



Agenda

Utah Supreme Court Advisory Committee Utah Rules of Appellate Procedure

Chris Ballard, Chair
Nathalie Skibine, Vice Chair

Location:	Meeting held through Webex and in person at: Matheson Courthouse, Council Room, N. 301 450 S. State St. Salt Lake City, Utah 84111 https://utcourts.webex.com/utcourts/j.php?MTID=m538581f9082cdad50ff1e74adef124f9
Date:	June 6, 2024
Time:	12:00 to 1:30 p.m.

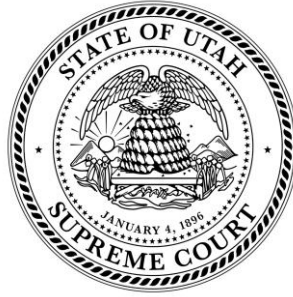
Action: Welcome and approval of May 2, 2024 Minutes	Tab 1	Chris Ballard, Chair
Action: Rule 21	Tab 2	Chris Ballard, Nathalie Skibine
Action: Rule 23C and Rule 19	Tab 3	Chris Ballard, Nathalie Skibine
Action: Rule 8	Tab 4	Stan Purser
Action: Rule 42	Tab 5	Clark Sabey, Judge Christiansen Forster, Michelle Quist, Carol Funk
Action: Rule 29	Tab 6	Clark Sabey
Action: Rules Governing Child Welfare Appeals	Tab 7	Mary Westby, Emily Adams, Martha Pierce, John Peterson, Alexa Mareschal
Discussion: Old/new business		Chris Ballard, Chair

Committee Webpage: <https://legacy.utcourts.gov/utc/appellate-procedure/>

2024 Meeting schedule:

September 5, 2024	November 7, 2024
October 3, 2024	December 5, 2024

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

In Person and by WebEx Videoconference
Thursday, May 2, 2024
12:00 pm to 1:30 pm

PRESENT

Emily Adams
Christopher Ballard—Chair
Troy Booher—
Emeritus Member
Judge Michele
Christiansen Forster
Lisa Collins
Carol Funk
Amber Griffith—Staff
Michael Judd—Recording
Secretary

Debra Nelson
Judge Gregory Orme
Tera Peterson
Stanford Purser
Michelle Quist
Clark Sabey
Nathalie Skibine—
Vice Chair
Nick Stiles—Staff
Mary Westby

EXCUSED

Scarlet Smith

GUESTS

Alexandra Mareschal
Martha Pierce
Sonia Sweeney
Annie Valdez

1. Action:

Approval of April 2024 Minutes

Chris Ballard

The committee reviewed the April 2024 minutes and identified a needed correction to the attendee list.

With that correction made, Emily Adams moved to approve the April 2024 minutes (as corrected), as they appeared in the committee's materials. Mary Westby seconded that motion, and it passed without objection by unanimous consent.

2. **Action:**
Amendments to Rules Governing
Child-Welfare Appeals

Martha Pierce opened the committee’s discussion by referring to materials supporting the Guardian ad Litem’s position with respect to these proposed amendments, stressing that introducing additional delays to child-welfare proceedings cuts against the best interests of the children involved in these appeals. Ms. Pierce referred the committee to a Utah Supreme Court case called *In re B.A.P.*, 2006 UT 28, 148 P.3d 934, which affirmed the constitutionality of the existing framework and safeguards.

Alexandra Mareschal, joined by several colleagues, spoke on behalf of the defense bar, and stressed two points. First, Ms. Mareschal stressed that, in the defense bar’s view, Utah lags behind other states in the protections afforded by child-welfare appellate proceedings. Second, Ms. Mareschal stressed that the proposed amendments do not actually introduce substantial delays into the existing appellate timelines.

The committee discussed and debated the redundancies occasionally associated with the existing petition process and the interests that drove the creation of the existing system.

Following that discussion, Ms. Westby moved for a committee vote on whether the rules governing child-welfare appeals need to change. Judge Michele Christiansen Forster seconded that motion. A majority of committee members (Nathalie Skibine, Emily Adams, Debra Nelson, Michelle Quist, Carol Funk, Clark Sabey, and Stan Purser) voted in favor of that motion.

The committee resolved to move forward with a streamlined process for further consideration of rule changes, with an eye on the potential for a compromise proposal.

Ms. Quist moved to refer that task to a subcommittee, and Judge Orme seconded that motion, which passes without objection by unanimous consent. The subcommittee responsible for that follow-up process will include Ms. Westby, Ms. Adams, Judge Christiansen-Forster, and representatives from the Guardian ad Litem office and the Appellate Defense office.

3. **Action:** **Clark Sabey, Mary Westby, Troy Booher**
Rule 23C and Rule 19

The proposed changes to Rule 23C and Rule 19 are intended to streamline those rules and make them easier to apply. The committee worked at revisions to clarify the materials that may (and must) be included in an addendum. The committee made additional clarifying changes to polish the text of the proposed rule.

Following that discussion, Ms. Adams moved to approve the proposed changes to Rule 23C and Rule 19, as modified and as they appeared on the screen at the committee's meeting. Debra Nelson seconded that motion, and it passed without objection by unanimous consent. The rules will be submitted to the Supreme Court for approval for public comment.

4. **Action:** **Stan Purser**
Rule 8

Recognizing that discussion of Rule 8 would require more time than what remained available at the May 2024 meeting, the committee tabled that discussion until the June 2024 meeting.

5. **Action:** **Clark Sabey, Judge Christiansen Forster, Michelle Quist, Carol Funk**
Rule 42

As with Rule 8, given the lack of adequate time to discuss Rule 42, the committee tabled that discussion until the June 2024 meeting.

6. **Action:** **Clark Sabey**
Rule 29

As with Rules 8 and 42, time constraints required that discussion of Rule 29 be tabled until the June 2024 meeting.

**7. Discussion:
Old/New Business**

Chris Ballard

None.

8. Adjourn

Chris Ballard

Following the business and discussions described above, Ms. Quist moved to adjourn, and Mr. Purser seconded. The committee adjourned. The committee's next meeting will take place in June 2024.

TAB 2



Memorandum

To: Chris Ballard, Utah Rules of Appellate Procedure Committee.
From: Nicole Gray
Date: May 31, 2024
Subject: Proof of service requirements in Rule 21

It was brought to my attention by an appellate attorney that there is potential confusion about the proof of service requirements in [URAP Rule 21](#).

Rule 21 sets forth the filing and service requirements for documents filed with the appellate courts. Paragraph (c) requires all filings to be served on all other parties with proof of service.

(c) Service of all documents required. All documents filed with the appellate court must, at or before the time of filing, be served on all other parties to the appeal or review. Service on a party represented by counsel must be made on counsel of record, or, if the party is not represented by counsel, on the party at the last known address or email address provided to the appellate court. Any document required by these rules to be served on a party must be filed with the court and accompanied by proof of service. (Emphasis added.)

The language in paragraph (c) was not modified when the rule was amended on May 1, 2024, to incorporate provisions related to the appellate e-filing system.

Paragraph (e) states:

e) Proof of service. Documents filed through the e-filing system need not include a certificate or acknowledgement of service if all parties have contact information in the e-filing system. All other documents presented for filing must contain an acknowledgment of service by the person served or a certificate of service in the form of a statement of the date and manner of service, the names of the persons served, and the addresses at which they were served. The certificate of service may appear on or be affixed to the documents filed. If counsel of record is served, the certificate of service must designate the name of the party represented by that counsel.

An anticipated feature of the e-filing system was the ability to automatically provide notice to other e-filers associated with the case that the document was filed. I assume that the first sentence (highlighted above) was intended to be an exception to the proof of service requirement of paragraph (c). Because paragraph (c) requires proof of service but paragraph (e) indicates no certificate or acknowledgement of service is needed for

e-filed documents there is potential for confusion. If following paragraph (e) would a filer be in violation of paragraph (c)?

In addition, I also note that we now have more information about how the notice of electronic filing feature functions (or will function soon) in the appellate e-filing system. Service on opposing counsel through the e-filing system is dependent on whether the other attorney has an appellate e-filing account. Paragraph (e) states "Documents filed through the e-filing system need not include a certificate or acknowledgment of service if all parties have contact information in the e-filing system." While "contact information" is not inaccurate, it might be more precise for paragraph (e) to say, "Documents filed through the e-filing system need not include a certificate or acknowledgment of service if all parties have ~~contact information~~ **user accounts** in the e-filing system."

Could the Appellate Rules Committee review the proof of service portions of rule 21?

Utah Courts

URAP Rule 21 (Rules of Appellate Procedure)

Rule 21. Filing and service.

Rule printed on May 31, 2024 at 11:41 am. Go to <https://www.utcourts.gov/rules> for current rules.

**Effective:
5/1/2024**

(a) **Filing.** Documents required or permitted to be filed by these rules must be filed with the appellate court clerk.

(1) **How to file.** The appellate courts are transitioning to an e-filing system. Before August 1, 2024, a document may be filed by submitting it through the appellate e-filing system, by email, mail, or in person. Effective August 1, 2024, all licensed attorneys must file through the appellate e-filing system. Unrepresented parties may continue to file by email, mail, or in person. If e-filed or emailed, a document must be in a searchable PDF format of no more than seven megabytes. Large PDF documents must be divided into multiple files of no more than seven megabytes each. Documents filed by email in the Supreme Court must be sent to supremecourt@utcourts.gov. Documents filed by email in the Court of Appeals must be sent to courtofappeals@utcourts.gov.

(2) **Timing.** Except as provided in paragraph (g):

(A) Documents other than briefs are timely:

(i) if received by e-filing or email to the appropriate court by 11:59 p.m. on the due date; or

(ii) if received by mail or hand delivery to the Appellate Clerks' Office before 5 p.m. on the due date.

(B) Briefs are timely:

(i) if received by e-filing or email to the appropriate court by 11:59 p.m. on the due date;

(ii) if postmarked by the due date; or

(iii) if received by hand delivery to the Appellate Clerks' Office before 5 p.m. on the due date.

(b) **Filing Fees.** If a statute or rule establishes a fee for the filing, the party must pay the fee to the appellate court clerk no more than seven days after the filing, or the filing may be stricken. If a party elects to e-file, the party must pay the filing fee at the time of e-filing. Failure to pay the filing fee may result in dismissal.

(c) **Service of all documents required.** All documents filed with the appellate court must, at or before the time of filing, be served on all other parties to the appeal or review. Service on a party represented by counsel must be made on counsel of record, or, if the party is not

represented by counsel, on the party at the last known address or email address provided to the appellate court. Any document required by these rules to be served on a party must be filed with the court and accompanied by proof of service.

(d) **Manner of service.** Service may be personal, by e-filing, by mail, or by email. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by mail or email is complete on mailing or emailing. Service by e-filing is complete on acceptance by the e-filing system.

(e) **Proof of service.** Documents filed through the e-filing system need not include a certificate or acknowledgement of service if all parties have contact information in the e-filing system. All other documents presented for filing must contain an acknowledgment of service by the person served or a certificate of service in the form of a statement of the date and manner of service, the names of the persons served, and the addresses at which they were served. The certificate of service may appear on or be affixed to the documents filed. If counsel of record is served, the certificate of service must designate the name of the party represented by that counsel.

(f) **Signature.** All documents filed in the appellate court must be signed by counsel of record or by a party who is not represented by counsel. For documents e-filed, or filed by email, the documents may be electronically signed as follows: /s/ name of unrepresented party or name of counsel of record.

(g) **Filing by inmate.**

(1) For purposes of this paragraph (g), an inmate is a person confined to an institution or committed to a place of legal confinement.

(2) Documents filed by an inmate are timely filed if they are deposited in the institution's internal mail system on or before the due date. Timely filing may be shown by a contemporaneously filed notarized statement or written declaration setting forth the date of deposit and stating that first-class postage has been, or is being, prepaid, or that the inmate has complied with any applicable requirements for legal mail set by the institution. Response time will be calculated from the date the documents are received by the court.

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

Advisory Committee Note

Court records are public unless otherwise classified as private, controlled, protected, safeguarded, sealed, juvenile court legal, or juvenile court social by the Utah Code of Judicial Administration. The right of public access may be restricted by statute (including the Government Records Access and Management Act), rule, case law, or court order. If a filing contains information or records that are not public, the filer must file an unredacted version for the court and a version for the public that does not contain the nonpublic information.

Note adopted April 2, 2020

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

2 (a) **Filing.** ~~A document may be filed by email, by mail, or in person.~~ Documents required
3 or permitted to be filed by these rules must be filed with the appellate [court](#) clerk.

4 (1) How to file. The appellate courts are transitioning to an e-filing system. Before
5 August 1, 2024, a~~A~~ document may be filed by submitting it through the appellate e-
6 lectronic filing system, by email, mail, or in person. Effective August 1, 2024, all
7 licensed attorneys must file through the appellate e-filing system. Unrepresented
8 parties may continue to file by email, mail, or in person. If ~~electronically~~-filed or
9 emailed, a document must be in a searchable PDF format of no more than ~~7seven~~25
10 megabytes. Large PDF documents must be divided into multiple files of no more than
11 7seven megabytes files each. Documents filed by email in the Supreme Court must be
12 sent to supremecourt@utcourts.gov. Documents filed by email in the Court of
13 Appeals must be sent to courtofappeals@utcourts.gov.

14 (2) Timing. Except as provided in paragraph (g):

15 (A~~1~~) Documents other than briefs are timely:

16 (iA) if received by ~~electronic~~-filing or email to the appropriate court by 11:59
17 p.m. ~~on~~f the due date; or

18 (iiB) if received by mail or hand delivery to the Appellate Clerks' Office before
19 5 p.m. ~~on~~f the due date.

20 (B~~2~~) Briefs are timely:

21 (iA) if received by ~~electronic~~-filing or email to the appropriate court by 11:59
22 p.m. ~~on~~f the due date;

23 (iiB) if postmarked by the due date; or

24 (iiiC) if received by hand delivery to the Appellate Clerks' Office before 5 p.m.
25 ~~on~~f the due date.

26 (b) **Filing Fees.** If a statute or rule establishes a fee for the filing, the party must pay the
27 fee to the appellate court clerk no more than ~~7~~seven days after the filing, or the filing
28 may be stricken. If a party elects to e-file electronically, the party must pay the filing fee
29 at the time of e-filing through the appellate electronic filing system. Failure to pay the
30 filing fee may result in dismissal.

31 (c) **Service of all documents required.** All documents filed with the appellate court must,
32 at or before the time of filing, be served on all other parties to the appeal or review. Service
33 on a party represented by counsel must be made on counsel of record, or, if the party is
34 not represented by counsel, on the party at the last known address or email address
35 provided to the appellate court. Any document required by these rules to be served on a
36 party must be filed with the court and accompanied by proof of service.

37 (d) **Manner of service.** Service may be personal, by electronic-filing, by mail, or by email.
38 Personal service includes delivery of the copy to a clerk or other responsible person at the
39 office of counsel. Service by mail or email is complete on mailing or emailing. Service by
40 electronic-filing is complete on -acceptance by the electronic-filing system.

41 (e) **Proof of service.** Documents filed through the e-filing system need not include a
42 certificate or acknowledgement of service if all parties have contact information in the e-
43 filing system. All other Documents presented for filing must contain an
44 acknowledgment of service by the person served or a certificate of service in the form of
45 a statement of the date and manner of service, the names of the persons served, and the
46 addresses at which they were served. The certificate of service may appear on or be
47 affixed to the documents filed. If counsel of record is served, the certificate of service must
48 designate the name of the party represented by that counsel. ~~Electronically filed~~
49 ~~documents do not need to contain a certificate or acknowledgement of service if all~~
50 ~~parties have contact information in the electronic filing system.~~

51 (f) **Signature.** All documents filed in the appellate court must be signed by counsel of
52 record or by a party who is not represented by counsel. For documents electronically-

53 [filed, or filed by](#) email, the documents may be electronically signed as follows: /s/ name
54 of unrepresented party or name of counsel of record.

55 **(g) Filing by inmate.**

56 (1) For purposes of this paragraph (g), an inmate is a person confined to an institution
57 or committed to a place of legal confinement.

58 (2) Documents filed by an inmate are timely filed if they are deposited in the
59 institution's internal mail system on or before the due date. Timely filing may be
60 shown by a contemporaneously filed notarized statement or written declaration
61 setting forth the date of deposit and stating that first-class postage has been, or is
62 being, prepaid, or that the inmate has complied with any applicable requirements for
63 legal mail set by the institution. Response time will be calculated from the date the
64 documents are received by the court.

65 **(h) Filings containing other than public information and records.** If a filing, including
66 an addendum, contains non-public information, the filer must also file a version with all
67 such information removed. Non-public information means information classified as
68 private, controlled, protected, safeguarded, sealed, juvenile court legal, or juvenile court
69 social, or any other information to which the right of public access is restricted by statute,
70 rule, order, or case law.

71 *Effective ~~2/19/2020~~ [May 1, 2024](#)*

72 _____

73 **Advisory Committee Note**

74 Court records are public unless otherwise classified as private, controlled, protected,
75 safeguarded, sealed, juvenile court legal, or juvenile court social by the Utah Code of
76 Judicial Administration. The right of public access may be restricted by statute (including
77 the Government Records Access and Management Act), rule, case law, or court order. If
78 a filing contains information or records that are not public, the filer must file an

79 unredacted version for the court and a version for the public that does not contain the
80 nonpublic information.

81 *Note Adopted [April 2, 2020](#)*

TAB 3

Rules 23C and 19 are back on our agenda because the Supreme Court believed, despite our proposed revisions, that Rule 23C is still confusing. The Court appreciated our work and noted that we had helped to clarify the rule. But the Court believed that the language was still confusing primarily because the rule speaks of allowing for “expedited relief,” but then states in the second sentence that the rule does not “provide a type of relief.” The Court also noted that the rule talks about seeking relief in a timeframe that is “shorter than specified by otherwise applicable rules.” But the rules generally don’t specify a timeframe for any particular appellate-court action.

Justice Pohlman suggested that we change the term “expedited relief” to “expedited proceedings” or “expedited review.” She also suggested that we delete the phrase “legal grounds” from proposed subsection (b)(2), because she couldn’t think of any legal grounds that would justify expedited review. Rather, the request would likely depend entirely on factual grounds.

I’ve taken a stab at further revisions that hopefully address Justice Pohlman’s concerns. I’m sure we can improve this even further.

-Chris Ballard

- 1 Rule 23C. Motion for ~~emergency~~ expedited relief ~~review~~.
- 2 (a) ~~Emergency~~ Expedited relief ~~review~~; ~~exception~~. ~~Emergency~~ Expedited relief ~~is any~~
- 3 ~~relief sought within a time period~~ a time shorter than specified by otherwise applicable
- 4 ~~rules.~~ If circumstances require an appellate court to act more expeditiously than it
- 5 otherwise would, a party may ask the court for expedited review. This rule does not
- 6 confer jurisdiction or authorize a court to provide a type of relief. Rather, this rule allows
- 7 a court that has jurisdiction invoked by a timely notice or petition to act faster in
- 8 providing relief to which a party is otherwise entitled. A motion for emergency ~~expedited~~
- 9 ~~relief filed under this Rule is not sufficient to invoke the jurisdiction of the appellate~~
- 10 ~~court. No emergency~~ expedited relief will be granted in the absence of a separately filed
- 11 ~~petition or notice that invokes the appellate jurisdiction of the court.~~

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

15 ~~(1) a specification of the order from which relief is sought;~~

16 ~~(2) a copy of any written order at issue;~~

17 ~~(13)~~ a specific and clear statement of the relief sought through expedited review;

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

19 ~~(25)~~ a statement of the facts and any applicable legal grounds justifying ~~emergency~~
20 ~~expedited action/treatment~~ review by the court and the scope of relief warranted by
21 ~~the facts/circumstances justifying expedited treatment~~; and

22 ~~(36)~~ a certificate that all papers filed with the court have been served upon all
23 parties by overnight mail, hand delivery, ~~facsimile~~, or electronic transmission.

24 The motion ~~shall~~ may not exceed 15 pages, exclusive of ~~the any~~ addenda ~~um~~. The addenda
25 must ~~containing that should~~ contain any orders and may contain any statutes, rules,
26 regulations, or portions of the record necessary to decide the ~~matter~~ motion. ~~It~~ The motion
27 ~~also shall~~ may not seek relief beyond that necessitated by the facts justifying expedited
28 ~~treatment by the court~~ emergency circumstances justifying the motion.

29 (c) **Service in criminal and juvenile delinquency cases.** Any motion filed by a defendant
30 in a criminal case originally charged as a felony or by a juvenile in a delinquency
31 proceeding ~~shall~~ must be served on the Criminal Appeals Division of the Office of the
32 Utah Attorney General in addition to the other parties described in section (b)(6).

33 (d) **Response; no reply.** Any party may file a response to the motion within three days
34 after service of the motion or whatever shorter time the appellate court may fix. The
35 response ~~shall~~ may not exceed 15 pages, exclusive of ~~the any~~ addenda. The addenda must
36 ~~um~~ ~~containing that should~~ contain any orders and may contain any statutes, rules,
37 regulations, or portions of the record necessary to decide the ~~matter~~ motion that were not

38 provided by the movant. No reply ~~shall~~will be permitted unless the court calls for a reply.
39 No motion will be granted before the response period expires uUnless the appellate court
40 is persuaded that ~~an emergency~~expeditedthe circumstances justify~~ies~~ and requires a
41 temporary stay of a lower tribunal's proceedings or order ~~prior to~~before the opportunity
42 to receive or review a response. ~~, no motion shall will be granted before the response~~
43 ~~period expires.~~

44 (e) **Form of papers.** Papers filed pursuant to this rule shall comply with the requirements
45 of Rule 27.

46 (f) **Hearing.** A hearing on the motion will be granted only in exceptional circumstances.
47 Any adverse party must be present for any hearing ~~No motion for emergency~~expedited
48 ~~relief will be heard without the presence of an adverse party~~ except on a showing that the
49 party (1) was served with reasonable notice of the hearing, and (2) cannot be reached by
50 telephone.

51 (g) **Power of a single justice or judge to entertain motions.** A single justice or judge may
52 act upon a motion for ~~emergency~~expedited ~~relief~~review to the extent permitted by Rule
53 19 where extraordinary relief is sought, and by Rule 23(e) in all other cases.

54 *Effective ~~May 1, 2023~~*

1 **Rule 19. Extraordinary relief.**

2 (a) **Petition for extraordinary relief.** When no other plain, speedy, or adequate remedy
3 is available, a person may petition an appellate court for extraordinary relief referred to
4 in [Rule 65B](#) of the Utah Rules of Civil Procedure.

5 (b) **Respondents.** The person or entity against whom relief is sought and all parties in
6 any related district court or agency action other than the petitioner are deemed
7 respondents for all purposes.

8 (c) **Filing and service.** The petition must be filed with the appellate court clerk and served
9 on the respondent(s). In the event of an original petition in the appellate court where no
10 action is pending in the district court or agency, the petition also must be served on all
11 persons or entities whose interests might be substantially affected.

12 (d) **Filing fee.** The petitioner must, pursuant to Rule 21, pay the prescribed filing fee to
13 the appellate court clerk, unless waived by the court.

14 (e) **Contents of petition.** A petition for extraordinary relief must contain the following:

15 (1) a list of all respondents against whom relief is sought, and all others persons or
16 entities, by name or by class, whose interests might be substantially affected;

17 (2) a statement of the issues presented and of the relief sought;

18 (3) a statement of the facts necessary to understand the issues presented by the
19 petition;

20 (4) a statement of the reasons why no other plain, speedy, or adequate remedy exists
21 and why the relief should be granted;

22 (5) when the subject of the petition is an interlocutory order, a statement explaining
23 whether a petition for interlocutory appeal has been filed and, if so, summarize its
24 status or, if not, why interlocutory appeal is not a plain, speedy, or adequate remedy;

25 (6) except in cases where the petition is directed to a district court, a statement
26 explaining why it is impractical or inappropriate to file the petition in the district
27 court;

28 (7) a discussion of points and authorities in support of the petition; and

29 (8) copies of any order or opinion or parts of the record that may be essential to
30 understand the matters set forth in the petition.

31 (f) ~~Emergency~~ Expedited relief review. When ~~emergency~~ expedited relief review is
32 sought, the petitioner must file a separate motion pursuant to Rule 23C explaining why
33 ~~emergency~~ expedited relief review is requested. Any response to a motion filed under
34 Rule 23C is governed by that rule and is separate from any response to a petition filed
35 under Rule 19.

36 (g) **Response.** No petition will be granted in the absence of a request by the court for a
37 response. No response to a petition will be received unless requested by the court.

38 (1) **Timing.** If requested, a respondent may file a response within 30 days of the court's
39 request or within such other time as the court orders.

40 (2) **Joint Response.** Two or more respondents may respond jointly.

41 (3) **Contents.** The response must include, or respond to, as appropriate, the items in
42 paragraph (e).

43 (4) **Notice of non-participation.** If any respondent does not desire to appear in the
44 proceedings or file a response, that respondent may advise the appellate court clerk
45 and all parties by letter, but the allegations of the petition will not thereby be deemed
46 admitted.

47 (h) **Reply.** The petitioner may file a reply within 14 days after service of the response. A
48 reply must be limited to responding to the facts and arguments raised in the response.

49 (i) **Page and word limits.** A petition or response may not exceed 20 pages or 7,000 words.
50 A reply may not exceed 10 pages or 3,500 words. Headings, footnotes, and quotations
51 count toward the page or word limit, but the cover page or caption, any table of contents
52 or authorities, signature block, certificates, and any attachments do not.

53 (j) **Certificate of compliance.** A petition, response, and reply must include the filer's
54 certification that the document complies with:

55 (1) paragraph (i), 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 document); and

57 (2) [Rule 21](#), governing filings containing non-public information.

58 (k) **Review and disposition of petition.**

59 (1) The court may deny a petition without a response. Where a response has been
60 called for, the court will render a decision based on the petition and any timely
61 response and reply, or it may require briefing or request further information, and may
62 hold oral argument at its discretion.

63 (2) If the court determines that the petition was not appropriately filed in the appellate
64 court, the court will refer the petition to the appropriate district court. Any review of
65 the district court's decision on the petition must be pursued by appeal rather than a
66 refiling of the petition.

67 (3) A single judge or justice may deny the petition if it is frivolous on its face or fails
68 to materially comply with the requirements of this rule or [Rule 65B](#) of the Utah Rules
69 of Civil Procedure. A petition's denial by a single judge or justice may be reviewed by
70 the appellate court upon specific request filed within seven days of notice of
71 disposition, but such request may not include any additional argument or briefing.

72 (l) **Transmission of record.** In reviewing a petition for extraordinary relief, the appellate
73 court may order transmission of the record, or any relevant portion thereof.

74 (m) **Issuing an extraordinary writ on the court's motion.**

75 (1) The appellate court, in aid of its own jurisdiction in extraordinary cases, may on
76 its own motion issue a writ directed to a judge, agency, person, or entity.

77 (2) A copy of the writ will be served on the named respondents in the manner and by
78 an individual authorized to accomplish personal service under [Rule 4](#) of the Utah
79 Rules of Civil Procedure. In addition, copies of the writ must be transmitted by the
80 appellate court clerk, by the most direct means available, to all persons or associations
81 whose interests might be substantially affected by the writ.

82 (3) The respondent and the persons or entities whose interests are substantially
83 affected may, within four days of the writ's issuance, petition the court to dissolve or
84 amend the writ. The petition must be accompanied by a concise statement of the
85 reasons for dissolving or amending the writ.

86 *Effective ~~May 1~~, 2024*

87 **Advisory Committee Note**

88 The Utah Constitution enshrines the right to a writ of habeas corpus. Utah Const., art. I,
89 sec. 5; art. VIII, sec. 3; art. VIII, sec. 5. The Appellate Rules Committee recommended
90 repealing Rule 20 (Habeas Corpus Proceedings) because it was duplicative of Rule 19
91 (Extraordinary Relief) and potentially caused incarcerated individuals to forgo filing a
92 petition under the Post-Conviction Remedies Act (Utah Code Title 78B, Chapter 9). The
93 repeal is not intended to substantively affect a defendant's right to a writ of habeas
94 corpus. Rule 19 of the Utah Rules of Appellate Procedure and [Rules 65B](#) and [65C](#) of the
95 Utah Rules of Civil Procedure govern habeas corpus proceedings.

96 *Adopted May 1, 2023*

TAB 4

Stay pending appeal standards:

1. Federal courts:

“Under both [FRCP 62(c) and FRAP 8(a)], . . . the factors regulating the issuance of a stay are generally the same.” *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)

“(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Nken v. Holder*, 556 U.S. 418, 434 (2009) (quoting *Hilton*).

2. Sampling of states:

California: general rule is that an appeal automatically stays district court orders. But even where the general default rule does not apply, courts may issue a stay where “difficult questions of law are involved and the fruits of a reversal would be irrevocably lost unless the status quo is maintained.” *Daly v. San Bernardino Cnty. Bd. of Supervisors*, 492 P.3d 921, 926 (Cal. 2021)

Colorado: “We conclude that the federal standards for analyzing whether or not to grant a stay are well reasoned and should be applied by this court.” *Romero v. City of Fountain*, 307 P.3d 120, 122 (Colo. Ct. App. 2011)

Utah: “We hold that parties seeking a stay under Rule 8 must support the motion for stay as specified in the rule, and in such a manner to allow this court to make an assessment of the factors identified under the analogous federal rules.” *Jensen v. Schwendiman*, 744 P.2d 1026, 1027 (Utah Ct. App. 1987).

Under the federal rules, the standard of review has been stated as follows:

[I]t is generally required that (a) the applicant make a strong showing that he is likely to succeed on the merits of the appeal; (b) the applicant establish that unless a stay is granted he will suffer irreparable injury; (c) no substantial harm will come to other interested parties, and (d) a stay would do no harm to the public interest.

Id. (quoting Wright & Miller, *Federal Practice and Procedure* § 2904).

1 **Rule 8. Stay or injunction pending appeal.**

2 (a) **Motion for stay.**

3 (1) **Initial motion in the trial court.** A party must ordinarily move first in the trial
4 court for the following relief:

5 (A) a stay of the judgment or order without security pending appeal or disposition
6 of a petition under Rule [5](#);

7 (B) approval of a bond or other security provided to obtain a stay of the judgment
8 or order; or

9 (C) an order suspending, modifying, restoring, or granting an injunction while an
10 appeal is pending, unless the trial court has already rejected the basis for the
11 requested relief.

12 (2) **Motion in the appellate court.**

13 (A) The motion for a stay must include:

14 (i) the reasons the trial court denied the request;

15 (ii) the reasons for granting the relief requested and the facts relied on;

16 (iii) copies of affidavits or declarations, supporting facts subject to dispute; and

17 (iv) relevant parts of the record, including a copy of the trial court's order.

18 (B) Any motion must comply with Rule [23](#).

19 (C) Except in extraordinary circumstances, an appellate court will not act on a
20 motion to stay a judgment or order or to suspend, modify, restore, or grant an
21 injunction, unless the movant first requested a stay or opposed the injunction in
22 the trial court.

23 (3) **Stays in criminal cases.** Stays pending appeal in criminal cases in which the
24 defendant has been sentenced are governed by Utah Code section [77-20-302](#) and Rule

25 [27](#) of the Utah Rules of Criminal Procedure. Stays in other criminal cases are governed
26 by this rule.

27 (b) **Bond requirement.**

28 (1) **Stay ordinarily conditioned upon giving a bond.** For requests to stay enforcement
29 of a judgment or order to pay money to which Rule [62](#) of the Utah Rules of Civil
30 Procedure applied in the trial court, relief available pending appeal will be
31 conditioned upon giving a bond or other appropriate security in the trial court, unless
32 there is no reasonable means of quantifying the security in monetary or other terms
33 and the conditions of paragraph (b)(2) are met.

34 (2) **Stay in cases not conditioned on giving a bond.** Ordinarily a stay without a bond
35 or other security will not be granted unless the movant demonstrates:

36 (A) a [substantial](#) likelihood of [success prevailing](#) on the merits; ~~or the case presents~~
37 ~~serious issues on the merits warranting appellate review and the appellant~~
38 ~~demonstrates:~~

39 (AB) [the movant will suffer irreparable harm unless the stay is granted;](#)

40 (C) [a likelihood of irreparable harm to the movant outweighing the irreparable](#)
41 [harm to the movant outweighs whatever harm the proposed stay may cause the](#)
42 [party whose enforcement rights would be stayed; and](#)

43 (D) [any other party and](#) the stay would not be adverse to the public interest; ~~or~~

44 ~~(B) an extraordinary circumstance that justifies issuing a stay.~~

45 (c) **Injunctions.** For requests for injunctive relief to which Rules [65A](#) or [62](#) of the Utah
46 Rules of Civil Procedure applied in the trial court, any relief available pending appeal is
47 governed by those rules.

48 *Effective ~~May 1, 2023~~*

49 **Advisory Committee Note**

50 “Declaration” refers to an unsworn declaration as described in Title 78B, Chapter 18a,
51 Uniform Unsworn Declarations Act.

52 Note ~~Ad~~*opted* 2022

53

TAB 5

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
3 argument before the Supreme Court, the Court may transfer to the Court of Appeals any
4 case except those cases within the Supreme Court's exclusive jurisdiction. The order of
5 transfer ~~shall~~will be issued without opinion, written or oral, as to the merits of the appeal
6 or the reasons for the transfer.

7 ~~(b) **Conditional transfer order.** The Supreme Court may conditionally transfer a case,~~
8 ~~subject to a request that it be retained. If so, the A~~ When the Supreme Court issues an
9 ~~order conditionally transferring a case to the Court of Appeals~~conditional transfer order,
10 ~~any party to the case may submit a letter requesting that the case be retained. will inform~~
11 ~~permit the parties to that any of them may submit a letter of five pages or less within~~
12 ~~seven days to the Supreme Court concerning the appropriateness of retaining the case on~~
13 ~~its own docket or transferring the case to the Court of Appeals. The order may be~~
14 ~~superseded by another order directing an immediate unconditional transfer if the~~
15 ~~Supreme Court deems such a transfer to be appropriate.~~

16 (1) A letter concerning retention must contain:

17 (A) The name of the case and the appellate case number,

18 (B) The names of all parties involved in the case and the attorneys and firms
19 representing the parties,

20 (C) A concise statement of the issues presented on appeal,

21 (D) A brief explanation of the reasons supporting retention or transfer,; and

22 (E) A completed checklist for appellate jurisdiction.

23 ~~The order will specify the timing and contents of the letter and the timing of any~~
24 ~~response.~~

25 (2) The letter must not exceed five pages and must be filed within seven business days
26 following issuance of the conditional transfer order.

27 (3) Any response to a ~~timely~~ timely letter concerning retention must be filed within
28 five business days after service of the letter. The response may not exceed five pages.

29 (34) If the Supreme Court elects to retain the case, it will issue an order rescinding the
30 conditional order of transfer.

31 (45) If no timely request for retention is received or the Supreme Court declines a
32 request to retain, the ~~Clerk of the~~ Supreme Court clerk will issue a notice to the parties
33 and the Court of Appeals informing them that the order of transfer will stand.

34 (56) Any letter submitted outside of the provisions of paragraph (b) will not be
35 considered.

36 **(bc) Notice of order of transfer.** Upon entry of ~~the~~ an order of transfer or conditional
37 transfer the ~~Clerk of the~~ Supreme Court clerk shall will provide ~~give~~ notice ~~of entry~~ of the
38 order ~~of transfer by mail~~ to each party to the proceeding and to the ~~clerk of the~~ trial court
39 clerk. ~~Upon entry of the order of transfer, the Clerk of the Supreme Court shall transfer~~
40 ~~the original of the order and the case, including the record and file of the case from the~~
41 ~~trial court, all papers filed in the Supreme Court, and a written statement of all docket~~
42 ~~entries in the case up to and including the order of transfer, to the Clerk of the Court of~~
43 ~~Appeals.~~

44 **(ed) Receipt of order of transfer by Court of Appeals.** Upon receipt from the Clerk of the
45 Supreme Court clerk of ~~the original~~ an unconditional order of transfer or a notice that a
46 conditional order of transfer will stand ~~from the Clerk of the Supreme Court~~, the ~~Clerk of~~
47 ~~the~~ Court of Appeals clerk will shall enter the appeal upon the Court of Appeals docket.
48 The ~~Clerk of the~~ Court of Appeals clerk will shall immediately give notice to each party
49 to the proceeding and to the clerk of the trial court that the appeal has been docketed and
50 that all further filings will be made with the ~~Clerk of the~~ Court of Appeals clerk. ~~The~~
51 ~~notice shall state the docket number assigned to the case in the Court of Appeals.~~

52 **(de) ~~Filing or T~~transfer of appeal record.** ~~If the record on appeal has not been filed with~~
53 ~~the Clerk of the Supreme Court as of the date of the order of transfer, the Clerk of the~~

54 ~~Supreme Court shall notify the clerk of the trial court that upon completion of the~~
55 ~~conditions for filing the record by that court, the clerk shall transmit the record on appeal~~
56 ~~to the Clerk of the Court of Appeals. If, however,~~ the record on appeal has already been
57 ~~transmitted to and~~ filed with the ~~Clerk of the~~ Supreme Court clerk ~~as of the date of the~~
58 ~~entry of the order of transfer or notice,~~ the ~~Clerk of the Supreme Court~~ shall transmit the
59 record on appeal will be transmitted to the ~~Clerk of the~~ Court of Appeals clerk within
60 five days of the date of the entry of the order of transfer.

61 **(ef) Subsequent proceedings before Court of Appeals.** Upon receipt by the ~~Clerk of the~~
62 Court of Appeals clerk of ~~the~~ an order of transfer or notice that a conditional order of
63 transfer will stand ~~and the entry thereof upon the docket of the Court of Appeals,~~ the case
64 will ~~shall~~ proceed before the Court of Appeals to final decision and disposition as in other
65 appellate cases pursuant to these rules.

TAB 6

1 **Rule 29. Oral ~~argument.~~Argument.**

2 (a) **Holding oral argument.**

3 (1) **Supreme Court.** Oral argument will be held in cases before the Supreme Court
4 unless the court determines that oral argument will not aid the decisional process.

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

7 (3) **Alternative means.** The court may hold oral argument in person, by phone, or by
8 videoconference.

9 (b) **Notice; waiver; cancellation; continuance.**

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

22 (2) **Court of Appeals.** Not later than 28 days before the date on which a case is
23 calendared, the clerk shall give notice to all parties that oral argument is to be
24 permitted, the time and place of oral argument, and the time to be allowed each side.
25 Any party may waive oral argument by filing a written waiver with the clerk not later
26 than 14 days from the date of the clerk's notice. If one party waives oral argument and
27 any other party does not, the party waiving oral argument may nevertheless present

28 oral argument. A request to continue oral argument or for additional argument time
29 must be made by motion. A motion to continue oral argument must be supported by
30 (1) a stipulation of all parties or a statement that the movant was unable to obtain such
31 a stipulation, and (2) an affidavit or declaration of counsel specifying the grounds for
32 the motion. A motion to continue filed not later than 14 days from the date of the
33 clerk's notice may be granted on a showing of good cause. A motion to continue filed
34 thereafter will be granted only on a showing of exceptional circumstances.

35 (c) **Argument order.** The appellant argues first and the appellee responds. The appellant
36 may reply to the appellee's argument if appellant reserved part of appellant's time for
37 this purpose. ~~Such~~The time reserved may not exceed five minutes; and such argument in
38 reply is limited to responding to points made by appellee in appellee's oral argument and
39 answering any questions from the court.

40 (d) **Cross and separate appeals.** A cross or separate appeal is argued with the initial
41 appeal at a single argument, unless the court otherwise directs. If a case involves a
42 separate appeal, the plaintiff in the action below is deemed the appellant for the purpose
43 of this rule unless the parties otherwise agree or the court otherwise directs. If separate
44 appellants support the same argument, care must be taken to avoid duplicative
45 arguments. Unless otherwise agreed by the parties, in cases involving a cross-appeal the
46 appellant, as determined pursuant to Rule [24A](#), opens the argument and presents only
47 the issues raised in the appellant's opening brief. The cross-appellant then presents an
48 argument that answers the appellant's issues and addresses original issues raised by the
49 cross-appeal. The appellant then presents an argument that replies to the cross-
50 appellant's answer to the appellant's issues and answers the issues raised on the cross-
51 appeal. The cross-appellant may then present an argument that is confined to a reply to
52 the appellant's answer to the issues raised by the cross-appeal. The court will grant
53 reasonable requests, for good cause shown, for extended argument time.

54 (e) **Nonappearance of parties.** If the appellee fails to appear to present argument, the
55 court will hear argument on behalf of the appellant, if present. If the appellant fails to

56 appear, the court may hear argument on behalf of the appellee, if present. If neither party
57 appears, the case may be decided on the briefs, or the court may direct that the case be
58 rescheduled for argument.

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

61 (g) **Use of physical exhibits at argument; removal.** If physical exhibits other than
62 documents are to be used at the argument, counsel must arrange to have them placed in
63 the courtroom before the court convenes on the date of the argument. After the argument,
64 counsel must remove the exhibits from the courtroom unless the court otherwise directs.
65 If exhibits are not reclaimed by counsel within a reasonable time after notice is given by
66 the clerk, they will be destroyed or otherwise disposed of.

67 *Effective ~~November 1, 2022~~*

68 **Advisory Committee Note**

69 “Declaration” refers to an unsworn declaration as described in Title 78B, Chapter 18a,
70 Uniform Unsworn Declarations Act.

71 *Adopted 2022*

TAB 7

Rule 54. Transcripts-

(a) **Duty of appellant to request transcript.** - Within ~~four~~ **seven** days after filing the notice of appeal, or, where appellate counsel is appointed, within seven days of receiving the letter of appointment, the appellant must order the transcripts online at ~~www.utcourts.gov,~~ legacy.utcourts.gov, specifying the entire proceeding or parts of the proceeding to be transcribed that are not already on file.

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

(c) **Notice that no transcript needed.** - If no parts of the proceeding need to be transcribed, within four days after filing the notice of appeal, the appellant must file a notice to that effect with the Court of Appeals clerk.

Commented [1]: To make this rule easier to comply with in reality. Feedback from the court is that seven days is acceptable as a timeline.

1 **Rule 55. ~~Petition~~Appellant's opening brief on appeal, reply brief or memorandum**

2 (a) ~~Filing; dismissal for failure to timely file.~~ The appellant must file with the Court of
3 Appeals clerk ~~a petition on appeal~~an appellate brief within ~~15~~30 days from transmission
4 of the record on appeal by the Court of Appeals to each party. The ~~petition~~brief will be
5 deemed filed on the date of the postmark if first-class mail is used. ~~Filing of the petition~~
6 ~~must be in accordance with Rule 21(a). If the petition on appeal~~If an appellant's brief is
7 not timely filed, the court may dismiss the appeal or take other appropriate action. The
8 ~~petition~~brief must be accompanied by proof of service. The appellant must serve a copy
9 on counsel of record of each party, including the Guardian ad Litem, or, if the party is not
10 represented by counsel, then on the party at the party's last known address, in the manner
11 prescribed in Rule 21(c).

12 (b) ~~Preparation by counsel.~~ If ~~the petitioner~~an appellant has appointed counsel in the
13 juvenile court, or has been found to be indigent, then the ~~petition on appeal~~brief must be
14 prepared by appellate counsel appointed pursuant to the requirements of Rule 11-401 of
15 the Utah Code of Judicial Administration. Counsel must be appointed within 21 days
16 from the filing of the original notice of appeal. ~~Otherwise, the petition on appeal must be~~
17 ~~prepared by appellant's trial counsel.~~

18 ~~(c) Format. All petitions on appeal must substantially comply with the Petition on Appeal~~
19 ~~form that accompanies these rules. The petition must not exceed 5,000 words, excluding~~
20 ~~the attachments required by Rule 55(d)(7). The petition must comply with Rule 27(a) and~~
21 ~~(b), except that it may be printed or duplicated on one side of the sheet.~~

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

23 ~~(1) A statement of the nature of the case and the relief sought.~~

24 ~~(2) The entry date of the judgment or order on appeal.~~

25 ~~(3) The date and disposition of any post-judgment motions.~~

26 ~~(4) A concise statement of the material adjudicated facts as they relate to the issues~~
27 ~~presented in the petition on appeal.~~

28 ~~(5) A statement of the legal issues presented for appeal, how they were preserved~~
29 ~~for appeal, and the applicable standard of review. The issue statements should be~~
30 ~~concise in nature, setting forth specific legal questions. General, conclusory~~
31 ~~statements such as "the juvenile court's ruling is not supported by law or the facts"~~
32 ~~are not acceptable.~~

33 ~~(6) The petition should include supporting statutes, case law, and other legal~~
34 ~~authority and argument for each issue raised, including authority contrary to~~
35 ~~appellant's case, if known.~~

36 ~~(7) The petition on appeal must have attached to it:~~

37 ~~(A) a copy of the order, judgment, or decree on appeal;~~

38 ~~(B) a copy of any rulings on post-judgment motions.~~

39 (c) Form and content. Briefs, including reply briefs, must comply with Rule 24 and Rule
40 27. Six paper copies of each brief must be filed with the Court of Appeals Clerk. If a brief
41 was e-filed or filed by email, the required paper copies of the brief must be delivered no
42 more than seven days after filing. If a brief is served by e-filing or email, upon request
43 two paper copies must be delivered to counsel for each party separately requesting paper
44 copies.

45 (d) Reply brief. If a responsive brief is filed pursuant to Rule 56, an appellant may file a
46 reply brief within 30 days after service of appellee's brief. Within 7 days after service of
47 appellee's brief, an appellant must file with the court of appeals a notice of intent to file
48 a reply brief. An appellant may not file a reply brief if no notice of intent is timely filed.

49 (e) Reply memorandum. If all appellees file responsive memoranda pursuant to Rule 56,
50 an appellant may file a reply memorandum. Within 7 days after service of an appellee's
51 memorandum, an appellant must file with the court of appeals a notice of intent to file a

52 reply memorandum. An appellant may not file a reply memorandum if no notice of intent
53 is timely filed. A reply memorandum must be filed within 15 days after service of the
54 appellee memoranda. If multiple memoranda are filed, the time will run from the service
55 of the latest filed memorandum.

56 (1) A reply memorandum must be no more than 4000 words, and must be limited to
57 responding to the facts and arguments raised in an appellee's memorandum.

58 (f) **Reply brief or memorandum permitted.** Where one responsive memorandum and
59 one responsive brief are filed by appellees, an appellant may provide a notice of intent to
60 file a reply after service of an appellee's brief. An appellant may file a reply brief or
61 memorandum.

1 **Rule 55. Appellant's opening brief on appeal, reply brief or memorandum**

2 (a) **Filing; dismissal for failure to timely file.** The appellant must file with the Court of
3 Appeals clerk an appellate brief within 30 days from transmission of the record on appeal
4 by the Court of Appeals to each party. The brief will be deemed filed on the date of the
5 postmark if first-class mail is used. If an appellant's brief is not timely filed, the court may
6 dismiss the appeal or take other appropriate action. The brief must be accompanied by
7 proof of service. The appellant must serve a copy on counsel of record of each party,
8 including the Guardian ad Litem, or, if the party is not represented by counsel, then on
9 the party at the party's last known address, in the manner prescribed in Rule 21(c).

10 (b) **Preparation by counsel.** If an appellant has appointed counsel in the juvenile court,
11 or has been found to be indigent, then the brief must be prepared by appellate counsel
12 appointed pursuant to the requirements of Rule 11-401 of the Utah Code of Judicial
13 Administration. Counsel must be appointed within 21 days from the filing of the original
14 notice of appeal.

15 (c) **Form and content.** Briefs, including reply briefs, must comply with Rule 24 and Rule
16 27. Six paper copies of each brief must be filed with the Court of Appeals Clerk. If a brief
17 was e-filed or filed by email, the required paper copies of the brief must be delivered no
18 more than seven days after filing. If a brief is served by e-filing or email, upon request
19 two paper copies must be delivered to counsel for each party separately requesting paper
20 copies.

21 (d) **Reply brief.** If a responsive brief is filed pursuant to Rule 56, an appellant may file a
22 reply brief within 30 days after service of appellee's brief. Within 7 days after service of
23 appellee's brief, an appellant must file with the court of appeals a notice of intent to file
24 a reply brief. An appellant may not file a reply brief if no notice of intent is timely filed.

25 (e) **Reply memorandum.** If all appellees file responsive memoranda pursuant to Rule 56,
26 an appellant may file a reply memorandum. Within 7 days after service of an appellee's
27 memorandum, an appellant must file with the court of appeals a notice of intent to file a

28 reply memorandum. An appellant may not file a reply memorandum if no notice of intent
29 is timely filed. A reply memorandum must be filed within 15 days after service of the
30 appellee memoranda. If multiple memoranda are filed, the time will run from the service
31 of the latest filed memorandum.

32 (1) A reply memorandum must be no more than 4000 words, and must be limited to
33 responding to the facts and arguments raised in an appellee's memorandum.

34 (f) **Reply brief or memorandum permitted.** Where one responsive memorandum and
35 one responsive brief are filed by appellees, an appellant may provide a notice of intent to
36 file a reply after service of an appellee's brief. An appellant may file a reply brief or
37 memorandum.

1 **Rule 56. Response to ~~petition on appeal~~appellant's brief**

2 (a) ~~Filing.~~ Any appellee, including the Guardian ad Litem, may file a response to the
3 ~~petition on appeal with the appellate clerk within 15 days after service of the~~ appellant's
4 ~~petition on appeal. Filing of the petition must be in accordance with Rule 21~~(brief.

5 (b) Type of response. In response to an appellant's brief, an appellee, including the
6 Guardian ad Litem, may file a) memorandum or a brief. The response must be
7 accompanied by proof of service to counsel of record of each party, including the
8 Guardian ad Litem, or, ~~on the party~~ if the party is not represented by counsel, then on
9 the party at the party's last known address, in the manner prescribed in Rule 21(c). The
10 response will be deemed filed on the date of the postmark if first-class mail is
11 ~~utilized~~used.

12 ~~(b) Format. A1) Brief in response. A brief in response to an appellant's brief~~ must
13 ~~substantially comply with~~ be filed within 30 days after service of the ~~Response to~~
14 ~~Petition on Appeal form that accompanies these rules.~~ appellant's brief. The ~~response~~
15 brief must comply with Rule 24 and Rule 27. Six paper copies of each brief must be
16 filed with the Court of Appeals Clerk. If a brief was e-filed or filed by email, the
17 required paper copies of the brief must be delivered no more than seven days after
18 filing. If a brief is served by e-filing or email, upon request two paper copies must be
19 delivered to counsel for each party separately requesting paper copies.

20 (2) Memorandum in response. A memorandum in response to an appellant's brief
21 must be filed within 15 days after service of the brief. The memorandum may not
22 exceed 57,000 words, excluding any attachments, and must comply with Rule 27. The
23 memorandum must include:

24 (A) an introduction providing a summary of the proceeding in the juvenile court;

25 (B) a statement of the issues for review, including whether the appellee agrees that
26 an issue presented was preserved for review;

27 (C) an argument, explaining with reasoned analysis supported by citations to legal
28 authority and the record, why the appellee should prevail on appeal; no separate
29 statement of facts is required, but facts asserted in the argument must be supported
30 by citations to the record.

31 (c) **Supplemental briefing.** After reviewing the appellant's brief and any memorandum
32 in response, the court may request supplemental briefing from an appellee. The court
33 may specify which issues must be further briefed. A request for supplemental briefing
34 may be included in an order disposing of any other issue in the appeal, or a decision on
35 the issues may be deferred pending plenary consideration after further briefing.

1 **Rule 56. Response to appellant's brief**

2 (a) **Filing.** Any appellee, including the Guardian ad Litem, may file a response to the
3 appellant's brief.

4 (b) **Type of response.** In response to an appellant's brief, an appellee, including the
5 Guardian ad Litem, may file a memorandum or a brief. The response must be
6 accompanied by proof of service to counsel of record of each party, including the
7 Guardian ad Litem, or, if the party is not represented by counsel, then on the party at the
8 party's last known address, in the manner prescribed in Rule 21(c). The response will be
9 deemed filed on the date of the postmark if first-class mail is used.

10 (1) **Brief in response.** A brief in response to an appellant's brief must be filed within
11 30 days after service of the appellant's brief. The brief must comply with Rule 24 and
12 Rule 27. Six paper copies of each brief must be filed with the Court of Appeals Clerk.
13 If a brief was e-filed or filed by email, the required paper copies of the brief must be
14 delivered no more than seven days after filing. If a brief is served by e-filing or email,
15 upon request two paper copies must be delivered to counsel for each party separately
16 requesting paper copies.

17 (2) **Memorandum in response.** A memorandum in response to an appellant's brief
18 must be filed within 15 days after service of the brief. The memorandum may not
19 exceed 7,000 words, excluding any attachments, and must comply with Rule 27. The
20 memorandum must include:

- 21 (A) an introduction providing a summary of the proceeding in the juvenile court;
- 22 (B) a statement of the issues for review, including whether the appellee agrees that
23 an issue presented was preserved for review;
- 24 (C) an argument, explaining with reasoned analysis supported by citations to legal
25 authority and the record, why the appellee should prevail on appeal; no separate

26 statement of facts is required, but facts asserted in the argument must be supported
27 by citations to the record.

28 (c) **Supplemental briefing.** After reviewing the appellant's brief and any memorandum
29 in response, the court may request supplemental briefing from an appellee. The court
30 may specify which issues must be further briefed. A request for supplemental briefing
31 may be included in an order disposing of any other issue in the appeal, or a decision on
32 the issues may be deferred pending plenary consideration after further briefing.

(struck entirely - superfluous with rule 10)

Commented [1]: This change was suggested by the court

- 1 ~~**Rule 58. Ruling.**~~
- 2 ~~(a) After reviewing the petition on appeal, any response, and the record, the Court of~~
- 3 ~~Appeals may rule by opinion, memorandum decision, or order. The Court of Appeals~~
- 4 ~~may issue a decision or may set the case for full briefing under Rule 24. The Court of~~
- 5 ~~Appeals may order an expedited briefing schedule and specify which issues must be~~
- 6 ~~briefed.~~
- 7 ~~(b) If the Court of Appeals affirms, reverses, or remands the juvenile court order,~~
- 8 ~~judgment, or decree, further review pursuant to Rule 35 may be sought, but refusal to~~
- 9 ~~grant full briefing will not be a ground for such further review.~~

1 **Rule 59. Extensions of time.**

2 (a) **Extension of time to appeal.** The juvenile court, upon a showing of good cause or
3 excusable neglect, may extend the time for filing a notice of appeal upon motion filed
4 prior to the expiration of time prescribed by Rule 52. No extension shall exceed 10 days
5 past the prescribed time or 10 days from the date of entry of the order granting the
6 motion, whichever occurs later.

7 (b) **Extension of time to file** ~~petition on appeal or response. The Court of Appeals for~~
8 ~~good cause shown may extend the time for filing a petition on appeal or a response to the~~
9 ~~petition on appeal upon motion filed prior to the expiration of the time for which the~~
10 ~~extension is sought. No extension shall exceed 10 days past the original due date or 10~~
11 ~~days from the date of entry of the order granting the motion, whichever occurs later. The~~
12 ~~motion shall comply with Rule 22(b)(4).~~ **principal briefs.** One extension of time to file a
13 brief may be obtained by filing with the clerk of the Court of Appeals either;

14 (1) a stipulation for an extension of no longer than 14 days; or

15 (2) a motion demonstrating good cause to extend the time to file. An extension upon
16 a showing of good cause may not exceed 30 days past the original due date or 30 days
17 from the order granting the motion, whichever is later.

18 (c) **Time.** A stipulation or a motion for an extension of time must be filed prior to the
19 expiration of the time for which the extension is sought.

20 (d) **Further extension.** A single additional extension may be obtained upon a motion
21 demonstrating exceptional circumstances. The motion must identify with particularity
22 the exceptional circumstances. Workload issues will not constitute exceptional
23 circumstances to support an extension. An extension upon a showing of exceptional
24 circumstances may not exceed 30 days past the original due date or 30 days from the
25 order granting the motion, whichever is later.

26 (e) Memorandum in response, reply. No extensions of the time to file a memorandum in
27 response to an appellant's brief will be granted. No extensions for reply briefs or
28 memoranda will be granted.

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3 excusable neglect, may extend the time for filing a notice of appeal upon motion filed
4 prior to the expiration of time prescribed by Rule 52. No extension shall exceed 10 days
5 past the prescribed time or 10 days from the date of entry of the order granting the
6 motion, whichever occurs later.

7 (b) **Extension of time to file principal briefs.** One extension of time to file a brief may be
8 obtained by filing with the clerk of the Court of Appeals either;

9 (1) a stipulation for an extension of no longer than 14 days; or

10 (2) a motion demonstrating good cause to extend the time to file. An extension upon
11 a showing of good cause may not exceed 30 days past the original due date or 30 days
12 from the order granting the motion, whichever is later.

13 (c) **Time.** A stipulation or a motion for an extension of time must be filed prior to the
14 expiration of the time for which the extension is sought.

15 (d) **Further extension.** A single additional extension may be obtained upon a motion
16 demonstrating exceptional circumstances. The motion must identify with particularity
17 the exceptional circumstances. Workload issues will not constitute exceptional
18 circumstances to support an extension. An extension upon a showing of exceptional
19 circumstances may not exceed 30 days past the original due date or 30 days from the
20 order granting the motion, whichever is later.

21 (e) **Memorandum in response, reply.** No extensions of the time to file a memorandum in
22 response to an appellant's brief will be granted. No extensions for reply briefs or
23 memoranda will be granted.