) General provisions.~~ The office of the Clerk of the Court, with the clerk or a deputy in attendance,
3 shall be open during business hours on all days except Saturdays, Sundays and legal holidays.

4 ~~(b)~~ **(a) The docket; calendar; other records required.** The clerk shall will keep a record, known as
5 the docket, in form and style as may be prescribed by the court, and shall enter therein of each case. The
6 number of each case shall be noted on the page of the docket whereon the first entry is made. All papers
7 documents filed with the clerk and all process, orders and opinions shall will be entered chronologically in
8 the docket ~~on the pages assigned to the~~ of each case. Entries shall will be brief but shall will show the
9 date and nature of each paper document filed or decision or order entered ~~and the date thereof~~. The clerk
10 shall will keep an suitable index of cases contained in the docket.

11 ~~(c) Minute book.~~ The clerk may keep a minute book, in which shall be entered a record of the daily
12 ~~proceedings of the court.~~ **(b) Calendar.** The clerk shall will prepare, under the direction of the Chief
13 Justice of the Supreme Court or the Presiding Judge of the Court of Appeals, a calendar of cases
14 awaiting argument.

15 ~~(d) Notice~~ **(c) Service of orders.** ~~Immediately~~ Promptly upon the entry of an order or decision, the
16 clerk shall will serve a notice of entry by mail upon the order or decision on each party to the proceeding,
17 together with a copy of any opinion respecting the order or decision. Service on a party represented by
18 counsel shall be made upon counsel through the appellate electronic filing system.

19 ~~(e)~~ **(d) Custody of records and papers.** The clerk shall ~~have has~~ custody of and will preserve the
20 court's records and papers of the court. The clerk shall will not permit any original record ~~or paper~~ to be
21 removed from the court, except as authorized by these rules or the ~~orders of court's~~ instructions of the
22 court. Original papers transmitted as the record on appeal or review shall upon disposition of the case be
23 ~~returned to the court or agency from which they were received.~~ The clerk shall preserve copies of briefs
24 and attachments, as well as other printed papers filed.

25

1 **Rule 41. Certification of questions of law by United States courts.**

2 **(a) Authorization to answer questions of law.** The Utah Supreme Court may answer a question of
 3 Utah law certified to it by a court of the United States ~~when requested to do so by such certifying court~~
 4 ~~acting~~ in accordance with the provisions of this rule if the state of the law of Utah applicable to a
 5 proceeding before the certifying court is uncertain.

6 **(b) Procedure to invoke.** Any court of the United States may invoke this rule by entering an order of
 7 certification as described in this rule. When invoking this rule, the certifying court may act either ~~sua~~
 8 ~~sponte or upon a~~ on its own initiative or on motion by any party.

9 **(c) Certification order.**

10 (c)(1) A certification order ~~shall~~must be directed to the Utah Supreme Court and ~~shall~~must state:

11 (c)(1)(A) the question of law to be answered;

12 (c)(1)(B) that the question certified is a controlling issue of law in a proceeding pending
 13 before the certifying court; and

14 (c)(1)(C) that there appears to be no controlling Utah law.

15 (c)(2) The order ~~shall~~must also set forth all facts ~~which are~~ relevant to the determination of the
 16 question certified and ~~which that~~ show the nature of the controversy, the context in which the question
 17 arose, and the procedural steps by which the question was framed.

18 (c)(3) The certifying court may also include in the order any additional reasons for its entry of the
 19 certification order ~~that are not otherwise apparent~~.

20 **(d) Form of certification order; submission of record.** A certification order ~~shall~~must be signed by
 21 the judge presiding over the proceeding giving rise to the certification order and forwarded to the Utah
 22 Supreme Court by the clerk of the certifying court ~~under its official seal~~. The Supreme Court may require
 23 that all or any portion of the record before the certifying court be filed with the Supreme Court if the record
 24 ~~or a portion thereof~~ may be necessary in determining whether to accept the certified question or in
 25 answering that question. A copy of the record certified by the clerk of the certifying court to conform to the
 26 original may be substituted for the original as the record.

27 **(e) Acceptance or rejection of certification.** Upon filing of the certification order and accompanying
 28 papers with the clerk, the Supreme Court ~~shall~~will promptly enter an order ~~either~~ accepting or rejecting
 29 the question certified to it, and the clerk ~~shall~~will serve copies of the order upon the certifying court and
 30 all parties identified in the certification order. If the Supreme Court accepts the question, the Court will set
 31 out in the order of acceptance (1) the specific question or questions accepted, (2) the deadline for
 32 notifying the Supreme Court as to those portions of the record which shall be copied and filed with the
 33 Clerk of the Supreme Court, and (3) information as to when the briefing schedule will be established.

34 **(f) Briefing; oral argument.** The form of briefs and proceedings on oral argument will be governed
 35 by these rules except as ~~such rules may be~~ modified by the Supreme Court to accommodate the
 36 differences between the appeal process and the determination of a certified question. The clerk of the

37 Supreme Court will provide written notice to the parties ~~as to of~~ the schedule for the filing of briefs and
38 content requirements, as well as the schedule and procedures for oral argument.

39 **(g) Appearance of counsel pro hac vice.** Upon acceptance by the Supreme Court of the question
40 of law presented by the certification order, counsel for the parties not licensed to practice law in the state
41 of Utah may appear pro hac vice upon motion filed pursuant to ~~the Code of Judicial Administration Rules~~
42 Governing the Utah State Bar.

43 **(h) Issuance of opinion on certified questions.** The Supreme Court will issue a written opinion that
44 will be published and reported. A copy of the opinion ~~shall~~ will be transmitted by the clerk ~~under the seal~~
45 ~~of the Supreme Court~~ to the certifying court and to the parties identified in the certification order.

46 **~~Advisory Committee Note~~**

47 ~~Refer to Rule 14-806 of the Rules Governing the Utah State Bar for qualification of out of state~~
48 ~~counsel to practice before the courts of Utah.~~

49

1 **Rule 42. Transfer of case from Supreme Court to Court of Appeals.**

2 **(a) Discretion of Supreme Court to transfer.** At any time before a case is set for oral argument
3 before the Supreme Court, the Supreme Court may transfer to the Court of Appeals any case except
4 those cases within the Supreme Court's exclusive jurisdiction. The order of transfer ~~shall~~will be issued
5 without opinion, ~~written or oral~~, as to the merits of the appeal or the reasons for the transfer.

6 **(b) Notice of order of transfer.** ~~Upon entry of the order of transfer the Clerk of the Supreme Court~~
7 ~~shall give notice of entry of the order of transfer by mail to each party to the proceeding and to the clerk of~~
8 ~~the trial court. Upon entry of the order of transfer, the Clerk of the Supreme Court shall transfer the~~
9 ~~original of the order and the case, including the record and file of the case from the trial court, all papers~~
10 ~~filed in the Supreme Court, and a written statement of all docket entries in the case up to and including~~
11 ~~the order of transfer, to the Clerk of the Court of Appeals.~~

12 **(c) Receipt of order of transfer by Court of Appeals.** ~~Upon receipt of the original order of transfer~~
13 ~~from the Clerk of the Supreme Court, the Clerk of the Court of Appeals shall enter the appeal upon the~~
14 ~~Court of Appeals docket. The Clerk of the Court of Appeals shall immediately give notice to each party to~~
15 ~~the proceeding and to the clerk of the trial court that the appeal has been docketed and that all further~~
16 ~~filings will be made with the Clerk of the Court of Appeals. The notice shall state the docket number~~
17 ~~assigned to the case in the Court of Appeals.~~

18 **(d) Filing or transfer of appeal record.** ~~If the record on appeal has not been filed with the Clerk of~~
19 ~~the Supreme Court as of the date of the order of transfer, the Clerk of the Supreme Court shall notify the~~
20 ~~clerk of the trial court that upon completion of the conditions for filing the record by that court, the clerk~~
21 ~~shall transmit the record on appeal to the Clerk of the Court of Appeals. If, however, the record on appeal~~
22 ~~has already been transmitted to and filed with the Clerk of the Supreme Court as of the date of the entry~~
23 ~~of the order of transfer, the Clerk of the Supreme Court shall transmit the record on appeal to the Clerk of~~
24 ~~the Court of Appeals within five days of the date of the entry of the order of transfer.~~

25 **(e) (b) Subsequent proceedings before Court of Appeals.** ~~Upon receipt by the Clerk of the Court~~
26 ~~of Appeals of the order of transfer and the entry thereof upon the docket of the Court of Appeals, the The~~
27 ~~case ~~shall~~will proceed before the Court of Appeals to final decision and disposition as in other appellate~~
28 ~~cases pursuant to these rules. The Clerk of the Court of Appeals will promptly notify all parties and the~~
29 ~~clerk of the trial court that the appeal has been docketed and that all further filings will be made with the~~
30 ~~Clerk of the Court of Appeals.~~

31 **Advisory Committee Note**

32 ~~Former Rules 4A and 4B have been renumbered as Rules 42 and 43 respectively and included in a~~
33 ~~new title governing the certification and transfer of cases between courts. The amendments make uniform~~
34 ~~the practices followed by the two appellate courts in transferring cases.~~

35

1 **Rule 43. Certification by the Court of Appeals to the Supreme Court.**

2 **(a) Transfer.** In any case over which the Court of Appeals has original appellate jurisdiction, the court
3 may, upon the affirmative vote of four judges of the court, certify a case for immediate transfer to the
4 Supreme Court for determination.

5 **(b) Procedure for transfer.**

6 (b)(1) The Court of Appeals may, on its own ~~motion~~ initiative, decide whether a case should be
7 certified. Any party to a case may, however, file ~~and serve an original and eight copies of a~~
8 suggestion for certification not exceeding ~~five~~ 5 pages setting forth the reasons why the party believes
9 that the case should be certified. The suggestion may not be filed ~~prior to~~ before the filing of a
10 docketing statement. Within ~~ten~~ 14 days of ~~service~~ filing, an adverse party may file ~~and serve an~~
11 ~~original and eight copies of a statement not in excess of five~~ exceeding 5 pages either supporting or
12 opposing the suggestion for certification.

13 (b)(2) ~~Upon entry of the order of certification, the Clerk of the Court of Appeals shall immediately~~
14 ~~transfer the case, including the record and file of the case from the trial court, all papers filed in the~~
15 ~~Court of Appeals, and a written statement of all docket entries in the case up to and including the~~
16 ~~certification order, to the Clerk of the Supreme Court. The Clerk of the Court of Appeals shall~~
17 ~~promptly notify all parties and the clerk of the trial court that the case has been transferred.~~

18 (b)(3) ~~Upon receipt of the order of certification, the Clerk of the Supreme Court shall enter the~~
19 ~~appeal upon the docket of the Supreme Court.~~ (b)(2) The case will proceed before the Supreme
20 Court to final decision and disposition as in other appellate cases pursuant to these rules. The clerk of
21 the Supreme Court ~~shall immediately send notices to~~ will notify all parties and ~~to~~ the clerk of the trial
22 court that the case has been docketed and that all further filings will be made with the Clerk of the
23 Supreme Court. ~~The notice shall state the docket number assigned to the case in the Supreme Court.~~
24 ~~The case shall proceed before the Supreme Court to final decision and disposition as in other~~
25 ~~appellate cases pursuant to these rules.~~

26 (b)(4) ~~If the record on appeal has not been filed with the Clerk of the Court of Appeals as of the~~
27 ~~date of the order of transfer, the Clerk of the Court of Appeals shall notify the clerk of the trial court~~
28 ~~that upon completion of the conditions for filing the record by that court, the clerk shall transmit the~~
29 ~~record on appeal to the Clerk of the Supreme Court. If, however, the record on appeal has already~~
30 ~~been transmitted to and filed with the Clerk of the Court of Appeals as of the date of the entry of the~~
31 ~~order of transfer, the Clerk of the Court of Appeals shall transmit the record on appeal to the Clerk of~~
32 ~~the Supreme Court within five days of the date of the entry of the order of transfer.~~

33 **(c) Criteria for transfer.** The Court of Appeals shall will consider certification only in the following
34 cases:

35 (c)(1) ~~Cases which are of such a nature that~~ If it is apparent that the case should be decided by
36 the Supreme Court and that the Supreme Court would probably grant a petition for a writ of certiorari

37 in the case if decided by the Court of Appeals, irrespective of how the Court of Appeals might rule,
38 and

39 (c)(2) Cases ~~which~~that will govern a number of other cases involving the same legal issue or
40 issues pending in the district courts, juvenile courts or the Court of Appeals or which are cases of first
41 impression under state or federal law which will have wide applicability.

42 **Advisory Committee Note**

43 ~~Former Rules 4A and 4B have been renumbered as Rules 42 and 43 respectively and included in a~~
44 ~~new title governing the certification and transfer of cases between courts. The amendments make uniform~~
45 ~~the practices followed by the two appellate courts in transferring cases.~~

46

1 **Rule 47. ~~Transmission of record;~~ Joint and separate petitions; cross-petitions; parties.**

2 **(a) Joint and separate petitions; cross-petitions.** Parties interested jointly, severally, or otherwise
3 in a decision may join in a petition for a writ of certiorari; any one or more of them may petition separately;
4 or any two or more of them may join in a petition. When two or more cases are sought to be reviewed on
5 certiorari and involve identical or closely related questions, it will suffice to file a single petition for a writ of
6 certiorari covering all the cases. A cross-petition for writ of certiorari ~~shall~~ may not be joined with any other
7 filing.

8 **(b) Parties.** All parties to the proceeding in the Court of Appeals ~~shall be~~ are deemed parties in the
9 Supreme Court, unless the petitioner notifies the Clerk of the Supreme Court in writing of the petitioner's
10 belief that one or more of the parties below have no interest in the outcome of the petition. A copy of such
11 notice shall be served on all parties to the proceeding below, ~~and a~~ A party noted as no longer interested
12 may remain a party by ~~notifying the clerk, with service on the other parties, filing and serving notice that~~
13 the party has an interest in the petition.

14 **(c) ~~Transmission of record.~~** ~~When a petition for writ of certiorari is granted, the Clerk of the~~
15 ~~Supreme Court shall notify the Clerk of the Court of Appeals to transmit the record on appeal to the~~
16 ~~Supreme Court.~~

17

1 **Rule 48. Time for petitioning.**

2 **(a) Timeliness of petition.** A petition for a writ of certiorari must be filed with the Clerk of the
3 Supreme Court within 30 days after the entry of the final decision by the Court of Appeals. The docket fee
4 ~~shall~~must be paid at the time of filing the petition.

5 **(b) ~~Refusal~~Rejection of untimely petition.** The clerk will ~~refuse to receive~~reject any untimely
6 petition for a writ of certiorari ~~which is beyond the time indicated in paragraph (a) of this rule or which is~~
7 ~~not accompanied by the docket fee.~~

8 **(c) Effect of petition for rehearing.** The time for filing a petition for a writ of certiorari runs from the
9 date the decision is entered by the Court of Appeals, not from the date of the issuance of the remittitur. If
10 a petition for rehearing that complies with Rule [35\(a\)](#) is timely filed by any party, the time for filing the
11 petition for a writ of certiorari for all parties runs from the date of the denial of the petition for rehearing or
12 of the entry of a subsequent decision entered upon the rehearing.

13 **(d) Time for cross-petition.**

14 (d)(1) A cross-petition for a writ of certiorari must be filed:

15 (d)(1)(A) within the time provided in ~~Subdivisions paragraphs (a) and (c) of this rule;~~ or

16 (d)(1)(B) within 30 days of the filing of the petition for a writ of certiorari.

17 (d)(2) Any cross-petition timely only pursuant to paragraph (d)(1)(B) ~~of this rule~~ will not be granted
18 unless a timely petition for a writ of certiorari of another party to the case is granted.

19 (d)(3) The docket fee ~~shall~~must be paid at the time of filing the cross-petition. ~~The clerk shall~~
20 ~~refuse any cross-petition not accompanied by the docket fee.~~

21 (d)(4) A cross-petition for a writ of certiorari may not be joined with any other filing. ~~The clerk of~~
22 ~~the court shall refuse any filing so joined.~~

23 **(e) Extension of time.**

24 (e)(1) The Supreme Court, upon a showing of good cause, may extend the time for filing a
25 petition or a cross-petition for a writ of certiorari upon motion filed ~~not later than 30 days after~~before
26 the expiration of the time prescribed by paragraph (a) or (c) ~~of this rule.~~ Responses ~~to such motions~~
27 are disfavored and the court may rule at any time after the filing of the motion. No extension ~~shall~~may
28 exceed 30 days past the prescribed time or 14 days from the date of entry of the order granting the
29 motion, whichever occurs later, and no more than one extension will be granted.

30 (e)(2) The Supreme Court, upon a showing of good cause or excusable neglect, may extend the
31 time for filing a petition or a cross-petition for a writ of certiorari upon motion filed not later than 30
32 days after the expiration of the time prescribed by paragraph (a) or (c) of this rule, whichever is
33 applicable. No extension ~~shall~~may exceed 30 days past the prescribed time or 14 days from the date
34 of entry of the order granting the motion, whichever occurs later, and no more than one extension will
35 be granted.

36 **(f) Form of petition.** ~~Seven copies of the petition for a writ of certiorari, one of which shall contain an~~
37 ~~original signature, shall be filed with the Clerk of the Supreme Court. The petition must comply with Rule~~
38 ~~27.~~
39

1 **Rule 50. Brief in opposition; reply brief; brief of amicus curiae.**

2 **(a) Brief in opposition.** Within 30 days after ~~service-filing~~ of a petition the respondent ~~shall~~may file
3 an opposing brief, disclosing any matter or ground why the case should not be reviewed by the Supreme
4 Court. ~~Such~~The brief ~~shall~~must comply with Rules [27](#) and, as applicable, [Rule 49](#). ~~Seven copies of the~~
5 ~~brief in opposition, one of which shall contain an original signature, shall be filed with the Clerk of the~~
6 ~~Supreme Court.~~

7 **(b) Page limitation.** A brief in opposition ~~shall be as short as possible and may not, in any single~~
8 ~~case,~~ exceed 20 pages, excluding the subject index, the table of authorities, any verbatim quotations
9 required by Rule [49\(a\)\(7\)](#), and the appendix.

10 **(c) Objections to jurisdiction.** No motion by a respondent to dismiss a petition for a writ of certiorari
11 will be received. Objections to the jurisdiction of the Supreme Court to grant the writ of certiorari may be
12 included in the brief in opposition.

13 **(d) Distribution of filings.** ~~Upon the filing of a brief in opposition, the expiration of the time allowed~~
14 ~~therefor, or express waiver of the right to file, the petition and the brief in opposition, if any, will be~~
15 ~~distributed by the clerk for consideration. However, if a cross-petition for a writ of certiorari has been filed,~~
16 ~~distribution of both it and the petition for a writ certiorari will be delayed until the filing of a brief in~~
17 ~~opposition by the cross-respondent, the expiration of the time allowed therefor, or express waiver of the~~
18 ~~right to file.~~

19 **(e)-(d) Reply brief.** ~~A~~Within 7 days after filing of a brief in opposition, the petitioner may file a reply
20 brief addressed to arguments first raised in the brief in opposition ~~may be filed by any petitioner,~~ but
21 ~~distribution under paragraph (d) of this rule will not be delayed pending the filing of any such~~ the court
22 may act on the petition without awaiting a reply brief. ~~Such~~The reply brief must comply with Rule 27 and
23 brief shall be as short as possible, but may not exceed five ~~5~~ pages. ~~Such brief shall comply with Rule 27.~~
24 ~~The number of copies to be filed shall be as described in Rule 50(a).~~

25 **(f)-(e) Brief of amicus curiae.** A brief of an amicus curiae concerning a petition for certiorari may be
26 filed only by leave of the Supreme Court granted on motion or at the request of the Supreme Court. The
27 motion for leave ~~shall~~must be accompanied by a proposed amicus brief, not to exceed 20 pages,
28 excluding the subject index, the table of authorities, any verbatim quotations required by Rule [49\(a\)\(7\)](#),
29 and the appendix. The proposed amicus brief ~~shall~~must comply with Rule [27](#), and, as applicable, Rule
30 [49](#). ~~The number of copies of the proposed amicus brief submitted to the Supreme Court shall be the~~
31 ~~same as dictated by Rule 48(f).~~ ~~A motion for leave shall~~must identify the interest of the applicant and
32 ~~shall~~state the reasons why a brief of an amicus curiae is desirable. The motion for leave ~~shall~~must be
33 filed on or before the date of the filing of the timely petition or response of the party whose position the
34 amicus curiae will support, unless the Supreme Court for cause shown otherwise orders. Parties to the
35 proceeding in the Court of Appeals may indicate their support for, or opposition to, the motion. Any
36 response of a party to a motion for leave ~~shall~~must be filed within ~~seven~~14 days of ~~service-filing~~ of the
37 motion. If leave is granted, the proposed amicus brief will be accepted as filed and, unless the order

38 granting leave otherwise indicates, amicus curiae also will be permitted to submit a brief on the merits,
39 provided it is submitted in compliance with the briefing schedule of the party the amicus curiae supports.
40 Denial of a motion for leave to file brief of an amicus curiae concerning a petition for certiorari ~~shall~~does
41 not preclude a subsequent amicus motion relating to the merits after a grant of certiorari. All motions for
42 leave to file brief of an amicus curiae on the merits after a grant of certiorari are governed by Rule [25](#).
43

1 **Rule 51. Disposition of petition for writ of certiorari.**

2 **(a) Order after consideration.** ~~After consideration of the documents distributed pursuant to Rule 50,~~
 3 ~~the~~ The Supreme Court will enter an appropriate order ~~denying the petition or granting the petition in~~
 4 ~~whole or in part. The order shall be decided summarily, shall be without oral argument, and shall not~~
 5 ~~constitute a decision on the merits. The clerk shall not issue a formal writ unless directed by the Supreme~~
 6 ~~Court.~~

7 **(b) Grant of petition; briefing oral argument.**

8 (b)(1) ~~Whenever~~ When an order granting a petition for a writ of certiorari is entered, the Clerk of
 9 the Supreme Court ~~forthwith shall~~ will notify the Clerk of the Court of Appeals and ~~counsel of record.~~

10 (b)(2) ~~If the record has not previously been filed, the Clerk of the Supreme Court shall request the~~
 11 ~~clerk of the court with custody of the record to certify it and transmit it to the Supreme Court.~~

12 (b)(3) ~~The clerk shall file the record~~ the parties and give notice to the parties of the date ~~on which~~
 13 ~~it was filed and the date on which~~ petitioner's brief is due.

14 (b)(4) ~~(b)(2)~~ If the petition is granted, Rules 24, ~~through 31 shall~~ 25, 26 and 27 govern briefs,
 15 ~~argument, and disposition of the petition for writ of certiorari. Rule 29 governs oral argument. Rule 30~~
 16 ~~governs the decision of the Supreme Court.~~ In applying Rules 24 through 31 ~~30~~, the petitioner ~~shall~~
 17 ~~stands~~ in the place of the appellant and the respondent in the place of the appellee. ~~In lieu~~ Instead of
 18 providing the citation or statements required by Rules 24(a)(5)(A) and (B), the statement of the issues
 19 presented for review as required by Rule 24(a)(5) ~~shall~~ must include, for each issue, a statement and
 20 citation showing that the issue was ~~presented~~ fairly included in the order granting the petition for
 21 ~~certiorari or fairly included therein.~~

22 **(c) Denial of petition.** ~~Whenever~~ When a petition for a writ of certiorari is denied, ~~an order to that~~
 23 ~~effect will be entered, and~~ the Clerk of the Supreme Court ~~forthwith~~ will notify the Court of Appeals and
 24 ~~counsel of record~~ the parties.

25

1 **Rule 53. Notice of appeal in child welfare appeals.**

2 **(a) Filing and contents.** A notice of appeal filed pursuant to Rule [52\(a\)](#) must be filed with the clerk of
3 the juvenile court where the order was entered. The notice ~~shall~~must specify the ~~party or parties taking~~
4 ~~the appeal;~~ shall appellant and designate the judgment or order, or part thereof, appealed from; ~~shall~~
5 ~~designate the court from which the appeal is taken;~~ and ~~shall designate the court to which the appeal is~~
6 ~~taken.~~ The notice of appeal ~~shall~~must substantially comply with the notice of appeal form that
7 accompanies these rules.

8 **(b) Signature or Diligent Search.** The notice of appeal must be signed by appellant’s counsel and
9 by appellant, unless the appellant is a minor child or state agency. Counsel filing a notice of appeal
10 without appellant’s signature ~~shall~~must contemporaneously file, with the clerk of the juvenile court, a
11 certification that substantially complies with the Counsel’s Certification of Diligent Search form that
12 accompanies these rules. An amended notice of appeal adding appellant’s signature ~~shall~~must be filed
13 within 15 days of the filing of the notice of appeal or the appeal ~~shall~~will be dismissed.

14 **(c) Service.** The appellant shall serve a copy of the notice on counsel of record of each party,
15 including the Guardian ad Litem, or, if the party is not represented by counsel, then on the party ~~at the~~
16 ~~party’s last known address,~~ in the a manner prescribed in Rule ~~3(e)~~21. ~~Promptly after filing the notice of~~
17 ~~appeal with the clerk of the juvenile court, the appellant shall mail or deliver an informational copy of such~~
18 ~~notice to the clerk of the Court of Appeals.~~

19 **Advisory Committee Note**

20 As provided in Rule 21, the appellant may sign the notice of appeal by any means recognized by law.
21 This includes an electronic signature within the definition of Utah Code Section 46-4-102.

22

1 **Rule 54. Transcript of proceedings in child welfare appeals.**

2 **(a) Duty of appellant to request transcript.** Within 4-7 days after filing the notice of appeal, the
3 appellant shall ~~file with the clerk of the appellate court a written request for transcript, specifying the entire~~
4 ~~proceeding or parts of the proceeding to be transcribed that are not already on file. Within the same~~
5 ~~period, the appellant shall file a copy with the clerk of the juvenile court and serve the parties must order~~
6 ~~online at www.utcourts.gov a transcript of the entire proceeding or desired parts of the proceeding or file a~~
7 ~~certificate that no parts of the proceeding need to be transcribed. The appellant must serve on the other~~
8 ~~parties, including the Guardian ad Litem, a designation of the parts of the proceeding to be transcribed or~~
9 ~~the certificate that no parts of the proceeding need to be transcribed.~~

10 **(b) Transcript of all evidence regarding challenged finding.** If appellant intends to urge on appeal
11 that a finding or conclusion is unsupported by or is contrary to the evidence, the appellant must include in
12 the record a transcript of all evidence relevant to ~~such the~~ finding or conclusion. Neither the court nor the
13 appellee is obligated to correct appellant's deficiencies in providing the relevant portions of the transcript.

14 ~~**(c) Notice that no transcript needed.** If no parts of the proceeding need to be transcribed, within~~
15 ~~four days after filing the notice of appeal, the appellant shall file a notice to that effect with the clerk of the~~
16 ~~Court of Appeals and a copy with the clerk of the juvenile court.~~

17 **(c) Cross-designation by other parties.** If the appellant does not order the entire transcript, any
18 other party, including the Guardian ad Litem, may, within 7 days after the filing of the designation or
19 certificate described in paragraph (a), order additional parts of the proceeding to be transcribed.

20

1 **Rule 55. ~~on~~ Petition in child welfare appeals.**

2 **(a) Filing; dismissal for failure to timely file.** The appellant ~~shall~~ must file the petition on appeal
 3 ~~with the clerk of the Court of Appeals an original and four copies of the petition on appeal. The petition on~~
 4 ~~appeal must be filed with the appellate clerk~~ within 15 days from the filing of the notice of appeal or the
 5 amended notice of appeal. If the petition on appeal is not timely filed, the appeal ~~shall~~ will be dismissed. It
 6 ~~shall~~ must be accompanied by proof of service. ~~The~~ If the petition shall be is delivered by first-class mail,
 7 it is deemed filed on the date of the postmark ~~if first-class mail is utilized.~~ The appellant ~~shall~~ must serve a
 8 copy on counsel of record of each party, including the Guardian ad Litem, or, if the party is not
 9 represented by counsel, then on the party ~~at the party's last known address,~~ in the manner prescribed in
 10 Rule 21(c).

11 **(b) Preparation by trial counsel.** The petition on appeal ~~shall~~ must be prepared by appellant's trial
 12 counsel. Trial counsel may ~~only~~ be relieved of this obligation by the juvenile court only upon a showing of
 13 extraordinary circumstances. Claims of ineffective assistance of counsel do not constitute extraordinary
 14 circumstances but should be raised by trial counsel in the petition on appeal.

15 **(c) Format.** ~~All~~ The petitions on appeal shall must comply with Rule 27(a) and substantially comply
 16 with the Petition on Appeal form that accompanies these rules. The petition shall may not exceed 15
 17 pages, excluding the attachments required by Rule 55(d)(6) paragraph (d)(7). ~~The petition shall be~~
 18 ~~typewritten, printed or prepared by photocopying or other duplicating or copying process that will produce~~
 19 ~~clear, black and permanent copies equally legible to printing, on opaque, unglazed paper 8 ½ inches wide~~
 20 ~~and 11 inches long. Paper may be recycled paper, with or without deinking. The printing must be double~~
 21 ~~spaced, except for matter customarily single spaced and indented. Margins shall be at least one inch on~~
 22 ~~the top, bottom and sides of each page. Page numbers may appear in the margins. Either a proportionally~~
 23 ~~spaced or monospaced typeface in a plain, roman style may be used. A proportionally spaced typeface~~
 24 ~~must be 13 point or larger for both text and footnotes. Examples are CG Times, Times New Roman, New~~
 25 ~~Century, Bookman and Garamond. A monospaced typeface may not contain more than ten characters~~
 26 ~~per inch for both text and footnotes. Examples are Pica and Courier.~~

27 **(d) Contents.** The petition on appeal ~~shall~~ must include all of the following elements:

28 (d)(1) A statement of the nature of the case and the relief sought.

29 (d)(2) The entry date of the judgment or order on appeal.

30 (d)(3) The date and disposition of any post-judgment motions.

31 (d)(4) A concise statement of the material adjudicated facts as they relate to the issues presented
 32 in the petition on appeal.

33 (d)(5) A statement of the legal issues presented for appeal, how they were preserved for appeal,
 34 and the applicable standard of review. The issue statements should be concise in nature, setting forth
 35 specific legal questions. General, conclusory statements, such as "the juvenile court's ruling is not
 36 supported by law or the facts," are not acceptable.

37 (d)(6) The petition on appeal should include citations to supporting statutes, case law, and other
38 legal authority for each issue raised, including authority contrary to appellant's case, if known.

39 (d)(7) The petition on appeal ~~shall have attached to it~~ must include a copy of or a link to:

40 (d)(7)(A) ~~a copy of~~ the order, judgment, or decree on appeal;

41 (d)(7)(B) ~~a copy of~~ any rulings on post-judgment motions.

42 **(e) Compliance with Rule 21.** Petitions made under this rule that contain information or records
43 classified as other than public must comply with Rule 21(g).

44

1 **Rule 56. Response to petition ~~on~~in child welfare appeals.**

2 **(a) Filing.** Any appellee, including the Guardian ad Litem, may file a response to the petition on
3 appeal. ~~An original and four copies of the response must be filed with the clerk of the Court of Appeals~~
4 within 15 days after ~~service filing~~ of the appellant's petition on appeal. It ~~shall~~must be accompanied by
5 proof of service. ~~The~~ If the response shall be ~~is~~ delivered by first-class mail, it is deemed filed on the date
6 of the postmark ~~if first-class mail is utilized~~. The appellee ~~shall~~must serve a copy on counsel of record of
7 each party, including the Guardian ad Litem, or, if the party is not represented by counsel, then on the
8 party ~~at the party's last known address~~, in the manner prescribed in Rule 21(c).

9 **(b) Format.** A response ~~shall~~must ~~comply with Rule 27(a) and~~ substantially comply with the
10 Response to Petition on Appeal form that accompanies these rules. The response ~~shall~~may not exceed
11 15 pages, excluding any attachments, ~~and shall comply with Rule 27(a) and (b), except that it may be~~
12 ~~printed or duplicated on one side of the sheet.~~

13 **(c) Compliance with Rule 21.** Responses made under this rule that contain information or records
14 classified as other than public must comply with Rule 21(g).

15

1 **Rule 57. Record ~~on~~in child welfare appeals; ~~transmission of record.~~**

2 ~~(a)~~ The record on appeal ~~shall~~includes the legal file, any exhibits admitted as evidence, and any
3 transcripts.

4 ~~(b)~~ The record shall be transmitted by the juvenile court clerk to the clerk of the Court of Appeals
5 upon completion of the transcript or, if there is no transcript, within 20 days after the filing of the notice of
6 appeal.

7

1 **Rule 58. Ruling in child welfare appeals.**

2 ~~(a) After reviewing the petition on appeal, any response, and the record, the Court of Appeals may~~
3 ~~rule by opinion or memorandum decision. The Court of Appeals~~ appellate court ~~may issue a decision or~~
4 ~~may set schedule~~ the case for full briefing under rule ~~24~~ 13. ~~The Court of Appeals~~ appellate court ~~may~~
5 order an expedited briefing schedule and specify which issues ~~shall~~ must be briefed. If the issue to be
6 briefed is ineffective assistance of counsel, the ~~Court of Appeals~~ appellate court ~~may order the juvenile~~
7 ~~court to appoint conflict counsel within 15 days for briefing and argument.~~

8 ~~(b) If the Court of Appeals affirms, reverses, or remands the juvenile court order, judgment, or decree,~~
9 ~~further review pursuant to Rule 35 may be sought, but refusal to grant full briefing shall not be a ground~~
10 ~~for such further review.~~

11

1 **Rule 59. Extensions of time in child welfare appeals.**

2 **(a) Extension of time to appeal.** The juvenile court, upon a showing of good cause or excusable
3 neglect, may extend the time for filing a notice of appeal upon motion filed ~~prior to~~before the expiration of
4 time prescribed by Rule 52. No extension ~~shall~~may exceed ~~40-14~~ days past the prescribed time or ~~40-14~~
5 days from the date of entry of the order granting the motion, whichever occurs later.

6 **(b) Extension of time to file petition on appeal or response.** The ~~Court of Appeals~~appellate court
7 for good cause shown may extend the time for filing a petition on appeal or a response to the petition on
8 appeal upon motion filed ~~prior to~~before the expiration of the time for which the extension is sought. No
9 extension ~~shall~~may exceed ~~40-14~~ days past the original due date or ~~40-14~~ days from the date of entry of
10 the order granting the motion, whichever occurs later. The motion ~~shall~~must comply with Rule 22(b)(4).

11

1 **Rule 60. Judicial bypass appeals.**

2 **(a) Scope.** This rule applies to an appeal from an order denying or dismissing a petition filed by a
3 minor to bypass parental consent to an abortion under Utah Code Ann. ~~§ Section 76-7-304.5.~~ In such
4 appeals, ~~this rule supercedes and supersedes~~ the other appellate rules to the extent they may be
5 inconsistent with this rule.

6 **(b) Jurisdictional limitation.** This rule does not permit an appeal to be taken in any circumstances in
7 which an appeal would not be permitted by Rule 3.

8 **(c) Notice of appeal.**

9 (c)(1) A minor may appeal an order denying or dismissing a petition to bypass parental consent
10 by filing a notice of appeal in the juvenile court within the time allowed under Rule 4. The notice of
11 appeal ~~may be filed in person, by mail, or by fax, and must be accompanied by a copy of~~ must
12 designate the order from which the appeal is taken. No filing fee will be charged. The clerk of the
13 juvenile court shall immediately notify the clerk of the court of appeals that the appeal has been filed.

14 (c)(2) The notice of appeal must indicate that the appeal is being filed pursuant to this rule, but
15 the court will apply this rule to cases within its scope whether they are so identified or not.

16 (c)(3) ~~Blank~~ Notice of appeal forms will be available at all juvenile court locations and will be
17 ~~mailed or faxed~~ provided to a minor upon request. No fee will be charged for this ~~service~~ or other
18 services provided to a minor in an appeal under this rule.

19 **(d) Record on appeal.** The record on appeal consists of the juvenile court file, including all papers
20 and exhibits filed in the juvenile court, and a recording or transcript of the proceedings before the juvenile
21 court. ~~The clerk of the court of appeals shall request the record immediately upon receiving notice that the~~
22 ~~appeal has been filed. Upon receiving this request, the clerk of the juvenile court shall immediately~~
23 ~~transmit the record to the court of appeals by overnight mail or in another manner that will cause it to~~
24 ~~arrive within 48 hours after the notice of appeal is filed.~~

25 **(e) Brief Memorandum in support of the appeal.** A brief is not required. However, the minor may
26 file a ~~typewritten~~ memorandum in support of the appeal. The memorandum ~~shall~~ must be submitted within
27 ~~two judicial~~ 2 business days after the notice of appeal is filed.

28 **(f) Oral argument.** If ordered by the court, oral argument will be held within ~~three judicial~~ 3 business
29 days after the notice of appeal is filed. The court of appeals clerk will immediately notify the minor of the
30 date and time for oral argument. Upon request, the minor will be allowed to participate ~~telephonically~~ by
31 contemporaneous transmission from a different location at court system expense.

32 **(g) Disposition.** The court ~~shall~~ will enter an order stating its decision immediately after oral
33 argument or, if oral argument is not held, within ~~three judicial~~ 3 business days after the date the notice of
34 appeal is filed. The clerk ~~shall~~ will immediately notify the minor of the decision. The court may issue an
35 opinion explaining the decision at any time following entry of the order. The opinion ~~shall~~ will be written to
36 ensure the confidentiality of the minor.

37 **(h) Confidentiality.** ~~Documents and proceedings~~ Records in an appeal under this rule are
38 ~~confidential, safeguarded and hearings are closed.~~ Court personnel are prohibited from notifying the
39 minor's parents, guardian, or custodian that the minor is pregnant or wants to have an abortion, or from
40 disclosing this information to any member of the public.

41 **(i) Attorney.** If the minor is not represented by an attorney, the court ~~shall~~ will consider appointing an
42 attorney or the Office of Guardian ad Litem to represent the minor in the appeal. If an attorney or the
43 Office of Guardian ad Litem was appointed to represent the minor in the trial court, the appointment
44 continues through appeal.

45

Tab 5

**UTAH RULES APPELLATE
PROCEDURE**

PENDING PROPOSALS

Rule	Topic	Raised by	Pending since	Priority	Status
01	Incorrect reference to 78-3a-320.	Tim Shea	2016/05	3	
02	Adds Rule 14(a) to the list of rules that the court cannot suspend.	Clark Sabey		2	Comment period expired July 1. Scheduled for September 1.
03	E-filing. Removes paragraph (e) on service of the notice of appeal, which is governed by the rules of civil, criminal, and juvenile procedure. Removes paragraph (d) on payment of the filing fee, which is governed by statute. Removes or modernizes provisions for the internal movement of records. The Supreme Court has asked the committee to consider the order of parties in the title of the case. When should party file a co-notice of appeal and when a cross-appeal?	E-filing subcommittee Supreme Court Rod Parker	2016/04 2016/04 2015/12	E 1 3	Unless high priority issue is presented, hold until e-filing is ready.
04	Time limit on motion to reinstate the time to appeal.			1	Letter to Supreme Court recommending no change.

Rule	Topic	Raised by	Pending since	Priority	Status
05	E-filing. Eliminates multiple copies. Describes attaching or linking to relevant parts of the record. Moves to Rule 21 the requirements for serving the AG. Removes other service provisions, which are governed by Rule 21.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
09	E-filing. Eliminates multiple copies. Moves to Rule 21 the requirements for serving the AG. Corrects the advisory committee note with a correct reference to the forms.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
10	E-filing. Eliminates multiple copies. Changes 10 days to 14. Improves organization and readability.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
11	E-filing. Eliminates everything to do with assembling the record. Describes access to the record.	E-filing subcommittee	2016/04	E	Hold until e-filing is ready.
12	E-filing. Moves from Rule 11 the steps for designating parts of a hearing to transcribe. Moves from CJA 5-201 the process for a transcriber to request an extension of time. (Repeal 5-201.)	E-filing subcommittee	2016/04	E	Hold until e-filing is ready.
13	E-filing. Technical amendment, but the result is that the clerk will notify the parties of the briefing schedule when the court is ready for them.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.

Rule	Topic	Raised by	Pending since	Priority	Status
14	E-filing. Removes provisions governed by statute or other rules. Requires a party seeking review of an administrative agency order to file a petition for review even if a statute describing the review describes it as an appeal. Removes provisions governed by statute or other rules.	E-filing subcommittee Judge Voros	2016/04 2016/04		Comments due 7/16. Scheduled for September. No change to lines 19-25?
16	E-filing. New rule that describes for agencies assembly of the record currently contained in Rule 11.	E-filing subcommittee	2016/04	E	Hold until e-filing is ready.
19	E-filing. Eliminates multiple copies. Changes 7 days to 14. Improves organization and readability.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
20	E-filing. Eliminates multiple copies. Changes 10 days to 14. Describes linking to records. Improves organization and readability.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
21	E-filing. Describes optional and mandatory e-filing. Consolidates several filing fee and service provisions. Borrows from URCP 5 different methods of service and different methods of filing an affidavit.	E-filing subcommittee	2016/04	E	Hold until e-filing is ready.
21A	E-filing. New rule describing linking to the record.	E-filing subcommittee	2016/04	E	Hold until e-filing is ready.

Rule	Topic	Raised by	Pending since	Priority	Status
22	E-filing. Adopts “days-are-days” approach.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready. Examine effect of Line 50. Change to something like: “When an event creates a due date and notice of the event is served only by mail, 3 days are added after the period would otherwise expire.”
23	E-filing. Eliminates multiple copies. Eliminates the form of the motion, which will be governed by Rule 27. Changes 5 days to 7 and 10 days to 14. Improves readability. Consolidate all motion provisions into Rule 23.	E-filing subcommittee Troy Booher	2016/04 2016/02	E 3	Unless high priority issue is presented, hold until e-filing is ready.
23B	E-filing. Changes 20 days to 21 and 10 days to 14. Describes transmitting the supplemental record. Rewrite.	E-filing subcommittee R23B SubC: Lori Seppi, Judge Voros, Clark Sabey, Marian Decker, Tom Bruner, Mary Westby, Joan Watt	2016/04 2014/12	E 1	Draft rewrite circulated to subcommittee. Proceed with substantive rewrite. Integrate the e-filing changes. Publish for comment.

Rule	Topic	Raised by	Pending since	Priority	Status
23C	E-filing. Eliminates multiple copies. Eliminates the form of the motion, which will be governed by Rule 27. Describes service by submitting a document for electronic filing.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
24	E-filing. Describes how to link to the record. Other technical amendments. New organization and content of brief. New rule 24A for cross-appeals. Amendments to Rule 26 needed. Repeal Standing Order 4.	E-filing subcommittee R24 SubC: Judge Voros, Judge Orme, Justice Lee, Troy Booher, Paul Burke, Marian Decker, Rod Parker, Lori Seppi	2016/04 2014/05	E 1	Scheduled for September 1. Publish for comment. Paragraph (e), References to the record, will need further amendment under e-filing.
25	E-filing. Eliminates multiple copies. Changes 7 days to 14. Consolidate all amicus provisions into Rule 25. Rules 5, 25, 35, 41, 50,	E-filing subcommittee Tim Shea	2016/04 2016/01	E 3	Unless high priority issue is presented, hold until e-filing is ready.
25A	Challenging the constitutionality of a statute or ordinance.	Supreme Court	2015/10	1	Comments due 7/16. Scheduled for September 1.
26	E-filing. Eliminates multiple copies. Other technical amendments. Conforming amendments for new Rule 24A.	E-filing subcommittee R24 subcommittee	2016/04 2016/06	E 1	Include with Rule 24 and Rule 24A.

Rule	Topic	Raised by	Pending since	Priority	Status
27	E-filing. Substantially rewritten to govern the form of all filings with special requirements for briefs.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
29	E-filing. Changes 30 days to 28 and 15 days to 14. Other technical amendments. Oral argument in private cases. Process by which a party/attorney could correct a misstatement made during oral argument.	E-filing subcommittee. AG; Court of Appeals Supreme Court	2016/04 2015/06 2016/06	E 2 3	Unless high priority issue is presented, hold until e-filing is ready.
30	Refers to dismissals in its title, but not its text.	Judge Voros	2016/05	3	
34	E-filing. Eliminates as a recoverable cost the cost of a brief not to exceed \$3.00/page and the cost incurred in the preparation and transmission of the record other than the cost of the transcript. Changes 15 days to 14. Refers the determination of costs to the trial court.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready. Rule 27 provides for 6 copies of certain briefs. Un-delete the cost of a brief up to \$3.00/page.
35	E-filing. Eliminates multiple copies and colored cover. Other technical amendments. Alternatives to petitions for rehearing for minor modifications to opinions. Motion. Model after URCP 60(a). Integrate SO 2. Delete amicus brief?	E-filing subcommittee Supreme Court	2016/04 2014/10	E 3	Unless high priority issue is presented, hold until e-filing is ready.

Rule	Topic	Raised by	Pending since	Priority	Status
36	E-filing. Changes 15 days to 14 and 5 days to 7. Other technical amendments.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
	Simplify remittitur language.	Tim Shea	2015/05	3	Amendment drafted.
37	Allows a lawyer to attach his or her own affidavit instead of the appellant's when the lawyer has lost communication with the appellant and an affidavit from appellant is required to dismiss an appeal.	Judge Voros	2014/10	2	Scheduled for September.
39	E-filing. Eliminates reference to "original" papers. Eliminates provisions governed by other rules. Describes service by the court on counsel as being "through the appellate electronic filing system." Improves organization and readability.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
40	Sanctioning lawyers or parties.	Supreme Court	2015/10	1	Scheduled for September.
41	E-filing. Eliminates incorrect reference to the Code of Judicial Administration. Other technical amendments.	E-filing subcommittee	2016/04	E	Scheduled for September. Adopt as published for comment.
	Develop rule for simultaneous briefing of question of state law certified from federal court. See order to parties.	R24 subcommittee	2016/06	2	Consider further amendments in the normal course.
42	E-filing. Amends to reflect current operations.	E-filing subcommittee	2016/04	E	Scheduled for September. Adopt as published for comment.

Rule	Topic	Raised by	Pending since	Priority	Status
43	E-filing. Amends to reflect current operations. Changes 10 days to 14.	E-filing subcommittee	2016/04	E	Scheduled for September. Change 14 days back to 10. Change “filing” back to “service.” Adopt as further amended. When e-filing is ready, change 10 days to 14. Change “service” to “filing.”
47	E-filing. Amends to reflect current operations. Other technical amendments. Respondents on cert are determined in a way that seems to allow a party on the same side as a cert petitioner in the court of appeals to ride the coattails of a cert petitioner (and become a party to a cert proceeding) without filing or joining in a cert petition. Compare SCOTUS rule 12(6).	E-filing subcommittee Judge Voros	2016/04 2015/12	E 3	Unless high priority issue is presented, hold until e-filing is ready.
48	E-filing. Eliminates multiple copies. Changes “refuse” a petition to “reject” a petition. Other technical changes.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
50	E-filing. Eliminates multiple copies. Changes 7 days to 14. Improves organization and readability. Proposed as part of “global” changes. No record that the committee ever reached this rule.	E-filing subcommittee Troy Booher	2016/04 2013/08	E 3	Unless high priority issue is presented, hold until e-filing is ready.

Rule	Topic	Raised by	Pending since	Priority	Status
51	E-filing. Amends to reflect current operations. Improves organization and readability.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
52-59	Is there a way to expedite adoption appeals similar to child welfare appeals? Work with civil and juvenile rules committees to expedite trial court proceedings.	Supreme Court	2015/05	1	
52-59	Child welfare appeals. Is there a mechanism for a party to raise an ineffective assistance of counsel claim when trial court counsel is required to file the petition to appeal? How can a party have appellate counsel independent of trial counsel? Should there be a process like Rule 23B to supplement the record? How does the policy of an expedited appeal for the benefit of the child weigh against these other policies?	Supreme Court	2016/05	1	
52	Makes effect of post-trial motions consistent with Rule 4.	Mary Westby	2016/01	2	Comment period expired June 25. Scheduled for September.
53	E-filing. Eliminates the requirement that the clerk of the juvenile court deliver an informational copy of the notice of appeal to the clerk of the Court of Appeals.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
54	E-filing. Changes 4 days to 7. Amends to reflect current operations. Improves organization and readability.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.

Rule	Topic	Raised by	Pending since	Priority	Status
55	E-filing. Eliminates the special form of the petition and specifies that the petition must comply with Rule 27.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
56	E-filing. Eliminates multiple copies. Other technical amendments.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
57	E-filing. Eliminates the requirement to transfer the record within 20 days after the notice of appeal.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
58	E-filing. Improves organization and readability.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
59	E-filing. Changes 10 days to 14. Other technical amendments.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
60(e)	E-filing. Eliminates the description of how a notice of appeal may be filed. Eliminates the immediate request for and delivery of the record.	E-filing subcommittee	2016/04	E	Unless high priority issue is presented, hold until e-filing is ready.
	Should 2 days be changed to 3?	E-filing subcommittee	2015/11	3	
	Other, more substantive issues.	Paul Burke	2015/11	3	

Rule	Topic	Raised by	Pending since	Priority	Status
Multiple	Incorporate SO2 into Rule 35 and repeal. Incorporate SO4 into Rule 24 and repeal. Incorporate SO9 into Rule 23 or 29 and repeal. Standing Orders 5 & 6 are special procedures for judicial discipline. Would have to be new rules. How much do they differ from regular procedures?			3	
None	Integrate the forms at end of URAP, with http://www.utcourts.gov/howto/appeals/				
None	Add brief template to webpage. Advice. Etc.				Develop i/a/w new Rule 24, 24A and 27.

Standing Order 2. Petitions for Rehearing will be accepted pursuant to Rule 35 of the Utah Rules of Appellate Procedure in cases which have received plenary review by the Court and a full opinion has been published, either as a signed opinion or per curiam. [Rule 35 adds memorandum decision.]

No petition for rehearing in interlocutory appeals which have been denied (Rule 5), motions for summary disposition which have been granted or denied (Rule 10), petitions for writs of certiorari which have been denied (Rule 49), and motions to remand for findings under Rule 23B when granted or denied.

Standing Order 4. describes the citation format. Repeal with new Rule 24.

Standing Orders 5 & 6. Special procedures for judicial discipline. Would have to be new rules. How much do they differ from regular procedures?

Standing Order 9. Absent extraordinary circumstances, the Supreme Court will not rule on a motion prior to oral argument if the motion is filed less than thirty days before the date scheduled for oral argument. If it appears the moving party had an opportunity to file the motion more than thirty days before oral argument, the failure to file it in a more timely manner may be deemed to constitute an independent justification for its denial.

Standing Order 11. Repeal with e-filing.