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=m322d3f82a2f923173a06f0e3d2d76f2f
Date:	March 5, 2025
Time:	12:00 to 1:30 p.m.

Action: Welcome and approval of February 5, 2026 Minutes	Tab 1	Nathalie Skibine, Chair
Discussion: Rule 11 – Transcript Issue	Tab 2	Nick Stiles
Action: Rule 11	Tab 3	Julie Nelson - Guest
Action: Appellate Disqualification	Tab 4	Nick Stiles
Action: Rules 19, 48, and 49	Tab 5	Clark Sabey
Action: Rule 55A	Tab 6	Mary Westby
Action: Rule 26	Tab 7	Nicole Gray
Action: Rule 24	Tab 8	Nicole Gray
Discussion: Standing Order 17	Tab 9	Tera Peterson
Discussion: Old/new business		Nathalie Skibine, Chair

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

2026 Meeting schedule:

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

TAB 1

TAB 2

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, 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.

(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 November 1, 2025~~January 22, 2025~~

TAB 3

From: Jennifer Gadbois <jenniferg@utcourts.gov>
Sent: Wednesday, February 18, 2026 4:08 PM
To: Julie Nelson <julie@juliejnelsonlaw.com>
Cc: dbaldwin@parrbrown.com; Alexa Mareschal <alexa@juliejnelsonlaw.com>; Emily Adams <EADAMS@theappellategroup.com>; Taylor Webb <twebb@zbappeals.com>; Nathalie Skibine <nskibine@sllda.com>
Subject: Re: Appellate Record request

CAUTION: External Email.

Hi Julie,

Thank you for reaching out with your concerns. Bringing this matter before the Rules Committee is an excellent step, as the proposed change would affect how district courts prepare the record and would likely require additional programming from IT.

Currently, the public court docket prepared by district clerks does not include docket numbers; this is the same version available for download from Xchange. While court employees and trial counsel can view these numbers through their respective internal systems or eFiling accounts, I am not aware of a downloadable or printable version of the docket that includes the numbers assigned through CORIS.

Although including docket numbers in appellate binders was not an option when I previously worked with the district courts, the systems used to prepare records have since evolved. I will reach out to my contacts at the district court to discuss what options may be available to accommodate this request.

I will leave it to the Rules Committee to determine whether a public court docket should be considered part of the record on appeal and if a change to Rule 11 is necessary. Such a change would require our IT department to prioritize the programming needed to implement these updates in the district court's printed dockets.

I have asked the Court of Appeals representatives on the Rules Committee to notify me when this item is added to the agenda so that I may attend the meeting.

Please let me know if there is anything further I can do to help in the meantime.

Best regards,

On Wed, Feb 18, 2026 at 11:23 AM Julie Nelson <julie@juliejnelsonlaw.com> wrote:

> Hi Jennifer,
>
> I have a need / request. I'm copying my appellate buddies here, because I've talked to them and they are on board, although I am learning that this problem is specific to domestic cases -- so I guess that's me to be the leader on it haha. I've also reached out to the Rules committee (Nathalie and Dick copied here). And I mentioned it to Michele Mattsson --- I figured the more people who know about my problem, the more likely we can get a solution.

I need the appellate court to provide me with the docket in addition to the record so that I know what docket numbers equal what records. Docket numbers are invisible for lots of domestic filings in Xchange, so printing it from the "view documents" option in Xchange doesn't work well. The only way to access the docket is to enter an appearance myself or get it from trial counsel, which (1) doesn't always work for whatever reason and (2) is more complicated than my proposed solution. This is a problem for me because a lot of trial attorneys now internally identify documents by docket number ---- and I don't have access to that.

The easiest thing on your end is just to provide the docket along with the record. In a perfect world, the docket number could be included in the index, along with the document type, entry date, and page number. But, even if I just had the docket, I or my paralegal could do the cross-referencing ourselves.

I don't know if it requires a rule change or not. But I need help!

Thank you,

Julie

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Example of Issue

In the Third Judicial District Court Salt Lake County, State of Utah	
In the matter of the marriage of: TANECIA DESSIATNIKOV and DMITRI DESSIATNIKOV	**FINDINGS OF FACT AND CONCLUSIONS OF LAW, and ORDER ON MOTIONS REGARDING DISSIPATION AND MATHEMATICAL CALCULATIONS** Case No. 214903366 Judge Keith Kelly Commissioner Michelle Blomquist

Before the Court are two motions.

First, Respondent Dmitri Dessiatnikov submits the Rule 52 Motion to Amend Findings of Fact and Conclusions of Law Re: Tanecia's Claim of Dissipation of Marital Assets ("Dissipation Motion") (docket #1603). Petitioner Tanecia Dessiatnikov filed an opposition (docket #1649), and Dmitri filed a reply (docket #1671).

Second, Dmitri submits the Rule 60(a) Motion to Correct Double Counting and Mathematical Errors in Decree ("Mathematical Error Motion") (docket #1755). Tanecia filed an opposition (docket #1793), and Dmitri filed a reply (docket #1818). The Court held hearings on the Motions on March 27, and April 14, 2025, where both parties were present and represented by counsel.

After fully considering the matter and carefully reweighing the evidence, the Court is persuaded that there are some double counting errors that must be amended, including for one-half of the unidentified disbursements and certain attorney's fees. However, the Court is not persuaded by Dmitri's arguments regarding other attorney's fees and costs. In addition, based

upon a stipulation between the parties, the Court finds that $3,657.00 in dissipation must be removed from the original amount. However, the Court is not otherwise persuaded to alter its decision regarding dissipation. Therefore, the Dissipation Motion and the Mathematical Error Motion are GRANTED in part and DENIED in part.

In accordance with its prior orders, the Court enters the following Findings of Fact and Conclusions of Law (which partially amend the Court's earlier financial Findings of Fact and Conclusions of Law (*see* docket #1581)). The Court also enters the associated orders.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Background

1. Tanecia Dessiatnikov ("Tanecia") and Dmitri Dessiatnikov ("Dmitri") were married on April 1, 2010. After approximately eleven years of marriage, Tanecia filed for divorce in June 2021.

2. Issues related to the parties' finances and assets were highly contested. The Court held an in-person trial regarding the parties' finances on August 2, 26, 27, and 29, 2024 and September 20, 2024 ("Financial Trial"). During Financial Trial, the Court heard testimony from both parties and their expert witnesses and carefully reviewed all of the evidence.

3. On November 20, 2024, the Court entered its Findings of Fact and Conclusions of Law Regarding Finances (docket #1581). Portions of these findings were incorporated into the final decree of divorce entered on January 24, 2025 (docket #1693).

4. Dmitri brings his Rule 52 Motion to Amend Findings of Fact and Conclusions of Law Re: Tanecia's Claim of Dissipation of Marital Assets. Dmitri asks the Court to 1) rectify a double counting error regarding unidentified disbursements that resulted in awarding Tanecia an extra $437,995; and 2) alter the amount of unidentified disbursements, as he claims he can

provide evidence showing where the funds went and because a large portion of the missing funds were used for legitimate marital expenses, therefore they were not dissipated.

5. Dmitri also brings his Rule 60(a) Motion to Correct Double Counting and Mathematical Errors in Decree. As in his Dissipation Motion, Dmitri asks the Court to correct a double counting error which improperly attributed to him an extra $437,995 of the unaccounted-for disbursements in the marital estate schedule. In addition, Dmitri argues he was improperly awarded certain attorney fees and costs which resulted in a double counting and therefore, they should be excluded.

6. Pursuant to Rule 52, the Court may "amend its findings or make additional findings and may amend the judgment accordingly." Utah R. Civ. P. 52(b). Under Rule 60(a), "[t]he court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record." Utah R. Civ. P. 60(a).

7. After carefully reweighing the evidence and considering the arguments, the Court grants both motions in part and denies both motions in part. The Court finds that there was a double counting error which mistakenly attributed an extra $437,995 to Dmitri for the unidentified disbursements. In addition, the Court finds that there were some double counting errors regarding attorney fees and costs as discussed below.

8. However, the Court is not persuaded by Dmitri's argument that he can now, post-trial, account for all of the dissipated assets. There are some dissipated assets which the Court removes based on a stipulation between the parties. But the bulk of the dissipated assets have not been properly accounted for. In addition, the Court is not persuaded by certain of Dmitri's arguments regarding attorney's fees and costs.

9. The Court enters the following Findings of Fact and Conclusions of Law in accordance with its prior orders while also making the necessary adjustments.

Marital Estate Schedule.

10. After filing for divorce, Tanecia hired a financial expert, David Bateman, to perform an analysis of the parties' finances and account for all of the parties' assets, income, and funds.

11. In conducting his analysis, Mr. Bateman requested tax returns, bank account statements, credit card statements and other financial documents from Dmitri. He also asked for Dmitri's client lists, contracts, and client tax documents related to the parties' business, Abextrac, LLC. Dmitri was not forthcoming with information and failed to provide all of the information and documents required to be produced in discovery or that Mr. Bateman required.

12. Despite these constraints, Mr. Bateman analyzed the parties' financial records and prepared a report to assist the Court in making an equitable division of the marital assets. (Docket #1060.) Through his analysis, Mr. Bateman identified a total of $903,955 in disbursements for which Dmitri had not provided adequate documentation. (Docket #1060, Schedule 7; docket #1581 at ¶85.) These marital funds were unexplained, missing, or unidentified by Dmitri or his forensic accountant. *Id.* at ¶41. Detailed findings about what specific funds were missing were noted in Schedule 5 of Mr. Bateman's report. (Docket #1060, Schedule 5.)

13. Subsequently, the $903,955 in disbursements was adjusted after removing the Sandy House missing funds of $27,965.00 resulting in $875,990 ($903,955.00 - $27,965 = $875,990) in missing funds. (Docket #1581, ¶85.)

14. In his report, Mr. Bateman also created a marital estate schedule, which allocated to both Tanecia and Dmitri the assets, accounts, and property in their name or possession. (Docket #1060, Schedule 7; docket #1620.) The marital estate schedule took into account the unidentified/dissipated assets as well as the parties' other assets, separate property under the Prenup, and condo sale proceeds. Mr. Bateman attributed the missing $875,990 to Dmitri in the marital estate schedule. (Docket #1620.)

15. After taking all this information into consideration, Mr. Bateman determined that Dmitri owed Tanecia $578,250 in an equalization payment. (Docket #1581, ¶81.) This amount was later reduced by $3,698 after a correction was made based on information Dmitri brought at trial which brought the total equalization amount to $574,552. *Id.* at ¶87.

16. The Court relied on Mr. Bateman's marital estate schedule in its Findings of Fact and Conclusions of Law Regarding Finances ("Financial Findings") (docket #1581). The Court determined that the final property distribution owed to Tanecia by Dmitri was as follows:

½ Wander Lane Proceeds	$1,260,982.34
½ Condo Proceeds	$249,314.08
Marital Estate Equalization Amount	$574,552.00
½ of Unidentified Disbursements	$437,995.00
½ of Cash Taken from Marital Safe	$3,910.00
Total	**$2,526,753.42**

(Docket #1581, Conclusions of Law, ¶5.)

Dissipation

17. Dmitri now brings his post-trial Dissipation Motion and argues that Mr. Bateman's accounting of $875,990 in unidentified disbursements is incorrect and that the amount

was improperly attributed to him. Dmitri asserts that he can account for the $875,990 in missing funds incorporated into the marital estate schedule based on newly recovered evidence and by correcting Mr. Bateman's errors in accounting for the funds.

18. Under Utah law, "the marital estate is generally valued at the time of the divorce decree or trial. But where one party has dissipated an asset, hidden its value or otherwise acted obstructively, the trial court may, in the exercise of its equitable powers, value a marital asset at some time other than the time the decree is entered, such as at separation, or may otherwise hold one party accountable to the other for the dissipation of marital assets." *Goggin v. Goggin*, 2013 UT 16, ¶49, 299 P.3d 1079 (internal quotation and citation omitted). If it is determined that one spouse has dissipated marital assets, "when the court conducts its equitable distribution of the marital property, the other spouse should receive a credit for his or her share of the assets that were dissipated." *Id.*

19. As a preliminary matter, the Court addresses Dmitri's evidentiary support attached to his Dissipation Motion. The Court finds that a large portion of the exhibits attached to Dmitri's Dissipation Motion were not produced in discovery under Rule 26.1 and/or were never offered at the Financial Trial. (*See* docket #1581, ¶23; docket #1561; Trial Exhibits.) Further, the Court does not find Dmitri's claim credible that advances in technology have now allowed him to access documents and provide the Court with evidence.

20. With respect to the evidence that was submitted at trial and in discovery, the Court has carefully reviewed the evidence and is not persuaded by Dmitri's claims. Much of the evidence that Dmitri presents is partial in nature and does not provide a complete and thorough tracing of funds. For example, Dmitri submits bank account statements on one date in time but does not follow the money through to show where it ended up. In addition, Dmitri's evidence

only attempts to account for a portion of the funds that are missing while still not conducting a thorough tracing.

21. The Court spent a significant amount of time at the Financial Trial assessing the claims surrounding the dissipated assets. The Court heard extensive testimony from Mr. Bateman, who detailed his findings and testified regarding the dissipated amounts.

22. Dmitri had the opportunity to cross-examine Mr. Bateman. Based on this cross-examination, the Court corrected an entry on the marital estate schedule which, as noted above, reduced the total equalization amount by $3,698. (*See* ¶15; docket #1581, ¶87.)

23. Dmitri had multiple opportunities before the Court to explain where the unidentified funds went and his testimony on the issue has been inconsistent. When Dmitri was on the witness stand, he was asked about the missing funds. Dmitri could not make an accounting, and he provided conflicting testimony. One of Dmitri's explanations was that the money went to child support and, now that it was gone, he could not pay any further child support. *Id.* at ¶43. Under another explanation, Dmitri claimed that Tanecia used the money to pay off her credit cards, which Mr. Bateman had found no evidence to support. *Id.* at ¶44. Dmitri also claimed that he had transferred the money to a credit union but did not provide evidence, including tracing of those funds, and claimed that he did not have time to trace the money. *Id.* at ¶45.

24. The Court did not find Dmitri's testimony credible.

25. Dmitri hired his own financial expert, Daniel Rondeau, to also perform an accounting of the parties' finances during the marriage and prepare a financial schedule of the marital estate.

26. Mr. Rondeau and Dmitri were provided with Mr. Bateman's report prior to trial, giving them an opportunity to review and critique Mr. Bateman's analyses and opinions. However, Mr. Rondeau did not evaluate the dissipation claims in Mr. Bateman's report. (Docket #1220, p.17.) At the time of writing his report, Mr. Rondeau stated that he had "not received adequate information to evaluate" the amounts related to dissipation. *Id.* Mr. Rondeau also identified certain financial documents and information that was undisclosed by Dmitri during the pendency of the divorce even though Dmitri had been repeatedly ordered to disclose information. (Docket #1581, at ¶51.)

27. Mr. Rondeau also testified at trial and addressed the dissipated assets. Mr. Rondeau stated that he did not see the need to trace the dissipation of transactions because if one party owned an account, the funds in that account belonged entirely to the account owner. *Id.* at ¶53. Mr. Rondeau also indicated that he did not perform an analysis of the missing funds based on Dmitri's instruction. *Id.* at ¶51.

28. The Court did not find Mr. Rondeau's testimony or his report helpful as it was based on an incorrect interpretation of the premarital agreement that was in direct contradiction to the Court's ruling and misinterpreted Utah law on several issues. *Id.* at ¶¶49, 50.

29. In addition to these findings, the Court also considers other relevant factors in determining whether a dissipation of marital assets occurred, including "(1) how the money was spent, including whether funds were used to pay legitimate marital expenses; (2) the parties' historical practices; (3) the magnitude of any depletion; (4) the timing of the challenged actions in relation to the separation and divorce; and (5) any obstructive efforts that hinder the valuation of the assets." *Marroquin v. Marroquin,* 2019 UT App 38, ¶33, 440 P.3d 757 (quoting *Rayner v. Rayner,* 2013 UT App 269, ¶19, 316 P.3d 455).

Marital Expenses.

30. In part, Dmitri claims that the dissipated money was used to cover legitimate marital expenses. While it is true that money spent on legitimate marital expenses does not qualify as dissipation, Dmitri's evidence does not trace the funds to actual marital expenses. Dmitri has not provided the Court with any real evidence besides his general assertions to support his claims that the money went to marital expenses.

31. Based on the lack of credible evidence, the Court is not persuaded by Dmitri's claim that a large portion of funds were used to pay legitimate marital expenses.

The Parties' Historical Practices.

32. A review of the parties' historical financial practices shows that Dmitri was responsible for the parties' financial decisions and is responsible for accounting for the missing funds.

33. During the marriage, Dmitri was the main income earner for the family. Dmitri controlled the parties' finances, which were unorthodox and unusually complex. (Docket #1060, p.6.) For example, Mr. Bateman found that since 2015, the parties had at least fifty-two bank and credit card accounts, both personally and for business, spanning at least fifteen institutions. (Docket #1581, ¶20.) Based on the lack of financial disclosures by Dmitri, the Court found that this is likely a low number due to the lack of documentation. *Id.*

34. Dmitri controlled access to the parties' accounts and often refused Tanecia access to the details of the records and to the parties' financial accounts. *Id.* at ¶17. Dmitri regularly transferred money between accounts and would often transfer money to accounts which Tanecia did not have access to or he would grant Tanecia access to an account and then shortly liquidate it. (Docket #1060, p.7.) The Court found that Dmitri's micromanagement of the parties' money

was so intense that Tanecia could not pay for the children's day-to-day needs without his scrutiny and approval. (Docket #1581, ¶15.)

35. Because Dmitri was primarily in charge of the parties' finances, he was able to move funds without Tanecia's knowledge. Further, Dmitri's financial control prohibited Tanecia from having a clear understanding of the parties' finances and from knowing where funds were at all times. (Docket #1060, p.7.)

36. The Court finds that because Dmitri maintained control over the parties' finances, he was the best person to provide both experts and the Court with the parties' financial information during discovery. Without Dmitri's input, Tanecia and her expert had no way to determine whether the accounting was complete. Any failures to account for funds in Mr. Bateman's report can be directly attributed to Dmitri's failure to cooperate and supply the correct information. Because he failed in this responsibility, the Court was deprived of all of the necessary information it needed to account for all marital assets.

Magnitude of Depletion.

37. The Court considers the magnitude of depletion in this case, which is substantial and amounts to approximately $900,000 in missing funds. This amount represents a significant amount of unaccounted funds from the marital accounts.

Timing of the Dissipation.

38. The Court also looks at the timing of the dissipation in question. The Court finds that the parties had long-standing conflicts in the marriage which provided Dmitri the opportunity to transfer funds in anticipation of divorce. Prior to Tanecia filing for divorce in June 2021, it was clear that the parties were headed for divorce. Tanecia had initially filed for divorce

in August 2020 but withdrew that original petition, and Dmitri was aware that the marriage was deteriorating. (Docket #1581, ¶22.)

39. At the Financial Trial, Tanecia credibly testified that Dmitri told her he intended to hide all assets from her, and when she questioned him about their finances, he stated that she would have to hire someone to try and find them. *Id.*

40. Furthermore, at approximately the same time that Tanecia filed for divorce, Dmitri also claimed that he became unemployed. Throughout the approximately four years of divorce proceedings before this Court, Dmitri has claimed that he is unemployed and/or earning little to no income. Dmitri has maintained his claimed underemployment for years even though the Court has found that there are no barriers that would preclude Dmitri from working and earning at a similar level to what he was earning during the marriage. (Docket #1880, ¶¶10, 40.) It is unclear to the Court how Dmitri is supporting himself and the inability to account for funds coincides with Dmitri's intentional unemployment.

41. In light of these facts, the Court finds that Dmitri had the motivation to move, hide, transfer, and dissipate assets in the years before Tanecia filed for divorce.

Obstructive Efforts.

42. The Court also considers any obstructive efforts that have hindered the valuation of assets. As discussed above, the Court found that Dmitri failed to comply and cooperate with the discovery process.

43. Mr. Bateman noted that Dmitri's lack of cooperation prevented a full analysis of all accounts used by the parties during the marriage and Mr. Bateman did not receive all of the documents he requested. In his report, Mr. Bateman stated that "[a] full analysis of all accounts used by the Parties during the marriage would be required to verify the total unaccounted-for

funds, but Mr. Dessiatnikov's lack of cooperation has prevented this from occurring." (Docket #1060, p.8.) The Court finds that Dmitri failed to provide Mr. Bateman with many of the documents requested or only provided partial information.

44. Dmitri filed motions to block subpoena requests to prevent Mr. Bateman from receiving financial records from all known institutions. *Id.* at p.5. Although Dmitri eventually withdrew these motions, it prevented Mr. Bateman from receiving records in a timely manner, especially considering that trial was already scheduled.

45. Because of Dmitri's motions to quash, at the time of his report, Mr. Bateman had outstanding subpoenas from several banks including ConnectOne Bank, Farmers Insurance Credit Union, HM Bradley (Hatch and New York Community), and HSBC. *Id.* at p.5.

46. After reviewing Dmitri's newly presented evidence, it appears that there were even more accounts for which Mr. Bateman never received information. This aligns with Mr. Bateman's finding that Dmitri and his expert only disclosed a fraction of the fifty-two accounts. (Docket #1581, ¶32.)

47. Dmitri never provided Mr. Bateman or the Court with a complete list of clients, client contracts, or client 1099 tax documents even after the Court repeatedly ordered him to produce copies of client lists. *Id.* at ¶18. He also changed his testimony about whether or not he worked for international or domestic clients after his initial testimony did not match up with client lists that Tanecia had compiled. *Id.* at ¶¶35-37.

48. Dmitri also failed to include all of his accounts in his financial declarations, and he failed to include all of the account balances. *Id.* at ¶¶24-28.

49. Furthermore, due to Dmitri's refusal to cooperate and the parties' complex financial history, Tanecia was required to expend a significant amount of funds and Mr. Bateman spent a considerable amount of time accounting for the parties' finances.

50. The Court found that Mr. Bateman's ability to perform a complete and accurate accounting of the parties' assets and finances was "intentionally stymied by Dmitri's refusal and failure to cooperate in discovery throughout the years of this litigation." *Id.* at ¶39.

51. The Court finds that Dmitri has acted obstructively regarding the unidentified and missing assets. He was not forthcoming with information in discovery despite repeated requests by Tanecia and the Court to produce information. Further, Dmitri did not produce credible evidence to show where the missing funds went.

Stipulations.

52. The Court finds that the majority of the dissipated assets are still unaccounted for, and Dmitri's evidence is not credible. However, after the hearing on March 27, 2025, the parties came to an agreement to remove approximately $3,657.00 from the dissipation amounts.

53. The Court removes $3,225 that Mr. Bateman treated as unreconciled funds titled "Transfer Between Banks Out- Unreconciled (Account Unknown)" and $432.00 for one-half the amount Mr. Bateman treated as unreconciled titled "CC Payment – Unreconciled (Crate & Barrel)" for charges that Tanecia made on a Crate and Barrel credit card in 2019 and 2020. (Docket #1851; *see also* docket #1620, Schedule 5.) This totals $3,657 ($3,225 + $432) and the Court removes this amount from the final amount owing.

Conclusion on Dissipation.

54. After considering all of the relevant factors, the Court finds that Tanecia, through her expert Mr. Bateman, properly showed that there were missing funds and unidentified disbursements.

55. The Court finds that Dmitri's attempts to account for funds are based on evidence that was either 1) never disclosed and Mr. Bateman was not able to include in his review; 2) was never offered at the Financial Trial; 3) is still incomplete; or 4) provides only a partial accounting for funds without a thorough tracing to explain where the funds started and ended. In addition, Dmitri's attempt to excuse a portion of the missing funds with the broad claim that the funds were used for marital expenses lacks evidentiary support.

56. After reweighing the evidence, the Court finds that Mr. Bateman's marital estate schedule and its division of assets between the parties is the most credible, accurate, and most complete picture provided to the Court. Mr. Bateman's report is consistent with Utah law and equitably divided the marital estate while taking into account the parties' separate property as set forth in the Prenup.

57. In sum, the Court is not persuaded by Dmitri's arguments and concludes that Dmitri is responsible for the dissipated funds minus $3,657 in funds that should be removed based upon stipulation of the parties. Thus, the total amount of dissipation is $872,333 ($875,990 - $3,657=$872,333). The Court removes $3,657 from the marital equalization payment in the final accounting.

Double Counting

58. In both his Dissipation Motion and Mathematical Error Motion, Dmitri asks the Court to rectify a double counting error which resulted in $437,995 being improperly attributed

to him. At the April 14, 2025 hearing, the Court found Dmitri's argument persuasive and granted the Mathematical Error Motion in part regarding the double counting of $437,995.

59. In the marital estate schedule, Mr. Bateman accounted for the dissipated assets between the parties, and the amount was incorporated into the equalization payment. (*See* docket #1060, Schedule 7; docket #1620.) In the final accounting of the amount owed to Tanecia by Dmitri in the Financial Findings and the Final Decree of Divorce, the Court awarded Tanecia an equalization payment, and in addition, awarded Tanecia ½ of the unidentified assets in the amount of $437,995. (Docket #1581, Conclusions ¶5; docket #1693 ¶70.)

60. Because the marital estate schedule had already taken into account the unidentified disbursements, the Court finds that it erred in awarding Tanecia an extra $437,995. The Court finds Tanecia is only entitled to her share of the marital estate under Utah law and corrects this error under Rule 60(a). Thus, $437,995 should be removed from the amount awarded to Tanecia in the final distribution.

Attorney Fees

61. In the final decree of divorce, the Court awarded Tanecia 100% of her fees and costs incurred in the matter based upon the following: 1) that Tanecia was the prevailing party in the action, including prevailing on Dmitri's challenge to the terms of the Prenup; 2) because Tanecia has a need for an award of attorney's fees and Dmitri has the ability to pay under Utah R. Civ. P. 102; 3) because Dmitri was found in contempt as set forth in the Final Decree; 4) because Rule 37 sanctions were entered against Dmitri; and 5) because Dmitri was deemed a vexatious litigant. (Docket #1693, ¶68.)

62. Tanecia filed an affidavit which included both legal fees and professional fees. (Docket #1622.) Based on this affidavit, the Court awarded Tanecia attorney's fees and costs in

the amount of $466,292.04. (Docket #1693, ¶74.) This amount was reduced by $200,000.00 based on a credit toward what Dmitri owed Tanecia for attorney's fees which had already been disbursed from Dmitri's ½ of the Condo sale proceeds held in a trust account by Tanecia's attorney. *Id*. The Court entered a judgment in the amount of $266,292.04 for the remainder of the attorney's fees and costs incurred by Tanecia. *Id.*

63. Dmitri challenges this award and argues that there has been a double counting because a) $100,000 in fees were already attributed under personal payables as attorney fees to Jennings and Medura in the marital estate schedule; b) $6,500 was already included in the marital estate schedule under a loan to Tanecia's parents; c) he has already paid $20,000 from his credit card towards Tanecia's attorney fees; and d) costs are not allowed under Utah law.

64. In addition, Dmitri argues that some attorney's fees have been improperly included in the attorney fee affidavit as they do not apply to this case.

65. The Court finds that it was proper to award Tanecia her attorney's fees, however there are some fees that have been improperly included and should be removed.

66. After the post-trial hearing on March 27, 2025, the parties came to an agreement (dockets #1851; #1861) to reduce the attorney award fee by $7,400.75 which includes the following:

a. The parties agreed to remove $5,532 for the loan to Tanecia's parents for attorney's fees.

b. Tanecia agreed that $1,868.75 in attorney fees were incorrectly billed in this case.

67. With respect to the $100,000 entry for payables to Jennings and Medura, the Court finds that Dmitri is owed a credit of $4,422. The Court awarded Tanecia $20,000 per

month for attorney fees from the condo sale proceeds. (*See* dockets #1084, #1242.) A total of $91,156 of these funds were placed in Tanecia's bank accounts. (*See* docket #1620, MACU accounts x3901 ($1,905), x3902 ($15), x3950 (12,598 + $68,522), Utah Power Credit Union accounts x6201 ($50), x6209($6,745), and Zions x1874($1,321).) These funds were then included in the marital estate schedule, which after equalization resulted in Dmitri receiving $45,578 in assets he should not have received. *Id.* The $91,156 in funds was also accounted for in the $200,000 in funds that the Court removed from Dmitri's required payment in the final decree based on funds that had been withdrawn from the condo equity held in trust. (Docket #1693, ¶74.)

68. In the liabilities section of the marital estate schedule, $100,000 was attributed to Tanecia's personal payables to Jennings and Medura, which when equalized shows that Dmitri paid an extra $50,000 in attorney fees based on this number. (Docket #1620.) However, because he had already received a credit of $45,578, Dmitri only paid $4,422 ($50,000-$45,578=$4,422) more than he should have. Therefore, the Court reduces his obligation in attorney fees by $4,422.

69. The Court does not find Dmitri's claim that he paid $20,000 by credit card for Tanecia's attorney fees credible. Dmitri submits a credit card statement that has an entry for $20,000 on August 26 but the exhibit provides no year. (*See* docket #860, Exhibit F.) Tanecia credibly testified that this money was paid for a retainer related to Tanecia's initial divorce filing in August 2020, which she withdrew before filing the instant case. Therefore, the Court is not persuaded that these funds were used in this divorce proceeding.

70. The Court is not persuaded by Dmitri's argument that $93,124.70 in costs should be removed. Litigation in this matter all stemmed from challenges to the Premarital Agreement. Under the terms of the Premarital Agreement, "[i]n the event any action is initiated by any

person to enforce and/or defend the provisions of this Agreement or its enforceability, the prevailing party shall be entitled to recover their costs of suit, including a reasonable attorney's fee." (Docket #202, ¶15.) Thus, the parties agreed that the prevailing party could recover the costs associated with litigation. Tanecia was the prevailing party and therefore, her costs are awardable under the terms of the Prenup.

71. In light of these findings, the Court concludes that the attorney fees should be reduced by $11,822.75. The total amount Dmitri owes to Tanecia in attorney fees is $254,469.29:

Attorney Fees Awarded	$466,292.04
Amount Awarded from Condo Proceeds	($200,000.00)
Stipulated Removals	($7,400.75)
Credit To Dmitri	($4,422.00)
Total	**$254,469.29**

Overall

72. The Court finds that, although the majority of the $875,990 in dissipated assets is still unaccounted for, it does remove $3,657 based on the agreement of the parties. The Court removes this amount from the marital estate equalization payment, as the dissipation amount is incorporated into that amount. With the adjustments for unidentified disbursements, the marital estate equalization payment amounts to $570,895 ($574,552-$3,657=$570,895).

73. The Court also removes the $437,995 in funds which were mistakenly double counted.

74. Both parties were awarded $50,000 each per the Court's September 23, 2024 Order (docket #1519; docket #1693 ¶71). Reducing the above owed to Tanecia by the $50,000 she has already received.

75. With the above adjustments, the final property distribution awarded to Tanecia is:

½ Wander Lane Proceeds	$1,260,982.34
½ Condo Proceeds	$249,314.08
Marital Estate Equalization Payment	$574,552.00
Less adjustments	($3,657)
½ Cash Taken from Marital Safe	$3,910.00
Court's September Order	($50,000)
Total	**$2,035,101.42**

76. In addition, to the above, Tanecia is awarded 100% of her attorneys' fees and costs minus the double-counted amounts. The Court awarded fees and costs in the amount of $466,292.04 which it reduces to $254,469.29 based on 1) the $11,822.75 in reductions discussed above and 2) the $200,000 credit to Dmitri representing the amount already distributed from Dmitri's one-half of the Condo proceeds held in Ms. Medura's trust account. Therefore, a judgment against Dmitri is hereby entered in the amount of $254,469.29 for the remainder of attorney's fees and costs incurred by Tanecia in this action.

77. In sum, a judgment against Dmitri for the unpaid property distribution in the amount of $2,035,101.42, plus the total award of attorney's fees and costs in the amount of $254,469.29 totaling $2,289,570.71 ($2,035,101.42 +$254,469.29=$2,289,570.71) is hereby entered.

78. The remaining Condo proceeds for distribution from Ms. Medura's trust account totals $32,221.40. (Docket #1693, ¶73.) The total proceeds from the sale of the Wander Lane home held in escrow with the title company is $2,421,964.67. *Id.* The total proceeds from the sale of both properties is $2,454,186.07. *Id.*

79. The Court will address alimony arrears and child support in its forthcoming order on Alimony.

ORDER

Based upon the foregoing, IT IS HEREBY ORDERED that Dmitri Dessiatnikov's Motion to Amend Findings of Fact and Conclusions of Law Re: Tanecia's Claim of Dissipation of Marital Assets is GRANTED in part and DENIED in part as stated above. It is FURTHER ORDERED that Dmitri Dessiatnikov's Rule 60(a) Motion to Correct Double Counting and Mathematical Errors in Decree is GRANTED in part and DENIED in part as stated above.

When all post-trial motions have been resolved, the Court will direct the parties to file an amended decree of divorce consistent with the Court's original decree, as modified in part by the Court's rulings on post-trial motions.

DATED May 15, 2024

THIRD DISTRICT COURT

STATE OF UTAH
THIRD DISTRICT COURT
SALT LAKE CITY

Keith Kelly
Third District Court Judge

*****END OF ORDER*****

Proposed Amendment

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, docket number, 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 21 days after filing the 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 ~~May 1~~, 202~~6~~

TAB 4

Utah Court of Appeals

450 South State Street
P.O. Box 140230
Salt Lake City, Utah 84114-0230

Appellate Clerks' Office
Telephone: (801) 578-3900
Utah Relay: (800) 346-4128
Email: courtofappeals@utcourts.gov

February 19, 2026

Nathalie Skibine, Chair
Supreme Court Advisory Committee on the Rules of Appellate Procedure

Re: An Appellate Rule for Disqualification of a Judge

Dear Members of the Advisory Committee:

In the not-too-distant past, I believe the Advisory Committee on the Rules of Appellate Procedure has discussed whether our appellate rules should contain a provision similar to Utah Rule of Civil Procedure 63 and Utah Rule of Criminal Procedure 29. I understand that the conclusion was reached that Utah needed no such rule. I ask that you re-examine this issue.

In the past couple of months more than one motion to disqualify a judge on the court of appeals has been filed. This morning, a mere thirty minutes before oral argument, a panel of the court of appeals was informed that a motion had been filed seeking to disqualify two members of the panel. Navigating the questions of how the target judges might respond, how the motion should be reviewed, and who should rule on the motion was made more difficult because of the absence of any rule on the issue.

Many appellate courts have rules addressing this issue. Utah should too.

Yours,

David Mortensen

David Mortensen, Associate Presiding Judge
Utah Court of Appeals

Rule XX. Disqualification or recusal of a court of appeals judge.

(a) **Motion to disqualify or recuse.**

(1) A party to an action or the party's attorney may file a motion to disqualify or recuse a judge. The motion must be accompanied by a certificate that the motion is filed in good faith and must be supported by an affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act stating facts sufficient to show bias, prejudice, or conflict of interest.

(2) The motion must be filed within seven days of:

(A) assignment of the judge to the panel; or

(B) appearance of the party or the party's attorney.

(3) Every motion to disqualify or recuse a judge must be signed by at least one attorney of record who is an active member in good standing of the Bar of this state or by a party who is self-represented. A person may sign a document using any form of signature recognized by law as binding.

(4) No party may file more than one motion to disqualify in an action, unless the second or subsequent motion is based on grounds that the party did not know of and could not have known of at the time of the earlier motion. Motions to disqualify or recuse more than one judge must be submitted as one motion.

(5) The affidavit or declaration supporting the motion must state when and how the party came to know of the reason for disqualification or recusal.

(b) **Reviewing judge.**

(1) The judge who is the subject of the motion must, without taking any further action on the matter, certify the motion and affidavit or declaration to the presiding judge of the court of appeals. If the presiding judge is the subject of the motion, the associate presiding judge will review the motion.

(2) If the reviewing judge finds that the motion and affidavit or declaration are timely filed, filed in good faith, and legally sufficient, the reviewing judge shall issue an order assigning another judge to the panel.

(3) In determining issues of fact or of law, the reviewing judge may consider any part of the record of the action and may request of the judge who is the subject of the motion, an affidavit or declaration responding to questions posed by the reviewing judge.

(4) The reviewing judge may deny a motion not filed in a timely manner.

Rule XX. Disqualification or recusal of a justice.

(a) **Motion to disqualify or recuse.**

(1) A party to an action or the party's attorney may file a motion to disqualify a judge. The motion must be accompanied by a certificate that the motion is filed in good faith and must be supported by an affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act stating facts sufficient to show bias, prejudice or conflict of interest.

(2) The motion must be filed no later than 21 days after the notice of oral argument scheduling. If oral argument is scheduled on an expedited basis, the motion is due when practicable, not less than seven days before oral argument.

(3) Every motion to disqualify or recuse a judge must be signed by at least one attorney of record who is an active member in good standing of the Bar of this state or by a party who is self-represented. A person may sign a document using any form of signature recognized by law as binding.

(4) No party may file more than one motion to disqualify in an action, unless the second or subsequent motion is based on grounds that the party did not know of and could not have known of at the time of the earlier motion. Motions to disqualify or recuse more than one justice must be submitted as one motion.

(5) The affidavit or declaration supporting the motion must state when and how the party came to know of the reason for disqualification.

(b) **Reviewing justice or justices.**

(1) The Chief Justice will review all motions to disqualify or recuse. If the Chief Justice is the subject of the motion, the remaining justices will review the motion.

(2) If the reviewing justice or justices find that the motion and affidavit or declaration are timely filed, filed in good faith, and legally sufficient, the reviewing justice or

justices will call an active judge from an appellate court or the district court to participate in the cause in place of the disqualified or recused justice.

(3) In determining issues of fact or of law, the reviewing justice or justices may consider any part of the record of the action and may request of the justice who is the subject of the motion, an affidavit or declaration responding to questions posed by the reviewing justice or justices.

(4) The reviewing justice may deny a motion not filed in a timely manner.

TAB 5

Rule 19. Extraordinary relief.

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) **Expedited review.** When expedited review is sought, the petitioner must file a separate motion pursuant to Rule 23C explaining why expedited review is requested. Any response to a motion filed under Rule 23C is governed by that rule and is separate from any response to a petition filed under Rule 19.

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

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

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

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

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

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

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

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

(1) paragraph (i), governing the number of pages or words (the filer may rely on the word count of the word processing system used to prepare the document); and

(2) Rule 21, governing filings containing non-public information.

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

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

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

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

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

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

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

(2) A copy of the writ will be served on the named respondents in the manner and by an individual authorized to accomplish personal service under Rule 4 of the Utah

Rules of Civil Procedure. In addition, copies of the writ must be transmitted by the appellate court clerk, by the most direct means available, to all persons or associations whose interests might be substantially affected by the writ.

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

(n) **Rejection of petition.** The clerk may reject any petition for extraordinary relief that does not substantially comply with the content requirements of paragraph (e).

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

Advisory Committee Note

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

Note adopted May 1, 2023

Rule 48. Time for petitioning.

(a) **Timeliness of petition.** A petition for a writ of certiorari must be filed with the Supreme Court clerk within 30 days after the Court of Appeals' final decision is issued, and not from the date the remittitur is issued. Pursuant to Rule 21, the filing fee must be paid to the appellate court clerk, unless waived by the court.

(b) **Rejection of petition.** The clerk will reject any petition for a writ of certiorari not timely filed.

(c) **Effect of petition for rehearing.** If a petition for rehearing that complies with Rule 35(a) is timely filed by any party, the time for filing the petition for a writ of certiorari for all parties runs from the date the petition for rehearing is denied or a subsequent decision on the rehearing is issued. A request filed under Rule 35(b) does not affect the time for filing a petition for a writ of certiorari, unless the Court of Appeals treats the request as a petition for rehearing under Rule 35(a).

(d) **Time for cross-petition.**

(1) A cross-petition for a writ of certiorari must be filed:

(A) within the time provided in either paragraphs (a) or (c) of this rule; or

(B) within 30 days of the filing of the petition for a writ of certiorari.

(2) Any cross-petition that is timely only under paragraph (d)(1)(B) will not be granted unless a timely petition for a writ of certiorari of another party to the case is granted.

(3) Pursuant to Rule 21, the filing fee must be paid to the appellate court clerk, unless waived by the court.

(4) A cross-petition for a writ of certiorari may not be joined with any other filing. The clerk will reject any filing so joined.

(e) **Time extensions.**

(1) Before the time prescribed by paragraph (a) or (c) expires, the Supreme Court will grant a party's request to extend the time for filing a petition or cross-petition, not to exceed 30 days past the prescribed time.

(2) Within 30 days after the time prescribed by paragraph (a) or (c) expires, a party may file a motion to extend the time for filing a petition or cross-petition. The Supreme Court will grant the motion only upon a showing of good cause or excusable neglect. No extension may exceed 30 days past the prescribed time or 14 days from the date the order granting the motion is entered, whichever occurs later, and no more than one extension will be granted. The Supreme Court may rule at any time after the motion is filed.

(3) The clerk may construe a petition rejected under paragraph (f) of Rule 49 or a notice of appeal or other filing that does not comply with the requirements of Rule 49 as a request for an extension of time to file a petition for certiorari if the rejected petition, notice of appeal, or other filing is submitted before the time prescribed by paragraph (a) or (c) expires.

Effective ~~May 1, 2024~~

Rule 49. Petition for writ of certiorari.

(a) **Contents**. The petition for a writ of certiorari ~~shall~~ must contain, in the order indicated:

~~(a)~~(1) A list of all parties to the proceeding in the court whose judgment is sought to be reviewed, except where the caption of the case in the Supreme Court contains the names of all parties;~~.~~

~~(a)~~(2) A table of contents with page references;~~.~~

~~(a)~~(3) 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;~~.~~

~~(a)~~(4) The questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of the questions should be short and concise and should not be argumentative or repetitious. General conclusions, such as "~~"~~the decision of the Court of Appeals is not supported by the law or facts,"~~"~~ are not acceptable. The statement of a question presented will be deemed to comprise every subsidiary question fairly included ~~therein~~in that question. Only the questions ~~set forth~~stated in the petition, or fairly included ~~therein~~ in those questions, will be considered by the Supreme Court;~~.~~

~~(a)~~(5) A reference to the official and unofficial reports of any opinions issued by the Court of Appeals;~~.~~

~~(a)~~(6) A concise statement of the grounds on which the jurisdiction of the Supreme Court is invoked, showing:

~~(a)(6)~~(A) the date of the entry of the decision sought to be reviewed;

~~(a)(6)~~(B) the date of the entry of any order respecting a rehearing and the date of the entry and terms of any order granting an extension of time within which to petition for certiorari;

~~(a)(6)~~(C) reliance upon Rule 48(d)(1)(B), where a cross-petition for a writ of certiorari is filed, stating the filing date of the petition for a writ of certiorari in connection with which the cross-petition is filed; and

~~(a)(6)~~(D) the statutory provision believed to confer jurisdiction on the Supreme Court;~~.~~

~~(a)(7) 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 be set forth in the appendix referred to in subparagraph (10) of this paragraph.~~

~~(a)~~(7~~8~~) A statement of the case~~. The statement shall first indicate briefly the nature of the case, the course of the proceedings, and its disposition in the lower courts. There shall follow a statement of the facts relevant to the issues presented for review~~ that includes the facts and the procedural background 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;~~.~~

~~(a)~~(8~~9~~) With respect to each question presented, a direct and concise argument explaining the special and important reasons as provided in Rule 46 for the issuance of the writ;~~. and~~

~~(a)~~(9~~10~~) An appendix containing, in the following order:

~~(a)(10)~~(A) copies of all opinions, including concurring and dissenting opinions, and all orders, including any order on rehearing, delivered by the Court of Appeals in rendering the decision sought to be reviewed;

~~(a)(10)~~(B) copies of any other opinions, findings of fact, conclusions of law, orders, judgments, or decrees that were rendered in the case or in companion cases by the Court of Appeals and by other courts or by administrative agencies and that are

relevant to the questions presented. Each document ~~shall~~ must include the caption showing the name of the issuing court or agency, the title and number of the case, and the date of its entry; and

~~(a)(10)~~(C) any other judicial or administrative opinions or orders that are relevant to the questions presented but were not entered in the case that is the subject of the petition.

~~If the material that is required by subparagraphs (7) and (10) of this paragraph is voluminous, they may be separately presented.~~The appendix may be separately presented; and~~.~~

(10) **A certificate of compliance**. The filer must certify that the petition complies with:

(A) paragraph (d), governing the number of pages or words (the filer may rely on the word count of the word processing system used to prepare the petition); and

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

(b) **Form of petition**. The petition for a writ of certiorari ~~shall~~ must comply with the form of a brief as specified in Rule 27.

(c) **No separate brief**. All contentions in support of a petition for a writ of certiorari ~~shall~~ must be set forth in the body of the petition~~, as provided in subparagraph (a)(9) of this rule~~. The petitioner ~~shall~~ may not file a separate brief in support of a petition for a writ of certiorari. ~~If the petition is granted, the petitioner will be notified of the date on which the brief in support of the merits of the case is due.~~

(d) **Page or word limitation**. The petition for a writ of certiorari ~~shall~~ must be as short as possible, and no more than 4,000 words or ~~but may not exceed 20~~15 pages if a word count is not provided.~~, excluding~~ These limits do not include ~~the subject index, the~~any table of contents, table of authorities, ~~any verbatim quotations required by subparagraph (a)(7) of this rule, and the~~ appendix, or certificates.

(e) **Absence of accuracy, brevity, and clarity**. The failure of a petitioner to present with accuracy, brevity, and clarity whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition.

(f) **Rejection of petition.** The clerk may reject any petition for a writ of certiorari that does not substantially comply with the content requirements of paragraph (a).

TAB 6

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) **Preparation and transmittal of the record.** At the conclusion of the remand proceedings before the juvenile court, the juvenile court clerk will immediately prepare the record of the supplemental proceedings and will transmit the supplemental record to the appellate court.

(gf) **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.

Effective November 1, 2025

TAB 7

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 must file and serve a principal brief within 30 days after service of the appellant's principal brief.

(3) **Appellant's reply brief.** The appellant may file a reply brief. 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. 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 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 Rule 24A(c) within 30 days after service of the appellant's principal brief.

(3) **Appellant's reply brief.** 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.

(c) **Extensions of time.** A party may seek an extension 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~~ten 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 may be extended by appellate court order, an appellant may move that the appellee not be heard at oral argument.

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

Effective ~~May 1~~, 202~~6~~

TAB 8

Rule 24. Principal and reply briefs.

(a) **Principal briefs**. Principal briefs must contain under appropriate headings and in the order indicated:

(1) **A list of current and former parties**. The list of parties must include:

(A) all parties to the proceeding in the appellate court and their counsel; and

(B) listed separately, all parties to the proceeding in the court or agency whose judgment or order is under review that are not parties in the appellate court proceeding.

(2) **A table of contents**. The table of contents must list the sections of the brief with page numbers and the items in the addendum with the item number.

(3) **A table of authorities**. The table of authorities must list all cases alphabetically arranged, rules, statutes, and other authorities cited, with references to the pages on which they are cited.

(4) **An introduction**. The introduction should describe the nature and context of the dispute and explain why the party should prevail on appeal.

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

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

(B) citation to the record showing that the issue was preserved for review; or a statement of grounds for seeking review of an issue not preserved.

(6) **A statement of the case**. The statement of the case must include, with citations to the record:

(A) the facts of the case, to the extent necessary to understand the issues presented for review; arguments

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

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

(7) **A summary of the argument**. The summary of the argument must contain a succinct statement of the arguments made in the body of the brief.

(8) **An argument**. The argument must explain, with reasoned analysis supported by citations to legal authority and the record, why the party should prevail on appeal.

(9) **A claim for attorney fees**. A party seeking attorney fees for work performed on appeal must state the request explicitly and set forth the legal basis for an award.

(10) **A short conclusion**. The conclusion may summarize the party's position and must state the specific relief sought on appeal.

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

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

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

(12) **An addendum**. Subject to Rule 21(h), the addendum must contain a copy of:

(A) any constitutional provision, statute, rule, or regulation of central importance cited in the brief but not reproduced verbatim in the brief;

(B) the order, judgment, opinion, or decision under review and any related minute entries, findings of fact, and conclusions of law; and

(C) materials in the record that are the subject of the dispute and that are of central importance to the determination of the issues presented for review, such as challenged jury instructions, transcript pages, insurance policies, leases, search warrants, or real estate purchase contracts.

(b) **Reply brief**. The appellant or petitioner may file a reply brief. A reply brief must be limited to responding to the facts and arguments raised in the appellee's or respondent's principal brief. The reply brief must include:

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

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

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

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

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

(c) **No further briefs; joining or adopting the brief of another party**. No further briefs may be filed except with leave of the appellate court. More than one party may join in a single brief. Any party may adopt by reference any part of the brief of another.

(d) **References in briefs to parties and others**. Parties and other persons and entities should be referred to consistently by the term, phrase, or name most pertinent to the issues on appeal. These may include descriptive terms based on the person or entity's role in the dispute, or the designations used in the trial court or agency, or the names of parties. Unless germane to an issue on appeal, a party should not be described solely by the party's procedural role in the case. The identity of minors should be protected by use of descriptive terms, initials, or pseudonyms. In child welfare appeals, the surname of a minor must not be used nor may a surname of a minor's biological, adoptive, or foster parent be used.

(e) **References to the record**.

(1) Statements of fact and references to proceedings in the court or agency whose judgment or order is under review must be supported by citation to the record. A citation must identify the page of the record as marked by the clerk.

(2) A reference to an exhibit must set forth the exhibit number. If the reference is to evidence the admissibility of which is in controversy, the reference must set forth the pages of the record at which the evidence was identified, offered, and received or rejected.

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

(g) **Length of briefs**.

(1) Unless a brief complies with the following page limits, it must comply with the following word limits asdf:

Type of brief	**Page limit**	**Word limit**
Legality of death sentence, principal brief	60	28,000
Legality of death sentence, reply brief	30	14,000
Other cases, principal brief	30	14,000
Other cases, reply brief	15	7,000

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

(h) **Permission to file over length brief**. Although over length briefs are disfavored, a party may file a motion for leave to file a brief that exceeds the page, or word limitations of this rule. The motion must state with specificity the issues to be briefed, the number of additional pages, or words requested, and good cause for granting the motion. A motion filed at least ~~7~~seven days before the brief is due or seeking three or fewer additional pages, or 1,400 or fewer additional words need not be accompanied by a copy of the proposed brief. Otherwise, a copy of the proposed brief must accompany the motion. If the motion is granted, the responding party is entitled to an equal number of additional pages, or words without further order of the court. ~~Whether~~If the motion is ~~granted or~~ denied, the court will destroy the proposed brief.

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

(j) **Notice of supplemental authorities**. When authority of central importance to an issue comes to the attention of a party after briefing or oral argument but before decision, that party may file a notice of supplemental authority setting forth:

(1) the citation to the authority;

(2) a reference either to the page of the brief or to a point argued orally to which the authority applies; and

(3) relevance of the authority. The body of the notice must not exceed 350 words. Any other party may file a response no later than ~~7~~seven days after service of the notice. The body of the response must not exceed 350 words.

Effective November 1, 2017

Advisory Committee Notes

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

Paragraph (a)(4). A party's principal brief should include an introduction. The author should focus the introduction on the important features of the case. The introduction to one case may be only a few sentences, while a more complex case may require a few paragraphs or perhaps a few pages. The objective of the introduction is to give the reader a sense of the forest before detailing the trees.

Paragraph (a)(6). The statement of the case should describe the facts surrounding the dispute and procedural history of the litigation, but only to the extent that these are necessary to understand the issues. Describing a fact or circumstance or proceeding that

has no bearing on the issues adds words of no value and distracts the reader. When stating a fact or describing a proceeding, a concise narrative is sometimes a better presentation than a numbered, itemized list. The party must cite to the places in the record that support the statement.

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

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

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

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

The name of a minor is often a private record and caution should be used to avoid including other names or information from which a minor might be identified. A minor's surname should be used only with the informed consent of a mature minor.

The author may file a private brief for the parties and the court using the minor's name while simultaneously filing an otherwise identical public brief with the minor's name omitted, redacted, reduced to initials, or substituted with a placeholder name. A minor may be referred to by a descriptive term such as "the child," "the 11-year old," or "the sister." The biological, adoptive, or foster parents of minors may be referred to by their relation to the minor, such as "mother," "adoptive parent," or "foster father."

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

Paragraph (g). Because of the increasing rarity of monospaced font, the 2017 amendments eliminated the number of lines as a measure of a brief's length. And to improve the clarity of Rule 24, the 2017 amendments moved the requirements for briefs in a cross-appeal to Rule 24A.

Note ~~A~~adopted 2017

TAB 9

IN THE SUPREME COURT OF THE STATE OF UTAH

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Standing Order No. 17

(Temporary Standing Order for Extensions of Time in Criminal Appeals)

Effective January 23, 2026

Extensions of time in criminal appeals have become endemic in Utah's appellate courts. The cause of the extensions is consistent—the public defender agencies and the Utah Attorney General's office do not have enough appellate counsel to keep up with the number of appeals filed. Counsel regularly request more time to file appellate briefs. In criminal appeals, extensions of up to 180 days have become standard.

Reasonable extensions of time in both civil and criminal appeals are usually unopposed. Allowing parties to stipulate to unopposed extensions, rather than file motions demonstrating good cause, improves efficiency for counsel, the parties, and the courts. Counsel and the parties can focus their time and resources on the substance of the appellate work instead of the formalities of unopposed motions.

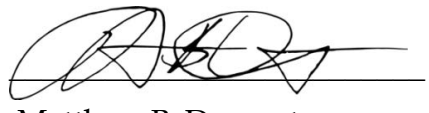
Accordingly, concurrent to this Standing Order, the Utah Supreme Court amended rule 22 of the Utah Rules of Appellate Procedure to allow extensions of time to file briefs, in any appeal, by stipulation instead of by motion. Under the amended rule, counsel may, by timely stipulation and without awaiting a court order, extend the time to file any brief by a total of 60 days.

Criminal appeals, however, currently warrant a greater extension of the time to file briefs—longer than 60 days—because of the current attorney shortages at the publicly-funded defense and prosecution agencies. Through this Standing Order, counsel in criminal appeals may, by timely stipulation and without awaiting a court order, extend the time to file any brief by a total of 180 days. Any stipulation to extend the total time to file a brief beyond the 60 days allowed by rule 22 and up to 180 days must (1) be filed prior to the expiration of the time for which the extension is sought and (2) must cite this Standing Order. Requests for extension beyond 180 days must be made by motion under rule 22.

This Standing Order is temporary. It will be withdrawn or amended as staffing shortages at the public defender agencies and the Utah Attorney General's office are resolved, or when the additional time is no longer needed.

IT IS SO ORDERED.

DATED this 23rd day of January, 2026



Matthew B. Durrant
Chief Justice
Utah Supreme Court