

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

2 **(a) ~~Brief of the appellant~~ Principal briefs.** ~~The brief of the appellant shall~~ Principal briefs
3 must 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
5 include:

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

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

13 **(a)(2) A table of contents.**, ~~including the contents of the addendum, with page references~~
14 The table of contents must list the sections of the brief with page numbers and the items in
15 the addendum with the item number.

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

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

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

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

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

28 **(a)(6) Constitutional provisions, statutes, ordinances, rules, and regulations whose**
29 interpretation is determinative of the appeal or of central importance to the appeal shall be

30 set out verbatim with the appropriate citation. If the pertinent part of the provision is lengthy,
31 the citation alone will suffice, and the provision shall be set forth in an addendum to the
32 brief under paragraph (11) of this rule.

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

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

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

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

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

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

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

58 **(a)(10) A short conclusion.** The conclusion may summarize the party's

59 position and must state ~~stating~~ the precise specific relief sought on appeal.

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

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

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

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

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

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

77 (a)(12)(C) materials in (a)(11)(C) those parts of the record on appeal that are the
78 subject of the dispute and that are of central importance to the determination of
79 the appeal issues presented for review, such as the challenged jury instructions, findings of
80 fact and conclusions of law, memorandum decision, the transcript of the court's
81 oral decision, or the contract or document subject to construction pages, insurance
82 policies, leases, search warrants, or real estate purchase contracts.

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

85 ~~**(b)(1)** a statement of the issues or of the case unless the appellee is dissatisfied with the~~
86 ~~statement of the appellant; or~~

87 ~~**(b)(2)** an addendum, except to provide material not included in the addendum of~~

88 ~~the appellant. The appellee may refer to the addendum of the appellant.~~

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

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

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

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

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

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

101 (c) No further briefs; joining or adopting the brief of another party. No further
102 briefs may be filed except with leave of the appellate court. More than one party may
103 join in a single brief. Any party may adopt by reference any part of the brief or another.
104 (d) References in briefs to parties and others. ~~Counsel will be expected in their briefs~~
105 ~~and oral arguments to keep to a minimum references to parties by such designations~~
106 ~~as "appellant" and "appellee." It promotes clarity to use the designations used in the~~
107 ~~lower court or in the agency proceedings, or the actual names of parties, or~~
108 ~~descriptive terms such as "the employee," "the injured person," "the taxpayer," etc.~~
109 Parties and other persons and entities should be referred to consistently by the term,
110 phrase, or name most pertinent to the issues on appeal. These may include
111 descriptive terms based on the person or entity's role in the dispute, or the designations
112 used in the trial court or agency, or the names of parties. Unless germane to an issue on
113 appeal, a party should not be described solely by the party's procedural role in the
114 case. The surname of a minor must not be used without consent from the minor, nor
115 may the surnames of a minor's biological, adoptive, or foster parents be used.

116 (e) References in briefs to the record.

117 (e)(1) Statements of fact and references to proceedings in the court or agency whose
118 judgment or order is under review must be supported by citation to the record.
119 ~~References shall be made to~~ A citation must identify the pages of the ~~original~~ record as
120 paginated pursuant to ~~Rule 11(b) or to pages of any statement of the evidence or~~
121 ~~proceedings or agreed statement prepared pursuant to Rule 11(f) or 11(g)~~ marked by
122 the clerk. ~~References to pages of published depositions or transcripts shall identify the~~
123 ~~sequential number of the cover page of each volume as marked by the clerk on the bottom~~
124 ~~right corner and each separately numbered page(s) referred to within the deposition or~~
125 ~~transcript as marked by the transcriber.~~

126 (e)(2) RA ~~references to an exhibits shall be made to~~ must set forth the exhibit
127 numbers. ~~If the reference is made to evidence the admissibility of which is in~~
128 ~~controversy, the reference shall be made to~~ must set forth the pages of the record at
129 which the evidence was identified, offered, and received or rejected.

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

133 (f)-(g) Length of briefs.

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

135 ~~(f)(1)(A) In an appeal involving the legality of a death sentence, a principal~~
136 ~~brief is acceptable if it contains no more than 28,000 words or if it uses a monospaced face~~
137 ~~and contains no more than 2,600 lines of text; and a reply brief is acceptable if it contains~~
138 ~~no more than 14,000 words or if it uses a monospaced face and contains no more than~~
139 ~~1,300 lines of text. In all other appeals, a principal brief is acceptable if it contains~~
140 ~~no more than 14,000 words or it uses a monospaced face and contains no more than 1,300~~
141 ~~lines of text; and a reply brief is acceptable if it contains no more than 7,000 words or it~~
142 ~~uses a monospaced face and contains no more than 650 lines of text.~~

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

147 ~~(f)(1)(C) Certificate of compliance. A brief submitted under Rule~~
 148 ~~24(f)(1) must include a certificate by the attorney or an unrepresented party that the brief~~
 149 ~~complies with the type volume limitation. The person preparing the certificate may rely~~
 150 ~~on the word or line count of the word processing system used to prepare the brief. The~~
 151 ~~certificate must state either the number of words in the brief or the number of lines of~~
 152 ~~monospaced type in the brief.~~

153 ~~(f)(2) Page limitation. Unless a brief complies with Rule 24(f)(1), a principal~~
 154 ~~briefs shall not exceed 30 pages, and a reply briefs shall not exceed 15 pages,~~
 155 ~~exclusive of pages containing the table of contents, tables of citations and any addendum~~
 156 ~~containing statutes, rules, regulations, or portions of the record as required by paragraph~~
 157 ~~(a) of this rule. In cases involving cross appeals, paragraph (g) of this rule sets forth the~~
 158 ~~length of briefs.~~

159 (g)(1) Unless a brief complies with the following page limits, it must comply with the
 160 following word 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>
<u>Legal of death sentence, reply brief</u>	<u>30</u>	<u>14,000</u>
<u>Other cases, principal brief</u>	<u>30</u>	<u>14,000</u>
<u>Other cases, reply brief</u>	<u>15</u>	<u>7,000</u>

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

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

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

168 ~~(g)(2) The appellee shall then file one brief, entitled Brief of Appellee and~~
 169 ~~Cross Appellant, which shall respond to the issues raised in the Brief of Appellant and~~

170 present the issues raised in the cross appeal.

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

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

176 **~~(g)(5) Type-Volume Limitation.~~**

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

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

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

186 ~~(g)(5)(D) The appellee's Reply Brief of Cross Appellant is~~
187 ~~acceptable if it contains no more than half of the type volume specified in Rule~~
188 ~~24(g)(5)(A).~~

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

191 **~~(g)(7) Page Limitation.~~** Unless it complies with Rule 24(g)(5) and (6), the
192 appellant's Brief of Appellant must not exceed 30 pages; the appellee's Brief of
193 Appellee and Cross Appellant, 35 pages; the appellant's Reply Brief of Appellant
194 and Brief of Cross Appellee, 30 pages; and the appellee's Reply Brief of Cross
195 Appellant, 15 pages.

196 **~~(h) Permission for to file over length brief.~~** While such motions are Although
197 overlength briefs are disfavored, the court for good cause shown may upon a party
198 may file a motion permit a party for leave to file a brief that exceeds the page, or word;

199 ~~or line~~ limitations of this rule. The motion ~~shall~~ must state with specificity the issues
200 to be briefed, the number of additional pages, or words, or lines requested, and ~~the~~ good
201 cause for granting the motion. A motion filed at least ~~seven~~ 7 days ~~prior to the date~~ before
202 the brief is due or seeking three or fewer additional pages, or 1,400 or fewer additional
203 words, ~~or 130 or fewer lines of text~~ need not be accompanied by a copy of the proposed
204 brief. A motion filed ~~within seven days of the date the brief is due and seeking more than~~
205 ~~three additional pages, 1,400 additional words, or 130 lines of text shall be accompanied~~
206 ~~by~~ Otherwise, a copy of the ~~finished~~ proposed brief must accompany the motion. If the
207 motion is granted, the responding party is entitled to an equal number of additional pages,
208 or words, or lines without further order of the court. Whether the motion is granted or
209 denied, the ~~draft~~ court will destroy the proposed brief ~~will be destroyed by the court~~.

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

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

218 ~~(j) Citation~~ Notice of supplemental authorities. When ~~pertinent and significant~~
219 ~~authorities~~ authority of central importance to an issue comes to the attention of a party
220 after that party's brief has been filed, or after briefing or oral argument but before
221 decision, a ~~that~~ party may promptly advise the clerk of the appellate court, by letter file
222 a notice of supplemental authority setting forth:

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

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

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

229 The body of the ~~letter notice~~ must not exceed 350 words. Any other party may file a
230 response shall be made within seven no later than 7 days of filing and shall be similarly
231 limited after service of the notice. The body of the response must not exceed 350 words.
232 **~~(k) Requirements and sanctions.~~** All briefs under this rule must be concise, presented
233 with accuracy, logically arranged with proper headings and free from burdensome,
234 irrelevant, immaterial or scandalous matters. Briefs which are not in compliance may
235 be disregarded or stricken, on motion or sua sponte by the court, and the court may
236 assess attorney fees against the offending lawyer.

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Advisory Committee Notes

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

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

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

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2017 amendments

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

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Paragraph (a)(4). A party's principal brief should include an introduction. The author should focus the introduction on the important features of the case. The introduction to one case may be only a few sentences, while a more complex case may require a few paragraphs or

259 perhaps a few pages. The objective of the introduction is to give the
260 reader a sense of the forest before detailing the trees.

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

269 **Paragraph (a)(8).** The 2017 amendments remove the reference to
270 marshaling. *State v. Nielsen*, 2014 UT 10, 326 P.3d 645, holds that the
271 failure to marshal is not a technical deficiency resulting in default, but is a
272 manner in which an appellant may carry its burden of persuasion
273 when challenging a finding or verdict.

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

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

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

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The name of a minor is often a private record and caution should be used to avoid including other names or information from which a minor might be identified. A minor's surname should be used only with the informed consent of a mature minor. The author may file a private brief for the parties and the court using the minor's name while simultaneously filing an otherwise identical public brief with the minor's name omitted, redacted, reduced to initials, or substituted with a placeholder name. A minor may be referred to by a descriptive term such as "the child," "the 11-year old," or "the sister." The biological, adoptive, or foster parents of minors may be referred to by their relation to the minor, such as "mother," "adoptive parent," or "foster father."

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

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Paragraph (g). Because of the increasing rarity of monospaced font, the 2017 amendments eliminated the number of lines as a measure of a brief's length. And to improve the clarity of Rule 24, the 2017

319 amendments moved the requirements for briefs in a cross-appeal
320 to Rule 24A.