



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=m0a80dde25ba138fefad51bbf552f1444
Date:	December 4, 2025
Time:	12:00 to 1:30 p.m.

Action: Welcome and approval of November 6, 2025 Minutes	Tab 1	Nathalie Skibine, Chair
Action: Final Approval of Rules 3, 11, 28A, 23A, and 23B	Tab 2	Nathalie Skibine
Action: Rules 22 and 26	Tab 3	Stan Purser
Action: Rule 27	Tab 4	Nathalie Skibine
Action: Rule 5	Tab 5	Mary Westby
Discussion: Time to Appeal Orders Related to Substantiation Proceedings	Tab 6	Judge Orme
Discussion: <i>State v. James</i>	Tab 7	Nathalie Skibine
Discussion: Old/new business		Nathalie Skibine, Chair

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

2026 Meeting schedule:

February 5, 2026	May 7, 2026	August 6, 2026	November 5, 2026
March 6, 2026	June 4, 2026	September 3, 2026	December 3, 2026
April 2, 2026	July 2, 2026	October 1, 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, November 6, 2025
12:00 pm to 1:30 pm

PRESENT

Dick Baldwin
Judge Michele
Christiansen Forster
Nicole Gray
Amber Griffith—Staff
Michael Judd—Recording
Secretary
Debra Nelson
Caroline Olsen
Judge Gregory Orme

Tera Peterson
Martha Pierce
Stan Purser—
Vice Chair
Michelle Quist
Clark Sabey
Nathalie Skibine—
Chair
Mary Westby
Scarlet Smith

EXCUSED

Nick Stiles—Staff

GUESTS

None

1. Action:

Nathalie Skibine

Approval of October 2025 Minutes

The committee noted a typographical error in Section 2, paragraph 2 of the October 2025 minutes, which will be corrected.

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

**2. Discussion/Action:
Rules 49 and 50**

Nathalie Skibine

The committee's discussion of Rules 49 and 50 centered on the addition of a word limit. Clark Sabey offered a word-count rule of thumb: 20 pages appears to be roughly equal to 4000 words. Mr. Sabey also noted a real possibility that shorter motions filed under these rules are more likely to be granted. Stan Purser offered a counter-proposal, suggesting that the committee stick to 20 pages and 4500 words. After discussion, the committee settled on limits of 4,000 words and 15 pages. The committee also added a word limit of 1,500 words or 5 pages for replies filed under Rule 50.

Following that discussion, Judge Michele Christiansen-Forster moved for final approval of the rule as discussed and presented on screen at the committee's meeting. Mr. Sabey 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:
Rules 22 and 26**

Stan Purser

As part of its ongoing consideration regarding Rules 22 and 26, the committee discussed a new option: stipulated extensions of up to 180 days, with further extensions granted only by motion. The committee discussed the details of this new option at length, including the potential of having separate extension caps for criminal and civil appeals. The committee landed on a series of changes in Paragraphs (b)(1) and (b)(4), with the end result of allowing additional extension time to be secured by stipulation, while capping the total length of stipulated extensions at 180 days.

Based on that discussion, Ms. Quist moved to approve Rule 22 as circulated. Ms. Westby 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:
Rule 5**

Mary Westby

In a brief discussion of a potential change to Rule 5, the committee identified its goal: clarity about what sets the clock running for the time to file a petition

to appeal an interlocutory order. Of particular note is the effect of an oral ruling with promise of a written order to follow.

After discussion, Ms. Westby offered to draft an advisory committee note to address the nuance often present in this situation. The committee will table this rule change in the meantime and wait for that draft note and subsequent comment.

5. Action: Nathalie Skibine
Rule 27

Because of time constraints, discussion regarding Rule 27 was deferred until December's meeting.

6. Discussion: Nathalie Skibine, Chair
Old/New Business

Judge Gregory Orme alerted the committee to an inconsistency between Utah Code § 78A-6-359(2)(a) and Rule 52. That item will be included on the committee's December 2025 agenda.

7. Adjourn Nathalie Skibine, Chair

Following the business and discussions described above, the committee adjourned. The committee's next meeting will take place on December 4, 2025.

TAB 2

2 thoughts on “Rules of Appellate Procedure – Comment Period Closed November 10, 2025”

1. Julie J. Nelson

[September 24, 2025 at 1:56 pm](#)

STRONG YES on Rule 11 amendment. The current sequence doesn't make sense. And if people want to get a jump on their transcripts, they can always order them early. Please!!!

2. Clancey Henderson

[September 25, 2025 at 2:33 pm](#)

The imposition of an automatic stay is a reversal of the existing rule. The proposed change should be rejected. Appeals take long enough without an automatic stay for mediation. If the parties believe a resolution of the dispute is achievable through appellate mediation, they parties are best suited to make that determination and request a stay. The rule should be revised only to allow the grant of a motion to stay pending mediation. It should not be automatic.

Rule 3. Appeal as of right: - how taken.**(a) Filing the notice of appeal.**

(1) Except as otherwise provided by law, a party may appeal a final order or judgment from a district court, a juvenile court, or the Business and Chancery Court to the appellate court by filing a notice of appeal with the trial court clerk within the time allowed by [Rule 4](#).

(2) An appellant's failure to take any step other than timely filing a notice of appeal does not affect the validity of the appeal, but is ground only for the appellate court to act as it considers appropriate, including dismissing the appeal or other sanctions short of dismissal, and awarding attorney fees.

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

(c) Party Designation. The party taking the appeal is known as the appellant and the adverse party as the appellee. Unless otherwise directed by the appellate court, the appeal will not change the title of the action or proceeding. For original proceedings in the appellate court, the party making the original application is known as the petitioner and any other party as the respondent.

(d) Notice of appeal contents. The notice of appeal must:

(1) specify the party or parties taking the appeal;

~~(2) designate the judgment or order being appealed;~~

(2) if privately retained trial counsel files the notice of appeal, state whether trial counsel will remain counsel of record on appeal, and, if not, provide appellant's contact information for the purposes of receiving court notices;

(3) name the court from which the appeal is taken; ~~and~~

(4) name the court to which the appeal is taken; and;

(5) designate the judgment or order, ~~or part thereof~~ being appealed.;

(e) **Serving the notice of appeal.** The appellant must serve the notice of appeal on each party to the judgment or order in accordance with the requirements of the court from which the appeal is taken. If counsel of record is served, the certificate of service must include the name of the party represented by that counsel.

(f) **Filing fee in civil appeals.** When filing any notice of separate, joint, or cross appeal in a civil case, the party taking the appeal or cross appeal must, pursuant to [Rule 21](#), pay the filing fee established by law to the trial court clerk, unless waived by the trial court. The trial court clerk must accept a notice of appeal regardless of whether the filing fee has been paid.

(g) **Docketing of appeal.**

(1) **Transmitting notice of appeal to the appellate court.** After an appellant files the notice of appeal, the trial court clerk must immediately email a copy of the notice of appeal to the appellate court clerk. The email will include:

(A) the date the notice of appeal was filed, and

(B) the clerk's statement declaring whether the filing fee was paid and whether the cost bond required by [Rule 6](#) was filed.

(2) **Docketing the appeal.** Upon receiving the copy of the notice of appeal from the trial court clerk, the appellate court clerk will enter the appeal on the docket. An appeal will be docketed under the title given to the action in the trial court, with the

appellant identified as such, but if the title does not contain the name of the appellant,

~~such~~that name will be added to the title.

Effective

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~~²¹ 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~~^{docketing statement}, 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) **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, due to audio issues, 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.

(e) **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 ~~November 1, 2025~~*

* A new redline was created to show only the edits that went out for public comment on September 24, 2025. The previous redline included proposed amendments that went out for public comment on August 20, 2025. Those amendments were approved and became effective on November 1, 2025.

Rule 28A. Appellate Mediation Office.

(a) **Appellate Mediation Office; purpose of mediation conference.** The court may order the attorneys for the parties and the parties to appear before a mediator appointed by the court for a mediation conference to explore the possibility of settlement and any other matters that may aid in the efficient management and disposition of the case. The court will advise the parties by order that the case has been referred to the Appellate Mediation Office. All decisions regarding conduct of the mediation conference are within the sole discretion of the mediator.

(b) **Confidentiality.** Unless contained in a written settlement agreement under paragraph (f), statements and comments made during mediation conferences and in related discussions, and any record of those statements, are confidential and may not be disclosed by anyone (including the ~~appellate~~ Appellate mediation ~~Mediation office~~ Office, counsel, or the parties; and their agents or employees) to anyone not participating in the mediation process. Proceedings under this rule may not be recorded by counsel or the parties. Mediators may not be called as witnesses, and the information and records of the Appellate Mediation Office may not be disclosed to judges, staff, or employees of any court.

(c) **Continuances.** Mediation conferences will not be rescheduled or continued absent good cause as determined by the mediator.

(d) **Extensions/tolling.** If a case is in mediation, the appeal process is stayed, including any due dates under the appellate rules. The stay will be lifted if the matter is withdrawn from mediation. ~~The time for filing briefs or motions for summary disposition and for other appellate proceedings is not automatically tolled pending a mediation conference. The parties may seek an extension by motion or stipulation as provided in Rule 22.~~

(e) **Request for mediation conference by a party.**

(1) For cases pending in the Supreme Court, the parties may request a mediation conference by stipulated motion filed with the Court. The Court will determine

whether the case will be referred to mediation. If a mediation conference is ordered, the mediation will be conducted in accordance with this rule.

(2) For cases pending in the Court of Appeals, the parties may request a mediation conference by motion, letter, or confidential request. The Chief Appellate Mediator will determine whether a mediation conference will be conducted. The decision of the Chief Appellate Mediator is final and not subject to review. If a mediation conference is ordered, the mediation will be conducted in accordance with this rule.

(3) The denial of a mediation request will not prevent the parties from engaging in private settlement negotiations or private mediation.

(f) **Settlement/termination.** In appeals settled in whole or in part pursuant to this rule, the court will enter an appropriate order upon written stipulation of all parties, or in the case of voluntary dismissal by the appellant pursuant to these rules, and send the order to the parties. In appeals not settled and terminated from mediation, the court will enter an appropriate order and send the order to the parties. A motion to enforce a settlement agreement will be considered only if the alleged agreement is in writing. The motion and related documents will be filed under seal.

(g) **Sanctions.** The court may impose sanctions, including costs, fees, or dismissal, for the failure of counsel or a party to comply with the provisions of this rule or with orders entered pursuant to this rule.

Rule 23A. Motion for reinstatement of appeal.

An appeal dismissed for failure to take a step other than the timely filing of a notice of appeal may be reinstated by the court upon motion of the appellant for (a) mistake, inadvertence, surprise, or excusable neglect or (b) fraud, misrepresentation, or misconduct of an adverse party. The motion ~~shall~~must be ~~made~~filed ~~within~~before remittitur. ~~a reasonable time~~thirty days after entry of the order of dismissal or before ~~remittitur, whichever is later.~~

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

(a) **Grounds for motion; time.** A party to an appeal in a criminal case may move the 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.

The motion must be filed before or at the time of the filing of the appellant's brief. Upon a showing of good cause, the court may permit a motion to be filed after the filing of the appellant's brief. After the appeal is taken under advisement, a remand pursuant to this rule is available only on the court's own motion and only if the claim has been raised and the motion would have been available to a party.

(b) **Content of motion.** The content of the motion must conform to the requirements of Rule 23. The motion may incorporate by reference the statement of the case from the principal brief. The motion must identify the ineffectiveness claims and specify the factual issues relevant to each such claim to be addressed on remand. 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. ~~The motion must also be accompanied by a proposed order of remand that identifies the ineffectiveness claims and specifies the factual issues relevant to each such claim to be addressed on remand.~~

(c) **Orders of the court; response; reply.** 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.

(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 ten ~~210~~ 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 remand 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. The order will also direct the trial court to complete the proceedings on remand within 90 days of issuance of the remand order ~~of remand~~, absent a finding by the trial court of good cause for a delay of reasonable length.

~~(4)~~ If it appears to the appellate court that the appellant's attorney of record on the appeal faces a conflict of interest upon remand, the court will direct that counsel withdraw and that new counsel for the appellant be appointed or retained.

(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 remand 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 without a jury and 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 remand order ~~of remand~~. Proceedings on remand must be completed within 90 days of entry of the remand order ~~of remand~~, unless the trial court finds good cause for a delay of reasonable length.

(f) **Preparation and transmittal of the record.** At the conclusion of all proceedings before the trial court, the ~~clerk of the~~ trial court clerk will immediately prepare the record of the supplemental proceedings as required by these rules. If the record of the original proceedings before the trial court has been transmitted to the appellate court, the ~~clerk of the~~ trial court clerk will immediately transmit the record of the supplemental proceedings upon preparation of the supplemental record. If the record of the original proceedings before the trial court has not been transmitted to the appellate court, the ~~clerk of the~~ court clerk will transmit the record of the supplemental proceedings upon the preparation of the entire record.

(g) **Appellate court determination.** Errors claimed to have been made during the trial court proceedings conducted pursuant to this rule 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 the review of findings of fact in other appeals.

~~Effective November 1, 2022~~

Advisory Committee Note

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

84 Note ~~Ad~~*opted* 2022

TAB 3

Rule 22. Computation and enlargement of time.

(a) **Computation of time.** In computing any period of time prescribed by these rules, by court order, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run is not included. If the designated period of time begins to run from the date of entry of an order or judgment and the order or judgment is entered on a Saturday, Sunday, or legal holiday, the date of entry will be deemed to be the first day following the entry that is not a Saturday, Sunday, or legal holiday. The last day of the period must be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period extends until the end of the next day that is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed, without reference to any additional time under paragraph (d), is less than 11 days, intermediate Saturdays, Sundays, and legal holidays must be excluded in the computation.

(1) “Legal holiday” is any holiday that is recognized and observed by the State of Utah, as specified here:

<https://www.utcourts.gov/en/about/miscellaneous/law-library/holidays.html>

(b) Extensions ~~enlargement~~ of time by stipulation.

~~(1) Stipulation.~~ Unless prohibited by the court in a particular case, the parties may file one or more stipulations to extend the time to file a brief.

(1) Form of stipulation. A motion for extension ~~enlargement~~ of time need not accompany the stipulation.

~~(A2) Time to file. Stipulations to extend time must be filed before the expiration of the period sought to be extended.~~

(3) Length of time. The total amount of stipulated extensions for any brief may not exceed 180 days.

~~(B) Time to file. Stipulations to extend time must be filed before the expiration of the period sought to be extended.~~

~~(C)~~ **(4) Automatic effectiveness.** A timely filed stipulation will automatically extend the time to file without the need for a court order granting the extension.

~~(c)(2)~~ **Extensions of time by Motion.** The court for good cause shown may upon motion extend the time prescribed by these rules or by its order for doing any act, or the court may permit an act to be done after the expiration of time. This rule does not authorize the court to extend the jurisdictional deadlines specified by any of the rules listed in Rule 2.

~~(A) Motions for an enlargement of time for filing briefs beyond the time permitted by stipulation of the parties are not favored.~~

~~(B) The court for good cause shown may upon motion extend the time prescribed by these rules or by its order for doing any act, or the court may permit an act to be done after the expiration of time. For the purpose of this rule, good cause includes, but is not limited to, the complexity of the case on appeal, engagement in other litigation, and extreme hardship to counsel. This rule does not authorize the court to extend the jurisdictional deadlines specified by any of the rules listed in Rule 2. For the purpose of this rule, good cause includes, but is not limited to, the complexity of the case on appeal, engagement in other litigation, and extreme hardship to counsel.~~

~~(3)~~ **Time to file.** A motion ~~for an enlargement of~~ to extend time must be filed ~~prior to~~ before the expiration of the time for which the ~~extension~~ enlargement is sought. But the court may permit an act to be done after the expiration of time.

~~(4)~~ **Motion content.** A motion for ~~enlargement~~ extension of time must state:

(A) with particularity the good cause for granting the motion;

(B) whether the movant has previously been granted an enlargement of time and, if so, the number and duration of ~~such~~ the previous enlargements;

(C) when the time will expire for doing the act ~~for which the~~ without the ~~enlargement~~ extension of time ~~is sought~~;

(D) the length of ~~the enlargement of~~ time requested and the new due date if the motion is granted; and

(E) except as to an ex parte motion under paragraph (c), the position of every other party on the requested extension or why the movant was unable to learn a party's position.

(35) Good cause. For the purpose of this rule, good cause includes, but is not limited to, the complexity of the case on appeal, engagement in other litigation, and extreme hardship to counsel.

(A) If the good cause relied upon is engagement in other litigation, the motion must:

(iA) identify ~~such that~~ litigation by caption, number, and court;

(Bii) explain how engagement in the other litigation has prevented or will prevent a timely filing ~~of the appellate brief~~; and

(Ciii) identify any other relevant circumstances.

(6B) If the good cause relied upon is the complexity of the appeal, the ~~movant~~ motion must state the reasons why the appeal is so complex that the current due date cannot reasonably be met. ~~an adequate brief cannot reasonably be prepared by the due date.~~

(7C) If the good cause relied upon is extreme hardship to counsel, the ~~movant~~ motion must state in detail the nature of the hardship.

(8D) All facts supporting good cause must be stated with specificity. Generalities, such as "the motion is not for the purpose of delay" or "counsel is engaged in other litigation," are insufficient.

(4) When motions disfavored. Motions for an extension of time for filing briefs beyond the time permitted by stipulation of the parties are not favored.

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

(~~e~~d) **Additional time after service by mail.** Whenever a party is required or permitted to do an act within a prescribed period after service of a document and the document is served by mail, three days shall be added to the prescribed period.

Effective ~~May 1~~, 2024

Advisory Committee Note

The court may grant an extension of time after the original deadline has expired, but the motion to enlarge the time must be filed prior to the deadline.

Both appellate courts place appeals in the oral argument queue in accordance with the priority of the case and after principal briefs have been filed. Delays in the completion of briefing will likely delay the date of oral argument.

Note adopted May 1, 2024

Rule 26. Filing and serving briefs.**(a) Time to file and serve briefs in cases not involving a cross-appeal.**

(1) Appellant's principal brief. The appellant must file and serve a principal brief within 40 days after date of notice from the appellate court clerk pursuant to Rule 13. If a motion for summary disposition of the appeal or a motion to remand for determination of ineffective assistance of counsel is filed after the Rule 13 briefing notice is sent, an appellant's principal brief must be filed and served within 30 days from the denial of such motion.

(2) Appellee's principal brief. The appellee, ~~or in cases involving a cross-appeal, the cross-appellant,~~ must file and serve a principal brief within 30 days after service of the appellant's principal brief. ~~In cases involving cross-appeals, the appellant must file and serve the appellant's reply brief described in Rule 24A(d) within 30 days after service of the cross-appellant's principal brief.~~

(3) Appellant's reply brief. The appellant may file a reply brief. ~~may be filed and served by the appellant or the cross-appellant in cases involving cross-appeals.~~ If a reply brief is filed, it must be filed and served within 30 days after the filing and service of the appellee's principal brief ~~or the appellant's reply brief in cases involving cross-appeals.~~ If oral argument is scheduled fewer than 35 days after the filing of appellee's principal brief, the reply brief must be filed at least five days ~~prior to~~ before oral argument.

(b) Time to file and serve briefs in cases involving a cross-appeal.

(1) Appellant's principal brief. The appellant must file and serve a principal brief within 40 days after date of notice from the appellate court clerk pursuant to Rule 13. If a motion for summary disposition of the appeal or a motion to remand for determination of ineffective assistance of counsel is filed after the Rule 13 briefing notice is sent, an appellant's principal brief must be filed and served within 30 days from the denial of such motion.

(2) Cross-appellant's principal brief. The cross-appellant must file and serve the cross-appellant's principal brief as described in ~~R~~ule 24A(c) within 30 days after service of the appellant's principal brief.

(3) Appellant's reply brief. ~~The In cases involving cross-appeals, the appellant must file and serve the appellant's reply brief described in Rule 24A(d) within 30 days after service of the cross-appellant's principal brief.~~

(4) Cross-appellant's reply brief. The cross-appellant may file a reply brief as described in Rule 24A(e). If a reply brief is filed, it must be filed and served within 30 days after the filing and service of the appellant's reply brief. If oral argument is scheduled fewer than 35 days after the filing of appellant's reply brief, cross-appellant's reply brief must be filed at least five days before oral argument.

(c4) Extensions ~~enlargement of~~ of time. A party may seek enlargements of time for the filing of a brief as provided in Rule 22.

(d) **Number of copies.**

(1) Supreme Court. For matters pending in the Supreme Court, eight paper copies of each brief must be filed with the Supreme Court Clerk. One of the filed copies must contain an original signature unless the brief was filed electronically.

(2) Court of Appeals. For matters pending in the Court of Appeals, six paper copies of each brief must be filed with the Court of Appeals Clerk. One of the filed copies must contain an original signature unless the brief was filed electronically.

(3) Time to file copies of electronically filed briefs. If a brief was e-filed or filed by email, the required paper copies of the brief must be delivered to the clerk no more than seven days after filing.

(e) Consequence of failing to file principal briefs. If an appellant fails to file a principal brief within the time provided in this rule, or within the time as may be extended by order of the appellate court, an appellee may move for dismissal of the appeal. If an appellee fails to file a principal brief within the time provided by this rule, or within the time as

55 may be extended by appellate court order, an appellant may move that the appellee not
56 be heard at oral argument.

57 (f) **Return of record to the clerk.** If a party checks out the physical record from the
58 appellate court clerk, then that party must return the physical record and all exhibits to
59 the clerk when that party files its brief.

60 *Effective, 202*

TAB 4

Rule 27. Form of briefs, motions, and other documents.

(a) **Form of briefs, motions, and other documents.** Except as otherwise provided in this rule or by leave of court, all briefs, motions, and other documents must comply with the following standards:

(1) **Size, line spacing, and margins.** All documents must be prepared on 8½ by 11 inch sized paper. The text must be double spaced, except for matter customarily single spaced and indented. Margins must be at least one inch on all sides. Page numbers are required and may appear in the margins.

(2) **Typeface.** The type must be a plain, roman style with serifs. Italics or boldface may be used for emphasis. Cited case names must be italicized or underlined.

(3) **Typesize.** The typeface must be 13-point or larger for both text and footnotes.

(b) **Documents submitted by unrepresented parties.** An unrepresented party who does not have access to a word-processing system must file typewritten or legibly handwritten briefs, motions, and other appellate documents. An unrepresented party must sign any document filed with the court. These documents must otherwise comply with the form requirements of this rule, and, if applicable, [Rules 24](#) and [24A](#).

(c) **Cover page for briefs on the merits and petitions.**

(1) **Caption.** The cover of each brief or the first page of a petition must contain a caption that includes the following information:

(A) the number of the case in the appellate court (if available);

(B) the name of the appellate court;

(C) the full title given to the case in the court or agency from which the appeal is taken, ~~as modified under Rule 3(g);~~

(D) the designation of the parties both as they appeared in the court or agency from which the appeal is taken and as they appear in the appellate proceeding;

(E) the title or description of the document (e.g., Brief of Appellant, Petition for Permission to File Interlocutory Appeal, Petition for Rehearing, Petition for Extraordinary Relief);

(F) the nature of the proceeding in the appellate court (e.g., Appeal, Petition for Review) if not apparent from the title or description of the document; and;

(G) the name of the court and judge, agency, or board from which the appeal is taken and the case or proceeding number.

(2) **Counsel or unrepresented party information.** The identifying and contact information of the counsel or unrepresented party filing the document must appear in the lower right corner of the cover page.

(A) Counsel's information must include counsel's:

(i) name;

(ii) Utah State Bar number;

(iii) mailing address;

(iv) email address;

(v) telephone number; and

(vi) a designation indicating the party counsel represents in the appeal (e.g., Counsel for Appellant, Petitioner, Appellee, or Respondent).

(B) An unrepresented party's information must include the party's:

(i) name;

(ii) mailing address;

(iii) email address (if any);

(iv) telephone number (if any); and

(v) a statement identifying the party's designation in the appeal (e.g., Appellant, Petitioner, Appellee, or Respondent).

(d) Motions and appellate documents other than briefs and petitions.

1. Caption. The first page of a motion or appellate document other than a brief or petition must include a caption with the following information:

(A) the number of the case in the appellate court (if available);

(B) the name of the appellate court;

(C) the full title given to the case in the court or agency from which the appeal is taken, as modified under [Rule 3\(g\)](#);

(D) the designation of the parties both as they appeared in the court or agency from which the appeal is taken and as they appear in the appellate proceeding; and

(E) the title or description of the document (e.g., Motion to Dismiss, Docketing Statement, Stipulation, Motion to Extend Time, Notice).

2. Counsel or unrepresented party information. The identifying and contact information of the counsel or unrepresented party filing the document must appear in the upper left corner of the first page.

(A) Counsel's information must include counsel's:

(i) name;

(ii) Utah State Bar number;

(iii) mailing address;

(iv) email address;

(v) telephone number; and

(vi) a designation indicating which party counsel represents in the appeal (e.g., Counsel for Appellant, Petitioner, Appellee, or Respondent).

(B) An unrepresented party's information must include the party's:

(i) name

(ii) mailing address;

(iii) email address (if any);

(iv) telephone number (if any); and

(v) a statement identifying the party's designation in the appeal (e.g., Appellant, Petitioner, Appellee, or Respondent).

(e) **Additional requirements for briefs on the merits.**

(1) **Form of submission.** Hard copies of the briefs must be submitted on 20 lb. bond standard paper. Except for the cover page, briefs must be printed double sided. Briefs must not be stapled or bound along the left edge, but must be secured with a binder clip.

(2) **Color of cover page.** There must be adequate contrast between the printing and the color of the cover page. The color of the cover page must be as follows:

Document	Cover Page Color
Opening Brief of Appellant or Petitioner	Blue
Brief of Appellee or Respondent	Red
Brief of Intervenor, Guardian ad Litem, or Amicus Curiae	Green
Reply Brief	Gray
Appellant's or Petitioner's Second Brief in a Case Involving a Cross-Appeal or Cross-Petition	Gray

88 (3) **Criminal appeals.** In criminal cases, the cover of the defendant's brief must also
89 state whether the defendant is presently incarcerated in connection with the case on
90 appeal and if the brief is an *Anders* brief. An *Anders* brief is a brief filed pursuant
91 to *Anders v. California*, 386 U.S. 793 (1967), in cases where counsel believes no
92 nonfrivolous appellate issues exist.

93 (4) **Effect of noncompliance.** The appellate court clerk will examine all briefs before
94 filing. If a brief is not prepared in accordance with these rules, the clerk may lodge the
95 brief and notify the party of the deficiency. The clerk will retain one copy of the
96 noncomplying brief and, after the party is notified, the party must file a brief prepared
97 in compliance with these rules within five days. The clerk may grant additional time
98 for bringing a brief into compliance. This rule is not intended to permit significant
99 substantive changes in briefs.

100 *Effective May 1, 2024*

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 ~~order.~~ signed order resolving the motion or issue before the court. 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~~

[Advisory Committee Note](#)

80 **2025 amendment.** The 2025 amendment to paragraph (a) is an effort to clarify when an
81 order is sufficient to file a petition for interlocutory appeal. At minimum, the order must
82 be signed by the judge as required by Rule 7(j)(1) of the Utah Rules of Civil Procedure.
83 Additionally, if a party is directed by the court to prepare a proposed order confirming
84 the court's decision under Rule 7(j)(2) of the Utah Rules of Civil Procedure, the motion
85 will not be resolved for the purpose of filing a petition for interlocutory appeal until after
86 the entry of the formal order confirming the decision. This is consistent with *Houghton v.*
87 *Department of Health*, 2008 UT 86, ¶ 11, 206 P.3d 287. Although *Houghton* was decided
88 under a prior version of Rule 7, the principle that an interlocutory order must be
89 sufficiently final in its form to support a petition for interlocutory appeal remains
90 applicable to determining when the time to file a petition begins.

TAB 6

MEMORANDUM

TO: Rules Committee

FROM: Jessame Jensen

RE: Time to appeal from substantiation proceedings

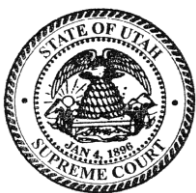
DATE: November 6, 2025

There are some contradictions between the Utah Code and the Rules of Appellate Procedure as to whether appeals from orders relating to substantiation proceedings must be filed within 15 days of the entry of the order or within 30 days.

Rule 1 of the Utah Rules of Appellate Procedure states that rules 52 through 59 do not govern “orders related to substantiation proceedings.” Since the 15-day filing deadline for child welfare appeals appears in rule 52, it would seem that the regular 30-day filing deadline contained in rule 4(a) would govern appeals from substantiation proceedings.

However, the Utah Code directs, “An appeal of right from an order, decree, or judgment by a juvenile court related to a proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings . . . shall be filed within 15 days after the day on which the juvenile court enters the order, decree, or judgment.” Utah Code § 78A-6-359(2)(a). The Code does not appear to include an exception for substantiation proceedings, and a petition for substantiation falls under section 80-3-504 of the Utah Code.

TAB 7



MEMORANDUM

To: Advisory Committee on the Rules of Appellate Procedure
From: Amber Griffith
Date: November 14, 2025
Subject: Charge from Supreme Court in *State v. James*

The Supreme Court's opinion *State v. James* asks this committee to consider changes to the rules regarding supplementing the record for an allocution statement. *State v. James*, 2025 UT 53, ¶ 75, 2025 WL 3167120.

¶75 Other times, there may not be enough information in the record to establish the content of an allocution statement. In these cases, our decision might be aided by a record supplemented to include more information about the allocution the defendant would have made. To the extent that the Utah Rules of Appellate Procedure do not currently account for all circumstances in which a defendant in James's position would want to supplement the record, we encourage our appellate rules committee to consider changes to the rules.