



Guide to Filing a Petition for Writ of Certiorari

Appealing a Court of Appeals Decision to the Utah Supreme Court

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The Appellate Clerks' Office is open Monday – Friday, 8:00 a.m. to 5:00 p.m. The office is closed all state and federal holidays.

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The purpose of this guide

This guide is for appealing a Utah Court of Appeals decision to the Utah Supreme Court by filing a Petition for Writ of Certiorari.

There are separate guides for:

- Appealing a decision from the district or juvenile court to the Court of Appeals or Supreme Court
- Appealing a child welfare case from juvenile court
- Appealing a decision from an administrative agency (Writ of Review)

Not all cases are appealed to the Supreme Court or Court of Appeals. Decisions from the justice court (misdemeanor criminal, traffic and small claims cases), for example, are appealed to the district court. Some administrative agency decisions are appealed to the district court. See our [Appeals web page](#) for more information about these kinds of appeals.

Overview

What is a Petition for Writ of Certiorari?

A Petition for Writ of Certiorari is a request to the Utah Supreme Court to review a decision of the Utah Court of Appeals. The Supreme Court can choose to grant or deny the petition. If the petition is denied, the decision of the Court of Appeals stands.

Fees

Appellate Rule 3

The filing fee for a Petition for Writ of Certiorari is \$225.00.

If the petitioner can't pay the required fees, they can ask the court to waive the filing fee if they can show they meet certain financial/income guidelines. The petitioner must fill out and file a [Motion and Affidavit to Waive Fees](#).

Even if a waiver of the filing fee and cost bond is approved, the petitioner will still have to pay other costs associated with the appeal. For example, if additional transcripts are needed, they must pay the transcriber to prepare those. The appellate courts also charge for copies of documents.

Filing

Appellate Rule 21

To *file* a document means to give it to the Appellate Clerk's Office in Salt Lake City. Parties can file papers with the court in person or by mail. Petitions for Writ of Certiorari may not be filed by email.

* The drop box outside the Matheson Courthouse is for the district court only. Do not put appellate court documents in that box.

Non-Public Information

Records are classified as public, private, controlled, protected, safeguarded, sealed, juvenile court legal, or juvenile court social by Code of Judicial Administration Rule 4-202.02. The right of public access might also be restricted by Title 63G, Chapter 2, Government Records Access and Management Act, by other statutes, rules, or case law, or by court order.

If a filing, including an addendum, contains non-public information, the filer must also file a public version with all such information removed. Utah Rule of Appellate Procedure 21(g) requires the filer to file an unredacted version for the court and a version for the public that does not contain the confidential information.

See the court's [Non-Public Records page](#) for more information about classification of court records.

Service

Appellate Rule 21

To *serve* a document means to give a copy of it to all other parties. Any document you file with the appellate court must also be served on all of the other parties in the appeal. If the other side has an attorney, the attorney must be served. If the other side does not have an attorney, the other party must be served at their last known address.

Documents may be served by mail, hand delivery or email (as allowed by the policy described in the **Filing** section).

A Certificate of Service must be attached to all documents filed with the appellate court. The Certificate of Service tells the court when and how service was made, who was served, and where they were served. The court will not act on any document unless a Certificate of Service is attached to it.

There are special requirements for serving briefs. More information is provided in the **Briefs** section.

Asking for More Time (Motion for Extension of Time)

Appellate Rule 22(b)

In some situations, a party may ask the court for more time to meet a deadline by filing a Motion for Extension of Time. The Motion for Extension of Time is subject to the following requirements:

- The motion must be filed before the deadline.
- The motion must include:
 - a good reason for extending the deadline
 - whether extensions have been requested before, and if so, how many times and how long those extensions were
 - when the deadline is
 - what the party would like the new deadline to be

The appellate courts do not favor requests to extend a deadline by more than 30 days.

Parties can agree to extend the deadline to file briefs. This agreement is called a “stipulation,” and must be filed with the appellate court. A stipulation cannot extend the time by more than 30 days and will only be allowed if it is filed before the deadline expires.

Procedures

Writ of Certiorari Timeline

Petition for Writ of Certiorari	Due 30 days after the decision is issued. (URAP 45) (To the Utah Supreme Court from a decision of the Utah Court of Appeals)
Response to Petition for Writ of Certiorari	Due 30 days after the Petition is filed in the Supreme Court. (URAP 45)
Petition is Taken Under Advisement	A reply to the response may be filed, but the court will not delay processing the petition to wait for a reply.
If the Petition is Denied ...	The case is closed.
If the Petition is Granted ...	The clerk’s office will issue a writ directing the record to be sent to the Supreme Court. The case proceeds under URAP 24-30.
Petitioner’s Brief (blue)	Due 40 days after the record is filed. The court will send notice of the due date.
Respondent’s Brief (red)	Due 30 days after petitioner’s brief is filed.

Case is Now at Issue	The case is set for the next available oral argument date.
Petitioner’s Reply Brief (gray)	Optional, due 30 days after the filing of respondent’s brief.
Oral Argument	
Case Taken Under Advisement	
Court Issues Opinion	
Petition for Rehearing	Optional, due 14 days after the decision is issued. (URAP 35)
Remittitur	Issued no earlier than 14 days after the opinion is issued, or if a Petition for Rehearing is filed, no earlier than 5 days after the Petition for Rehearing is resolved.

Petition for Writ of Certiorari

Appellate Rules 45 - 51

Either of the parties in a Court of Appeals case can petition the Supreme Court for a writ of certiorari to review the decision of the Court of Appeals.

Appellate Rule 49 specifies the contents of the Petition.

This review is at the discretion of the Supreme Court, and will be granted only for “special and important reasons,” according to URAP 46(a).

The petition must be filed within 30 days of the entry of the final decision of the Court of Appeals. If a party wants to ask for more time to file the petition, they must file a Motion for Extension of Time with the Supreme Court before the 30 day deadline has passed. URAP 48(e).

The party filing the petition must also pay a filing fee or ask to have those costs waived as described in the **Fees** section above.

Response to Petition for Writ of Certiorari

Appellate Rule 50

The respondent must file an opposing brief 30 days after they are served with the petitioner’s brief to say why the case should not be reviewed by the Supreme Court.

Briefing Process

Appellate Rules 24 - 31 and 51

The Supreme Court will notify the parties whether the petition has been granted. If it is granted, the parties move on to the briefing stage. URAP 24-31 govern briefs, but in the case of a Petition for Writ of Certiorari, the word “petitioner” is used instead of “appellant,” and “respondent” is used instead of “appellee.”

Petitioner’s Brief

The petitioner’s brief is used to persuade the Supreme Court that the Court of Appeals made specific error or errors in law, fact, or procedure that affected the outcome of the case. The brief should focus on the law and the facts, and should explain how the law should apply to the facts.

Respondent’s Brief

The respondent’s brief is due 30 days after the petitioner’s brief is filed. The respondent can respond to the arguments made by the petitioner and explain why the decision in the Court of Appeals was correct.

Reply Brief

The petitioner may file a reply brief in answer to the respondent’s brief. This optional brief must be filed within 30 days after the respondent’s brief is served. See Appellate Rule 24(c) for the requirements of this brief. The reply should be limited to answering any new matters set forth in the respondent’s brief.

Number of copies and service

One brief with original signature and 9 copies must be filed with the Supreme Court.

Two copies of the brief must be served on the other party. The briefs must include a Certificate of Service showing how copies were served on the other party.

Briefs are considered **filed** on the date of the postmark if first-class mail is used.

Oral Argument

Appellate Rule 29

After the briefs are filed, the Supreme Court will schedule the case for oral argument. To prepare for oral argument, parties may want to review the [Supreme Court Practitioner’s Guide to Oral Argument](#).

Oral arguments are public. Anyone may observe them in person or listen to archived recordings of previous arguments on the courts’ website to get an idea of the procedure.

- [Oral argument calendars](#)

- [Oral argument recordings](#)

Supreme Court Decision

Appellate Rule 30

Court staff have no way of knowing when a decision will be issued. Depending on the complexity of the case, the decision process takes some time, which means it could be months before a decision is issued. The judges need time to research and debate the issues and write the opinion. The written opinion affects the individuals involved in the case, but it may also have a broader impact on the law in Utah.

[Appellate court opinions](#) are available on the court's website.

Options After the Written Decision is Issued

Once the Supreme Court has issued its decision, the parties have two options:

- Accept the decision of the Supreme Court
- File a Petition for Rehearing

Petition for Rehearing

Appellate Rule 35

If one of the parties believes the Supreme Court made an error in its written decision, they can ask the court to reconsider its decision by filing a Petition for Rehearing.

The petition should not simply repeat the arguments already made. It must include the points of law or fact the party thinks the court has overlooked or misunderstood. A Petition for Rehearing must be made in good faith; it cannot be made for delay. See URAP 27 for format requirements.

The petition must be filed with the clerk within 14 days after the court's decision is entered. The court will not accept the Petition for Rehearing if it is not filed by the deadline. The court will not accept more than one Petition for Rehearing. Most petitions for rehearing are not granted.

Remittitur

Appellate Rule 36

Once the case is completely finished in the appellate court, the appellate court returns the record to the trial court and gives up its jurisdiction. This process is called remittitur.

The Supreme Court generally issues the remittitur 15 days after the decision is filed.

Appellate Rules

The Utah Rules of Appellate Procedure (also called Appellate Rules or URAP) govern appeals cases. The Appellate Rules specify the documents which are required, deadlines for filing documents, document format, etc. This guide explains some of the basic rules that you must follow in an appeal, but it does not explain all of them. You are responsible for familiarizing yourself with the Appellate Rules and following them.

The current [Utah Rules of Appellate Procedure](#) are available on the courts' website. The Appellate Rules are also available in print at the law libraries listed below, and at some public libraries.

Utah State Law Library
450 S. State Street, Rm. W-13
Salt Lake City
801-238-7990
www.utcourts.gov/lawlibrary/

Brigham Young University
Howard W. Hunter Law Library
801-422-3593
<http://lawlib.byu.edu/>

University of Utah
James E. Faust Law Library
383 S. University Street
801-581-6184
www.law.utah.edu/library/

Other Resources

General information about Appeals is available on the court's [Appeals web page](#).

Representing Yourself in an Appeal

People who represent themselves in court without the help of an attorney are called *pro se* or self-represented parties. Self-represented parties are responsible for learning about and following the rules and procedures that govern the court process.

The appellate process is very detailed and can be confusing. The appellate courts highly recommend that parties get the help of an attorney.

Appellate clerks' staff can provide general information about court rules and procedures, but they cannot draft documents or participate directly or indirectly in any court action. Court staff cannot provide advice about what the law is or how it applies to someone's situation.

A self-represented party can only represent himself or herself. They may not represent another person, company, or entity such as a club or association that includes other individuals.

See the court's [Finding Legal Help web page](#) for information about ways to get the help of an attorney.