Agenda

Utah Supreme Court Advisory Committee
Utah Rules of Appellate Procedure

Nathalie Skibine, Chair
Stanford Purser, 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=m5b04450a577ec5a97736ed01cb797be2
Date:	October 2, 2025
Time:	12:00 to 1:30 p.m.

Action: Welcome and approval of September 4, 2025 Minutes	Tab 1	Nathalie Skibine, Chair
Action: Final Approval of Rules 11, 38A, and 58A	Tab 2	Nathalie Skibine
Action: Rule 34	Tab 3	Nick Stiles
Discussion: Extensions		Nathalie Skibine
Discussion: Pro Se Criminal Defendants		Nathalie Skibine
Action: Rule 50	Tab 4	Stan Purser
Action: Rule 5	Tab 5	Nicole Gray
Discussion: Old/new business		Nathalie Skibine, Chair

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

2025 & 2026 Meeting schedule:

November 6, 2025	March 6, 2026	June 4, 2026	September 3, 2026
December 4, 2025	April 2, 2026	July 2, 2026	October 1, 2026
February 5, 2026	May 7, 2026	August 6, 2026	November 5, 2026

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, September 4, 2025
12:00 pm to 1:30 pm

PRESENT

Dick Baldwin
Judge Michele Christiansen Forster
Nicole Gray
Amber Griffith—Staff
Michael Judd—Recording Secretary
Caroline Olsen
Tera Peterson
Martha Pierce
Stan Purser—Vice Chair
Clark Sabey
Nathalie Skibine—Chair
Nick Stiles—Staff
Mary Westby

EXCUSED

Debra Nelson
Judge Gregory Orme
Michelle Quist
Scarlet Smith

GUEST

Jacqueline Carlton

1. Action: Nathalie Skibine

Approval of June 2025 Minutes

The committee reviewed the draft minutes from its June 2025 meeting and noted one change needed to those minutes: a missing word in first section.

Mary Westby moved to approve the June 2025 minutes as they appeared in the committee's materials, with that correction made. Dick Baldwin seconded that motion, and it passed without objection by unanimous consent.

2. Action: Nathalie Skibine
Final Approval of Rules 3 and 29

The committee noted that no public comments were received on the proposed amendments on either rule. Ms. Westby noted an additional potential change to Rule 3: the addition of a notice requirement for attorneys filing a notice of appeal where they're not representing the party on appeal. Ms. Westby noted that the clerk's office has occasionally run into problems tracking down that contact information without notice. The committee elected to defer discussion of that additional change.

Ms. Westby moved for final approval of Rules 3 and 29 as circulated. Martha Peirce seconded that motion, and it passed without objection by unanimous consent. The rules will be sent to the Supreme Court for final approval.

3. Action: Nathalie Skibine
Rule 23B

The committee discussed an additional change to the rule proposed by Judge Orme and reviewed new language proposed by Ms. Skibine. The language at issue discouraged parties from wholesale replication of statements of fact from the principal brief. The committee also discussed whether mirrored changes to Rule 55A are warranted.

Based on that discussion, Judge Michele Christiansen-Forster moved to approve Rule 23B as circulated. Mr. Baldwin seconded that motion, and it passed without objection by unanimous consent. The rule will be submitted to the Supreme court for recommendation that it be posted for public comment.

4. Action: **Caroline Olson, Judge Michele Christiansen Forster, Mary Westby, Michele Mattsson**

Rules 11 and 28

Ms. Westby offered explanation for the changes discussed, including an increase in the time permitted for transcript requests from 14 to 30 days: the amendments are intended to provide flexibility for internal processes and for the mediation office to complete its review. Following that discussion, the period at issue was adjusted to 21 days.

Following that discussion, Judge Christiansen Forster moved to approve the rule as drafted and modified and presented on the screen. Stan Purser seconded, and it passed without objection by unanimous consent. The rules will be submitted to the Supreme Court for recommendation that they be posted for public comment.

5. Discussion: **Nick Stiles**

Extensions

The committee discussed at length questions about limiting the number of extensions a party on appeal can seek. The committee noted that extension requests have climbed significantly over the past four years. A number of committee members noted that those extension requests are attributable to resource limitations and that adjustments to the rule are unlikely to resolve—or even meaningfully mitigate—that problem. Following that discussion, the committee tabled the matter and resolved to revisit the issue in either October or November.

6. Discussion: **Nick Stiles**

Minimum Fee – Rule 34

Judge Orme questioned whether the $3-per-page allowance was a reasonable amount for briefs and attachment and wondered whether submitting documentation of costs actually incurred would be more appropriate. Nick Stiles volunteered to prepare proposed language, and the committee will revisit the issue at its next meeting.

7. Action: **Mary Westby**
Rule 3

The committee discussed the proposed change regarding amendment to Rule 3 raised by Ms. Westby and captured above in Section 2.

Following the committee's discussion, Ms. Westby moved to approve the amendment, and Mr. Purser seconded that motion. The rule passed without objection by unanimous consent and will be sent to the Supreme Court with a recommendation that it be posted for public comment.

8. Action: **Mary Westby**
Rule 23A

Finally, the committee reviewed and approved a small change to the proposed amendments to Rule 23A, removing the requirement that the motion be filed within 30 days after entry of the order of dismissal. The deadline for that motion will instead be at remittitur.

Following that discussion, Ms. Westby moved to approve the amendment in the form discussed at the meeting, and Judge Christiansen Forster seconded that motion. The rule passed without objection by unanimous consent and will be sent to the Supreme Court with a recommendation that it be posted for public comment.

9. Discussion: **Nathalie Skibine, Chair**
Old/New Business

None.

10. Adjourn **Nathalie Skibine, Chair**

Following the business and discussions described above, the committee adjourned. The committee's next meeting will take place on October 2, 2025.

TAB 2

Crystal Cragun

August 28, 2025 at 7:45 am

This comment is from the Judiciary's Transcript Office.

Re: Changes proposed for URAP 11 (d)(e)

In the transcript office, Rule 11(e) is often used for members of the public who are unable to afford the transcripts required for their appeals. When this situation arises, I refer them to this rule and advise them to obtain the audio, transcribe the hearing themselves, and submit the transcript to the court for acceptance as the official transcript. Without this rule, there is no alternative route for people with a low income to obtain all the necessary evidence to support their appeal.

(e) Statement of evidence or proceedings when no report was made or when transcript is unavailable. If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, or if the appellant is impecunious and unable to afford a transcript in a civil case, the appellant may prepare a statement of the evidence or proceedings from the best available means, including recollection. The statement must be served on the appellee, who may serve objections or propose amendments within 14 days after service. The statement and any objections or proposed amendments must be submitted to the trial court for resolution, and the trial court clerk will conform the record to the trial court's resolution.

Rule 11(d) is often used in the transcript office when the audio recording doesn't capture everything that was said, and the court reporter has to insert (inaudible) throughout the transcript. Ethically, court reporters can only transcribe what they hear, so when this situation arises, I advise Attorneys to look at this rule. If they believe that they know what was said, and both parties can agree, they can document the areas they think can be corrected and submit a motion to supplement the record with the proposed changes. Without this rule, the sections of the record that were unintelligible, due to audio issues, would remain with no way to correct the record transcript.

(d) Agreed statement as the record on appeal. In lieu of the record on appeal as defined in paragraph (a) of this rule, the parties may prepare and sign a statement of the case, showing how the issues presented by the appeal arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the court deems the statement accurate, it, together with such additions as the trial court may consider necessary fully to present the issues raised by the appeal, will be approved by the trial court. The trial court clerk will transmit the statement to the appellate court clerk within the time prescribed by Rule 12(b)(2). The trial court clerk will transmit the record to the appellate court clerk on the trial court's approval of the statement.

Rule 11. The record on appeal.

(a) **Composition of the record on appeal**. The record on appeal consists of the documents and exhibits filed in or considered by the trial court, including the presentence report in criminal matters, and the transcript of proceedings, if any.

(b) **Preparing, paginating, and indexing the record**.

(1) **Preparing the record.** On the appellate court's request, the trial court clerk will prepare the record in the following order:

(A) all original documents in chronological order;

(B) all published depositions in chronological order;

(C) all transcripts prepared for appeal in chronological order;

(D) a list of all exhibits offered in the proceeding;

(E) all exhibits; and

(F) in criminal cases, the presentence investigation report.

(2) **Pagination.**

(A) Using Bates numbering, the entire record must be paginated.

(B) If the appellate court requests a supplemental record, the same procedures as in (b)(2)(A) apply, continuing Bates numbering from the last page number of the original record.

(3) **Index.** A chronological index of the record must accompany the record on appeal. The index must identify the date of filing and starting page of the document, deposition, or transcript.

(4) **Examining the record.** Appellate court clerks will establish rules and procedures for parties to check out the record after pagination.

(c) **The transcript of proceedings; duty of appellant to order; notice to appellee if partial transcript is ordered**.

(1) **Request for transcript; time for filing.** Within 14 days after filing the notice of appeal, or within 30 days of the notice of appeal where an indigent appellant has a statutory or constitutional right to counsel, the appellant must order the transcript(s) online at www.utcourts.gov, specifying the entire proceeding or parts of the proceeding to be transcribed that are not already on file. The appellant must serve on the appellee a designation of those parts of the proceeding to be transcribed. If no such parts of the proceedings are to be requested, within the same period the appellant must file a certificate to that effect with the appellate court clerk and serve a copy on the appellee.

(2) **Transcript required of all evidence regarding challenged finding or conclusion.** If the appellant intends to argue 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.

(3) **Statement of issues; cross-designation by appellee.** If the appellant does not order the entire transcript, the appellee may, within 14 days after the appellant serves the designation or certificate described in paragraph (c)(1), order the transcript(s) in accordance with (c)(1), and serve on the appellant a designation of additional parts to be included.

~~(d) **Agreed statement as the record on appeal.** In lieu of the record on appeal as defined in paragraph (a) of this rule, the parties may prepare and sign a statement of the case, showing how the issues presented by the appeal arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the court deems the statement accurate, it, together with such additions as the trial court may consider necessary fully to present the issues raised by the appeal, will be approved by the trial court. The trial court clerk will transmit the statement to the appellate court clerk within the time~~

~~prescribed by Rule 12(b)(2). The trial court clerk will transmit the record to the appellate court clerk on the trial court's approval of the statement.~~

~~(e) **Statement of evidence or proceedings when no report was made or when transcript is unavailable**. If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, or if the appellant is impecunious and unable to afford a transcript in a civil case, the appellant may prepare a statement of the evidence or proceedings from the best available means, including recollection. The statement must be served on the appellee, who may serve objections or propose amendments within 14 days after service. The statement and any objections or proposed amendments must be submitted to the trial court for resolution, and the trial court clerk will conform the record to the trial court's resolution.~~

(d~~f~~) **Supplementing or modifying the record.**

(1) If any dispute arises as to whether the record is complete and accurate, the dispute may be submitted to and resolved by the trial court. The trial court will ensure that the record accurately reflects the proceedings before the trial court, including by entering any necessary findings to resolve the dispute.

(2) If anything material to either party is omitted from or misstated in the record by error of the trial court or court personnel, by accident, or because the appellant did not order a transcript of proceedings that the appellee needs to respond to issues raised in the appellant's brief, the omission or misstatement may be corrected and a supplemental record may be created and forwarded:

(A) on stipulation of the parties;

(B) by the trial court before or after the record has been forwarded; or

(C) by the appellate court on a motion from a party. The motion must state the position of every other party on the requested supplement or modification or why the movant was unable to learn a party's position.

(3) The moving party, or the court if it is acting on its own initiative, must serve on the parties a statement of the proposed changes. Within 14 days after service, any party may serve objections to the proposed changes.

(eg) **Accessing sealed records.** Any portion of the record properly designated as sealed in the trial court remains sealed on appeal. A party may file a motion or petition to access the sealed portion of the record in accordance with Rule 4-202.04 of the Utah Code of Judicial Administration.

Effective ~~January 22, 2025~~

Rule 38A Withdrawal of counsel.

(a)~~(1)~~ **Withdrawal in criminal cases and certain civil cases.**

(1)An attorney may not withdraw from a criminal case or from a civil case in which that attorney's client has the right to effective assistance of counsel except upon motion and ~~order of the~~ court order. Absent good cause shown, leave to withdraw will not be granted unless the motion to withdraw is accompanied by an entry of proposed appearance by new counsel or a representation by the withdrawing attorney that the client is entitled to the appointment of new counsel.

~~(a)~~(2) Duration of representation by court-appointed counsel. Absent good cause shown for withdrawal, if a party has a right to effective assistance of counsel through the first appeal as of right, an attorney appointed to represent that party on appeal must~~shall~~ represent that party throughout the first appeal as of right, respond to a petition for writ of certiorari, file a petition for writ of certiorari if appointed counsel determines that such a petition is warranted, and brief and argue the merits if the Supreme Court grants certiorari review.

(b) **Withdrawal in other civil cases.**

~~(b)~~(1) **When oral argument not scheduled.** An attorney may withdraw without leave of court in any other civil case that has not been scheduled for oral argument~~.~~, unless a motion is pending in the appellate court. If a motion is pending, an attorney may not withdraw except upon motion and ~~order of the~~ court order. The motion to withdraw ~~shall~~ must describe the nature of any pending motion. The withdrawing attorney ~~shall~~ must serve notice of the withdrawal with the court and upon all parties, including the attorney's~~his or her~~ client.

~~(b)~~(2) **When oral argument scheduled.** An attorney may not withdraw from any other civil case that has been scheduled for oral argument except upon motion and ~~order of the~~ court order. Absent good cause shown, leave to withdraw will not be granted unless the motion to withdraw is accompanied by an entry of proposed appearance

of new counsel and new counsel's representation that oral argument may proceed as scheduled.

~~(b)~~(3) **Notice to appoint or appear in person.** If an attorney withdraws under ~~subdivision~~ paragraph (b)(1), dies, is suspended from the practice of law, is disbarred, or is removed from the case by the court, the opposing party must~~shall~~, and the court may, serve a notice on the unrepresented party, informing the party of the responsibility to appoint new counsel or, if the unrepresented party is a natural person, the responsibility to appear personally or appoint new counsel. A copy of the notice served by the opposing party must~~shall~~ be filed with the court. No further proceedings will~~shall~~ be held in the case until 20 days after such a notice is served, unless the unrepresented party waives the time requirement or unless the court otherwise orders.

Rule 55A. Motion to remand for findings necessary to determination of ineffective assistance of counsel claim

(a) Grounds for motion; notice and time. An appellant in a child welfare case in juvenile court or in a parental termination case in district court may move the appellate court to remand the case to the trial court for entry of findings of fact necessary for the appellate court's determination of a claim of ineffective assistance of counsel. The motion will be available only upon a nonspeculative allegation of facts, not fully appearing in the record on appeal, which, if true, could support a determination that counsel was ineffective.

(1) The motion must be filed before or at the time of the filing of the appellant's brief. A motion may not be filed unless the matter is set for full briefing.

(b) Content of motion. The content of the motion must conform to the requirements of Rule 27. The motion must include or be accompanied by affidavits or declarations alleging facts not fully appearing in the record on appeal that show the claimed deficient performance of the attorney. The affidavits or declarations must also allege facts that show the claimed prejudice suffered by the appellant as a result of the claimed deficient performance. If an appellant seeks to admit evidence of photographs, tests, reports, or other documentary evidence, the proposed evidence must be attached to the motion. The motion must not exceed 7,000 words, excluding the affidavits or declarations, or the proposed documentary evidence required by this paragraph.

(c) Orders of the court; response; reply. Any appellee, including the Guardian ad Litem, may file a response to the appellant's motion. If a motion under this rule is filed at the same time as appellant's principal brief, any response and reply must be filed within the time for the filing of the parties' respective briefs on the merits, unless otherwise specified by the court. If a motion is filed before appellant's brief, the court may elect to defer ruling on the motion or decide the motion prior to briefing. The response must not exceed 7,000 words. Any reply in support of the motion must not exceed 3,500 words.

(1) If the court defers the motion, the time for filing any response or reply will be the same as for a motion filed at the same time as appellant's brief, unless otherwise specified by the court.

(2) If the court elects to decide the motion prior to briefing, it will issue a notice that any response must be filed within 30 days of the notice or within such other time as the court may specify. Any reply in support of the motion must be filed within 21 days after the response is served or within such other time as the court may specify.

(3) If the requirements of paragraphs (a) and (b) of this rule have been met, the court may order that the case be temporarily remanded to the trial court to enter findings of fact relevant to a claim of ineffective assistance of counsel. The order of remand will identify the ineffectiveness claims and specify the factual issues relevant to each such claim to be addressed by the trial court.

(d) Effect on appeal. If a motion is filed at the same time as appellant's brief, the briefing schedule will not be stayed unless ordered by the court. If a motion is filed before appellant's brief, the briefing schedule will be automatically stayed until the court issues notice of whether it will defer the motion or decide the motion before briefing.

(e) Proceedings before the trial court. Upon remand, the trial court will promptly conduct hearings and take evidence as necessary to enter the findings of fact necessary to determine the claim of ineffective assistance of counsel. Any claims of ineffectiveness not identified in the order of remand will not be considered by the trial court on remand, unless the trial court determines that the interests of justice or judicial efficiency require consideration of issues not specifically identified in the order of remand. Evidentiary hearings will be conducted as soon as practicable after remand. The burden of proving a fact will be upon the proponent of the fact. The standard of proof will be a preponderance of the evidence. The trial court will enter written findings of fact concerning the claimed deficient performance by counsel and the claimed prejudice suffered by appellant as a result, in accordance with the order of remand. The evidentiary hearing on remand must

be completed within 45 days of entry of the order of remand, unless the trial court finds good cause for a delay of reasonable length.

(f) Appellate court determination. Errors claimed to have been made during the proceedings on remand are reviewable under the same standards as the review of errors in other appeals. The findings of fact entered pursuant to this rule are reviewable under the same standards as in other appeals.

TAB 3

Rule 34. Costs.

(a) **To whom allowed**. Costs are awarded only in civil cases. Except as otherwise provided by law or court order:

(1) if an appeal is dismissed, costs must be awarded for the appellee unless the parties agree otherwise;

(2) if a judgment or order is affirmed, costs must be awarded for the appellee;

(3) if a judgment or order is reversed, costs must be awarded for the appellant;

(4) if a judgment or order is affirmed or reversed in part, or is vacated, costs are awarded only as the court orders.

(b) **Costs for and against the State of Utah**. In cases involving the State of Utah or an agency or officer thereof, the court has discretion to award costs for or against the State unless specifically required or prohibited by law.

(c) **Costs on appeal**. The following costs may be awarded:

~~(1) $3.00 per page of a printed brief and attachments;~~

(2) actual reasonable costs incurred in preparing and transmitting the record, including costs of the reporter's transcript unless the court orders otherwise, and actual reasonable costs incurred for printed briefs and attachments;

(3) premiums paid for supersedeas or cost bonds to preserve rights pending appeal; and

(4) fees for filing and docketing the appeal.

(d) **Bill of costs awarded after remittitur**. A party claiming costs must, within 14 days after the remittitur is filed with the trial court clerk, serve on the adverse party and file with the trial court clerk an itemized and verified bill of costs. The adverse party may, within seven days of service of the bill of costs, serve and file a notice of objection, together with a motion to have the trial court award costs. If there is no objection to the

cost bill within the allotted time, the trial court clerk must award the costs as filed and enter judgment for the party entitled thereto, which judgment will be entered in the judgment docket with the same force and effect as in the case of other judgments of record. If the cost bill of the prevailing party is timely opposed, the clerk, upon reasonable notice and hearing, must award the costs and enter a final determination and judgment in the docket with the same force and effect as in the case of other judgments of record. The clerk's determination will be reviewable by the trial court upon the request of either party made within seven days of the entry of the judgment.

(e) **Costs in other proceedings and agency appeals**. In all other matters before the court, including appeals from an agency, costs may be allowed as in cases on appeal from a trial court. Within 14 days after the time to file a petition for rehearing expires or within 14 days after an order denying such a petition, the party to whom costs have been awarded may file with the appellate clerk and serve on the adverse party an itemized and verified bill of costs. The adverse party may, within seven days after the bill of costs is served, file a notice of objection and a motion to have the costs awarded by the clerk. If no objection to the cost bill is filed within the allotted time, the clerk must thereupon award the costs and enter judgment against the adverse party. If the adverse party timely objects to the cost bill, the clerk, upon reasonable notice and hearing, will determine and settle the costs, award the same, and a judgment will be entered thereon against the adverse party. The clerk's determination will be reviewable by the court upon either party's request made within seven days after judgment is entered. Unless otherwise ordered, oral argument will not be permitted. A judgment under this paragraph may be filed with the clerk of any trial court in the state, who must docket the judgment in the same manner and with the same force and effect as trial court judgments.

Effective ~~January 22~~, 202~~5~~

Advisory Committee Note

In an effort to conform with the Supreme Court's directive to use plain language where possible, the Court approved changing the term "taxed" to "awarded." No substantive change is intended with this amendment.

Note adopted May 1, 2021.

TAB 4

Rule 50. Response; reply.

(a) **Response**. No petition for writ of certiorari will be granted absent a request by the court for a response, and no response will be received unless requested by the court.

(1) **Time to file.** Within 30 days after an order requesting a response, any other party may file a response.

(2) **Form**. The response must comply with the form of a brief as specified in Rule 27(a)-(c) ~~and, as applicable, Rule 49~~.

~~(b)~~(3) **Page or word limitation**. A response must be as short as possible and may not exceed ~~20 pages~~20 pages or 7,000 words, whichever is longer. These limits do not include ~~excluding~~ the table of contents, the table of authorities, and any~~the~~ appendix.

(4) **Contents.** The response ~~shall~~must contain, in the order indicated:

(A) A table of contents with page references.

(B) A table of authorities with cases alphabetically arranged and with parallel citations, agency rules, court rules, statutes, and authorities cited, with references to the pages of the petition where they are cited.

(C) A concise statement of jurisdiction that either agrees with the petitioner's statement or explains why petitioner's statement is incorrect.

(D) Controlling provisions of constitutions, statutes, ordinances, and regulations set forth verbatim with the appropriate citation. If the controlling provisions involved are lengthy, their citation alone will suffice and their pertinent text ~~shall~~must be set forth in the appendix.

(D) A statement of the case. The statement ~~shall~~must first indicate briefly the nature of the case, the course of the proceedings, and its disposition in the lower courts. There ~~shall~~must follow a statement of the facts relevant to the issues presented for review. All statements of fact and references to the proceedings

below ~~shall~~must be supported by citations to the record on appeal or to the opinion of the Court of Appeals.

(E) With respect to each question presented, a direct and concise argument responding to the petitioner's asserted special and important reasons as provided in Rule 46 for the issuance of the writ.

(F)An appendix containing any items listed in Rule 49(a)(10) that were not included in the petitioner's appendix.

(b~~c~~) **Objections to jurisdiction**. The court will not accept a motion to dismiss a petition for a writ of certiorari. Objections to the Supreme Court's jurisdiction to grant the petition may be included in the response.

(~~d~~c) **Reply**. A petitioner may file a reply addressed only to arguments first raised in the response.

(1) **Time to file.** A reply must be filed within 7 days after the response is served, but distribution of the petition and response to the court ordinarily will not be delayed pending the filing of any such reply unless the response includes a new request for relief, such as an award of attorney fees for the response.

(2) **Form.** A reply must comply with the form of a brief as specified in Rule 27(a)-(c).

(3) **Page or word limitations.** The reply must be as short as possible, and may not exceed five pages or 2,000 words, whichever is longer. These limits do not include any table of contents or table of authorities.~~, and must comply with Rule 27.~~

Effective November 1, 2023

TAB 5

Rule 5. Discretionary appeals from interlocutory orders.

(a) **Petition for permission to appeal**. Any party may seek an appeal from an interlocutory order by filing a petition for permission to appeal from the interlocutory order with the appellate court with jurisdiction over the case. The petition must be filed and served on all other parties to the action within 21 days after the entry of the trial court's written order. If the trial court enters an order on a Saturday, Sunday, or legal holiday, the date of entry will be deemed to be the first day following the trial court's entry that is not a Saturday, Sunday, or legal holiday. A timely appeal from an order certified under Rule 54(b), Utah Rules of Civil Procedure, that the appellate court determines is not final may, in the appellate court's discretion, be considered by the appellate court as a petition for permission to appeal an interlocutory order. The appellate court may direct the appellant to file a petition that conforms to the requirements of paragraph (c) of this rule.

(b) **Fees and filing of petition**. The petitioner must file the petition with the appellate court clerk and, pursuant to Rule 21, pay the fee required by law, unless waived by the appellate court. The petitioner must serve the petition on the opposing party and notice of the filing of the petition on the trial court. If the appellate court issues an order granting permission to appeal, the appellate court clerk will immediately give notice of the order to the respective parties and will transmit the order to the trial court where the order will be filed instead of a notice of appeal.

(c) **Content of petition**.

(1) The petition must contain:

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

(B) The issue presented expressed in the terms and circumstances of the case but without unnecessary detail, and a demonstration that the issue was preserved in

the trial court. Petitioner must state the applicable standard of appellate review and cite supporting authority;

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

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

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

(3) The petitioner must attach a copy of the trial court's order from which an appeal is sought and any related findings of fact and conclusions of law and opinion. Other documents that may be relevant to determining whether to grant permission to appeal may be referenced by identifying trial court docket entries of the documents.

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

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

(f) **Response; no reply**. No petition will be granted in the absence of a request by the court for a response. No response to a petition for permission to appeal will be received unless requested by the court. Within 14 days after an order requesting a response, any other party may oppose or concur with the petition. Any response to a petition for permission to appeal is subject to the same page limitation set out in paragraph (d) and must be filed

in the appellate court. The respondent must serve the response on the petitioner. The petition and any response will be submitted without oral argument unless otherwise ordered. No reply in support of a petition for permission to appeal will be permitted unless requested by the court.

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

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

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

(j) **Record.** If the petition is granted, the trial court will prepare and transmit the record under Rule 11 or 12. Any transcript(s) must be ordered in compliance with Rule 11.

Effective ~~May 1, 2024~~