



## 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 <a href="https://utcourts.webex.com/utcourts/j.php?MTID=mb7f5b446c80f148eda1b37ef68a4ba48">https://utcourts.webex.com/utcourts/j.php?MTID=mb7f5b446c80f148eda1b37ef68a4ba48</a>
Date:	June 4, 2026
Time:	12:00 to 1:30 p.m.

<b>Action:</b> Welcome and approval of May 7, 2026 Minutes	Tab 1	Nathalie Skibine, Chair
<b>Action:</b> Appellate Disqualification	Tab 2	Judge Christiansen Forster, Judge Mortensen, Nicole Gray, Clark Sabey
<b>Action:</b> Rule 24	Tab 3	Nathalie Skibine
<b>Action:</b> Rules 48 and 49	Tab 4	Clark Sabey
<b>Action:</b> Items referred by the Supreme Court	Tab 5	Nathalie Skibine
<b>Action:</b> URE 107/URAP 11	Tab 6	Nick Stiles
<b>Discussion:</b> Old/new business		Nathalie Skibine, Chair

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

**2026 Meeting schedule:**

July 2, 2026	September 3, 2026	November 5, 2026
August 6, 2026	October 1, 2026	December 3, 2026

# TAB 1



## Minutes

### Supreme Court's Advisory Committee on the Utah Rules of Appellate Procedure

Administrative Office of the Courts  
450 South State Street  
Salt Lake City, Utah 84114

In Person and by WebEx Videoconference  
Thursday, May 7, 2026  
12:00 pm to 1:30 pm

#### PRESENT

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

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

#### EXCUSED

Judge Gregory Orme  
Martha Pierce  
Nick Stiles—Staff

#### GUESTS

None

1. **Action:** **Nathalie Skibine, Chair**  
**Approval of March 2026 Minutes**

The committee reviewed the March 2026 minutes and did not identify any errors.

*Michelle Quist moved to approve the March 2026 minutes as they appeared in the committee's materials. Judge Michele Christiansen Forster seconded that motion, and it passed without objection by unanimous consent.*

**2. Action: Nathalie Skibine, Chair**  
**Final Approval of Rule 22**

The committee received one comment regarding Rule 22, but that comment did not present any issues that merit further consideration by the committee.

*Following that discussion, Mary Westby moved for final approval of the rule as drafted and discussed. Tera Peterson seconded, and it passed without objection by unanimous consent. The rule has already gone into effect, but it will be sent to the Supreme Court for ratification.*

**3. Action: Nathalie Skibine, Chair**  
**Final Approval of Rules 27, 49, and 50**

The committee received two comments, both of which relate to Rule 27. The first flagged a numbering issue. The second proposed including “capital cases” in the list of case types identified on the front page of a brief. After discussing those comments, the committee opted to make both suggested changes.

*Following that discussion, Judge Gregory Orme moved to approve the rules as drafted and modified. Clark Sabey seconded that motion, and it passed without objection by unanimous consent. The rules will be sent to the Supreme Court for either final approval or for recirculation. Nathalie Skibine noted that due to the nature of the changes to Rule 27, it may need to be recirculated for public comment.*

**4. Action: Nathalie Skibine, Chair**  
**Final Approval of Rules 48, 49, 55A, and 26**

No public comments were received for this set of proposed rule changes.

*Without any additional comments or concerns to review, Judge Orme moved to approve the rules as drafted and included in the committee’s materials. Mr. Sabey seconded that motion, and it passed without objection by unanimous consent. The rules will be sent to the Supreme Court for final approval.*

5. **Action:** **Mary Westby**  
**Rule 1**

The committee had paused before voting on final approval of Rule 1 to await potential legislative clean-up. The legislature took no action on the rule. Dick Baldwin proposed change to subsection (f) to clarify provision by reordering sentences. The committee discussed that change and spent time reworking the rule for clarity.

*Following that discussion, Judge Christiansen Forster moved to approve the rule as modified, as it appeared on screen at the committee's meeting. Ms. Westby seconded that motion, and it passed without objection by unanimous consent. The rule will be sent to the Supreme Court for review, approval, and circulation.*

6. **Action:** **Clark Sabey**  
**Rule 19**

The committee noted that this rule had been reviewed once before, but the committee had held on the rule to allow for further consideration by the courts and other stakeholders. In discussion, the committee raised concerns that the content requirements in paragraph (3) may be difficult to quickly verify. Mr. Sabey explained that the clerk will review content only to ensure certain sections are present. To simplify that process, the committee amended subparagraph (e) to require parties to include headings corresponding to each type of content required in the petition.

*Following that discussion, the committee received a motion to approve the rule as modified, as it appeared on screen at the committee's meeting. That motion was seconded, and it passed without objection by unanimous consent. The rule will be sent to the Supreme Court of review, approval, and circulation.*

7. **Action:** **Judge Christiansen Forster,**  
**Appellate Disqualification** **Nicole Gray, Clark Sabey**

The committee discussed, at length, questions regarding timing in case of substitution and regarding how addition or substitution of counsel could result

in serial motions to disqualify. The committee made additional changes to ensure consistency with other rules and to address concerns about potential misuse of the rule.

*Following that discussion, the committee resolved to assign a subcommittee to generate and propose further changes based on the discussions at that meeting, with a goal of reviewing a new draft at the committee's June meeting.*

**8. Action: Nathalie Skibine, Chair**  
**Rule 26**

Rule 26 is already in effect, but the committee took time to review a public comment that had been received in late 2025 but initially overlooked. That comment proposed that the phrase "filing and service" be reduced to simply "service," consistent with other parts of the rule. The committee supports that change.

*Following that discussion, Judge Orme moved to approve that change. Judge Michele Christansen-Forster seconded that motion, and it passed without objection by unanimous consent. The revised rule will be sent to the Supreme Court for review, approval, and circulation.*

**9. Action: Nathalie Skibine, Chair**  
**Items Referred by the Supreme Court**

The committee did not have time to turn to the additional items referred to the committee by the Supreme Court. Ms. Skibine asked the committee members to review the items and consider potential draft language for the committee's June meeting.

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

None.

**11. Adjourn**

**Nathalie Skibine, Chair**

*Following the business and discussions described above, the committee adjourned.  
The committee's next meeting will take place on June 4, 2026.*

# TAB 2

1 **Proposed Rule**

2 (a) **Motion to Disqualify.**

3 (1) **Requirements.**

4 (A) Any party to an appeal ~~or the party's attorney~~ may file a motion to disqualify  
5 a Justice or a Judge.

6 (B) The motion must be accompanied by a certificate that the motion is filed in  
7 good faith and must be supported by an affidavit or unsworn declaration as  
8 described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act stating  
9 facts sufficient to show bias, prejudice, or conflict of interest.

10 (2) **Time for filing.**

11 (A) **Supreme Court.** The motion must be filed within 14 days after the later of~~after~~  
12 ~~notice of oral argument has been entered but not later than 14 days after the last~~  
13 ~~of~~ the following:

14 (i) notice of oral argument~~appearance of the party or the party's attorney~~; or

15 (ii) the date on which the moving party knew or should have known of the  
16 grounds upon which the motion is based; or

17 (iii) If the last event occurs fewer than 14 days before oral argument, if  
18 scheduled, the motion must be filed as soon as practicable but not later than 48  
19 hours before oral argument.

20 (B) **Court of Appeals.** The motion must be filed after the docketing statement has  
21 been filed but not later than 14 days after the last of the following:

22 (i) notice of appearance~~of the party or the party's attorney~~; or

23 (ii) the date on which the moving party knew or should have known of the  
24 grounds upon which the motion is based; or

25 (iii) ~~If~~ the last event occurs fewer than 14 days before oral argument, if  
26 scheduled, the motion must be filed as soon as practicable but not later than 48  
27 hours before oral argument.

28 (3) **Attorney's or party's signature.** Signing the motion or affidavit or declaration  
29 constitutes a certificate under [Rule 40](#) and subjects the party or attorney to the  
30 procedures and sanctions of [Rule 40](#).

31 (4) **Subsequent motion.** No party may file more than one motion to disqualify in an  
32 action, unless the second or subsequent motion is based on grounds that the party did  
33 not know of and could not have known of at the time of the earlier motion.

34 (5) **Timeliness of motion.** If timeliness of the motion is determined under paragraph  
35 (a)(2)(A)(ii), paragraph (a)(2)(B)(ii), or paragraph (a)(4) the affidavit or declaration  
36 supporting the motion must state when and how the party came to know of the reason  
37 for disqualification.

38 (b) **Resolution of Motion.**

39 (1) **Supreme Court.**

40 (A) If the Justice who is the subject of the motion does not voluntarily recuse from  
41 the case, the motion will be submitted to the law and motion panel. [The justice  
42 who is the subject of the motion will take no further action in the case until the  
43 motion is decided.](#)

44 (i) If the Justice who is the subject of the motion is a member of the law and  
45 motion panel, another member of the court, not assigned to the law and motion  
46 panel, will be invited to sit ad hoc. The law and motion panel may either deny  
47 the motion or refer the motion to the full court for review.

48 (ii) The full court will consist of all members of the court who are not the  
49 subject(s) of the motion. If less than three members of the court are available,  
50 an active judge from the appellate or district court will be called to participate  
51 for the limited purpose of resolving the motion.

52 (B) If the reviewing Justices find that the motion and affidavit or declaration are  
53 timely filed, filed in good faith, and legally sufficient, then a substitute Justice will  
54 be assigned to the case consistent with the rules and practices of the Utah Supreme  
55 Court.

56 (C) In determining issues of fact or of law, the reviewing Justices may consider any  
57 part of the record and may request of the subject Justice an affidavit or declaration  
58 responding to questions posed by the reviewing Justices.

59 **(2) Court of Appeals.**

60 (A) If the Judge who is the subject of the motion does not voluntarily recuse from  
61 the case, the judge will refer the motion to the Presiding Judge or, if the Presiding  
62 Judge is the subject of the motion, to the Associate Presiding Judge for review. If  
63 neither the presiding judge nor the associate presiding judge are available, any  
64 other judge of the court of appeals may serve as the reviewing judge. The judge  
65 who is the subject of the motion will take no further action in the case until the  
66 motion is decided.

67 (B) If the reviewing judge finds that the motion and affidavit or declaration are  
68 timely filed, filed in good faith, and legally sufficient, then another Court of  
69 Appeals Judge will be assigned to the case consistent with the rules and practices  
70 of the Court of Appeals.

71 (C) In determining issues of fact or of law, the reviewing Judges may consider any  
72 part of the record and may request of the Judge who is the subject of the motion  
73 an affidavit or declaration responding to questions posed by the reviewing Judges.

74 *Effective*

75 **Advisory Committee Note**

76 [Insert comment regarding internal processes for recusal]

# TAB 3

1 **Rule 24. Principal and reply briefs.**

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

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

5 (A) all parties to the proceeding in the appellate court and their [appellate and trial](#)  
6 [court or agency](#) counsel; and

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

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

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

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

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

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

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

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

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

**Commented [JP1]:** I'd like to discuss with the committee chairs adding "appellate and trial court or agency" before "counsel." I've noticed there is some inconsistency in the listing of counsel, and often times (if not most of the time) we only see the names of appellate counsel. To do a full conflicts review, we need trial/agency counsel listed, as well.

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

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

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

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

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

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

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

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

42 (B) [Rule 21](#), governing public and private records.

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

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

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

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

**Commented [JP2]:** I'd like to consider revising this to require the filer to provide the number of words used. Although it's common for many attorneys to provide the word count, some don't. Some just certify that it's 14,000 or less. It's helpful to have that word count and I wonder if we could revise this to require it.

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

- 55 (1) a table of contents, as required by paragraph (a)(2);
- 56 (2) a table of authorities, as required by paragraph (a)(3);
- 57 (3) an argument, as required by paragraph (a)(8);
- 58 (4) a conclusion, as required by paragraph (a)(10); and
- 59 (5) a certificate of compliance, as required by paragraph (a)(11).

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

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

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

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

76 (2) A reference to an exhibit must set forth the exhibit number. If the reference is to  
77 evidence the admissibility of which is in controversy, the reference must set forth the

78 pages of the record at which the evidence was identified, offered, and received or  
79 rejected.

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

83 (g) **Length of briefs.**

84 (1) Unless a brief complies with the following page limits, it must comply with the  
85 following word limits as~~ff~~:

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

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

89 (h) **Permission to file over length brief.** Although over length briefs are disfavored, a  
90 party may file a motion for leave to file a brief that exceeds the page~~7~~ or word limitations  
91 of this rule. The motion must state with specificity the issues to be briefed, the number of  
92 additional pages~~7~~ or words requested, and good cause for granting the motion. A motion  
93 filed at least ~~7~~seven days before the brief is due or seeking three or fewer additional pages~~7~~  
94 or 1,400 or fewer additional words need not be accompanied by a copy of the proposed  
95 brief. Otherwise, a copy of the proposed brief must accompany the motion. If the motion  
96 is granted, the proposed brief will be accepted as filed on the date of the order. If the  
97 motion is granted, the responding party is entitled to an equal number of additional

**Commented [JP3]:** I've wondered if we should we include something here that says if the motion is granted, the proposed brief will be deemed filed as of the date of the order. Or do we need the party to separately file and serve the brief once the motion is granted?

98 pages, or words without further order of the court. ~~Whether~~If the motion is ~~granted or~~  
99 denied, the court will destroy the proposed brief.

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

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

106 (1) the citation to the authority;

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

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

111 The body of the response must not exceed 350 words.

112 *Effective ~~November 1, 2017~~*

113

#### 114 **Advisory Committee Notes**

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

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

124 Paragraph (a)(6). The statement of the case should describe the facts surrounding the  
125 dispute and procedural history of the litigation, but only to the extent that these are  
126 necessary to understand the issues. Describing a fact or circumstance or proceeding that  
127 has no bearing on the issues adds words of no value and distracts the reader. When  
128 stating a fact or describing a proceeding, a concise narrative is sometimes a better  
129 presentation than a numbered, itemized list. The party must cite to the places in the  
130 record that support the statement.

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

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

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

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

151 The name of a minor is often a private record and caution should be used to avoid  
152 including other names or information from which a minor might be identified. A minor's  
153 surname should be used only with the informed consent of a mature minor. The author  
154 may file a private brief for the parties and the court using the minor's name while  
155 simultaneously filing an otherwise identical public brief with the minor's name omitted,  
156 redacted, reduced to initials, or substituted with a placeholder name. A minor may be  
157 referred to by a descriptive term such as "the child," "the 11-year old," or "the sister."  
158 The biological, adoptive, or foster parents of minors may be referred to by their relation  
159 to the minor, such as "mother," "adoptive parent," or "foster father."

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

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

173 *Note Adopted 2017*

# TAB 4

\*Original draft of Rule 48 approved by the Committee and submitted for public comment.

1 **Rule 48. Time for petitioning.**

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

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

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

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

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

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

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

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

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

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

24 (e) **Time extensions.**

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

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

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

40 *Effective ~~May 1, 2024~~*

\*Justice Pohlman's review of the proposed amendments prior to public comment.

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3 Supreme Court clerk within 30 days after the Court of Appeals' final decision is issued,  
4 and not from the date the remittitur is issued. Pursuant to [Rule 21](#), the filing fee must be  
5 paid to the appellate court clerk, unless waived by the court.

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

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

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

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

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

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

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

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

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

24 (e) **Time extensions.**

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

**Commented [JP1]:** Should this also include reference to (d)(1)? (I.e., "Before the time prescribed by paragraphs (a), (c), or (d)(1) expires ...")

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

**Commented [JP2]:** Same question.

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

**Commented [JP3]:** Should this be "per party"?

**Commented [JP4]:** Should we replace with "rule 49(f)"

**Commented [JP5]:** Would we cover the same ground if we re-wrote the first part of (3) to say, "The clerk may construe a petition or other filing rejected under rule 49(f) as a request for an extension ...."? I'm just not sure I fully understand what it is intending to refer to here.

**Commented [JP6]:** As necessary, revise consistent with the other suggestions.

40 Effective ~~May 1, 2024~~

\*Draft of the rule that was sent out for public comment with edits made in response to Justice Pohlman's comments.

1 **Rule 48. Time for petitioning.**

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

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

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

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

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

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

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

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

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

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

24 (e) **Time extensions.**

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

28 (2) Within 30 days after the time prescribed by paragraphs (a), ~~(c)~~, or (d)(1) expires,  
29 a party may file a motion to extend the time for filing a petition or cross-petition. The  
30 Supreme Court will grant the motion only upon a showing of good cause or excusable  
31 neglect. No extension may exceed 30 days past the prescribed time or 14 days from  
32 the date the order granting the motion is entered, whichever occurs later, and no more  
33 than one extension per party will be granted. The Supreme Court may rule at any time  
34 after the motion is filed.

35 (3) The clerk may construe a petition or other filing rejected under Rule 49(f) as a  
36 request for an extension of time to file a petition for certiorari under paragraph (e)(1)  
37 if the rejected petition or other filing is submitted before the time prescribed by  
38 paragraphs (a), (c), or (d)(1) expires.

39 *Effective ~~May 1, 2024~~*

1 **Rule 49. Petition for writ of certiorari.**

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

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

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

7 ~~(a)~~(3) A table of authorities with cases alphabetically arranged and with parallel  
8 citations, agency rules, court rules, statutes, and authorities cited, with references to  
9 the pages of the petition where they are cited~~;~~;

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

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

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

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

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

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

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

31 ~~(a)(7) Controlling provisions of constitutions, statutes, ordinances, and regulations set  
32 forth verbatim with the appropriate citation. If the controlling provisions involved are  
33 lengthy, their citation alone will suffice and their pertinent text shall be set forth in the  
34 appendix referred to in subparagraph (10) of this paragraph.~~

35 ~~(a)(78)~~ A statement of the case. ~~The statement shall first indicate briefly the nature of  
36 the case, the course of the proceedings, and its disposition in the lower courts. There  
37 shall follow a statement of the facts relevant to the issues presented for review that  
38 includes the facts and the procedural background relevant to the issues presented for  
39 review.~~ All statements of fact and references to the proceedings below ~~shall~~ must be  
40 supported by citations to the record on appeal or to the opinion of the Court of  
41 Appeals;

42 ~~(a)(89)~~ With respect to each question presented, a direct and concise argument  
43 explaining the special and important reasons as provided in [Rule 46](#) for the issuance  
44 of the writ; ~~and~~

45 ~~(a)(910)~~ An appendix containing, in the following order:

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

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

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

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

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

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

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

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

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

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

72 (d) **Page or word limitation.** The petition for a writ of certiorari ~~shall~~must be as short as  
73 possible, and no more than 4,000 words or ~~but may not exceed 2015~~ pages if a word count  
74 is not provided, ~~excluding~~ These limits do not include ~~the subject index, the~~any table of  
75 contents, table of authorities, ~~any verbatim quotations required by subparagraph (a)(7)~~  
76 ~~of this rule, and the~~ appendix, or certificates.

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

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

# TAB 5



# Memorandum

**To:** Advisory Committee on Appellate Procedure  
**Date:** April 30, 2026  
**Subject:** Items Referred by the Supreme Court

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The Supreme Court, through its staff attorney Clark Sabey, has requested the Advisory Committee on Appellate Procedure to review and consider the below matters.

1. Whether to allow for replies in support of petitions on appeal under Rule 55.
2. Whether to preclude treatment of issues of first impression in cases decided under Rule 58 without full briefing.
3. Whether to craft a rule to address the circumstances when the appellate courts can rely on a lack of preservation to dispose of issues in truncated proceedings (Rules 10(a), 10(c), and 55).
4. Whether to amend Rule 30 to expressly limit the use of unpublished orders to cases resolved by well-established law.

Enclosures:

- Tab A: Rule 55
- Tab B: Rule 58
- Tab C: Rule 10
- Tab D: Rule 30

Tab A

**Rule 55. Petition on appeal.**

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

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

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

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

- (1) A statement of the nature of the case and the relief sought.
- (2) The entry date of the judgment or order on appeal.
- (3) The date and disposition of any post-judgment motions.
- (4) A concise statement of the material adjudicated facts as they relate to the issues presented in the petition on appeal.

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

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

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

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

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

Tab B

**Rule 58. Ruling.**

(a) After reviewing the petition on appeal, any response, and the record, the Court of Appeals may rule by opinion, memorandum decision, or order. The Court of Appeals may issue a decision or may set the case for full briefing under Rule 24. The Court of Appeals may order an expedited briefing schedule and specify which issues must be briefed.

(b) If the Court of Appeals affirms, reverses, or remands the juvenile court order, judgment, or decree, further review pursuant to Rule 35 may be sought, but refusal to grant full briefing will not be a ground for such further review.

Tab C

**Rule 10. Procedures for summary disposition or simplified appeal process.**

**(a) Time for filing; grounds for motion for summary disposition.**

(1) A party may move at any time to dismiss the appeal or the petition for review on the basis that the appellate court lacks jurisdiction. Any response to such motion must be filed within 14 days from the date of service.

(2) After a docketing statement has been filed, the court, on its own motion, and on such notice as it directs, may dismiss an appeal or petition for review if the court lacks jurisdiction; or may summarily affirm the judgment or order that is the subject of review, if it plainly appears that no substantial question is presented; or may summarily reverse in cases of manifest error.

(3) The time for taking other steps in the appellate process is suspended pending disposition of a motion for summary affirmance, reversal, or dismissal.

(4) As to any issue raised by a motion for summary disposition, the court may defer its ruling until plenary presentation and consideration of the case.

**(b) Dismissal for failure to prosecute.**

(1) If the effective date of a notice of appeal is tolled under the provisions of [Rule 4\(b\)](#) or [4\(c\)](#), the court, on its own motion, may dismiss the appeal for failure to prosecute if:

(A) any motion within the scope of [Rule 4\(b\)](#) has not been submitted to the trial court for decision within 150 days after the motion was filed; or

(B) a proposed final judgment has not been submitted to the trial court within 150 days after the announcement of judgment under [Rule 4\(c\)](#).

(2) A dismissal for failure to prosecute under this rule will be without prejudice to the filing of a timely notice of appeal after the entry of a dispositive order or final judgment.

**(c) Simplified appeal process; eligible appeals.**

(1) For appeals involving the application of well-settled law to a set of facts, the court may designate an appeal for a simplified appeal process. An appellant in a case pending before the Court of Appeals may move for a simplified appeal process under this paragraph within ten days after the docketing statement is filed or the case is transferred to the Court of Appeals, whichever is later.

(2) Appeals eligible for a simplified process are those involving the application of well-settled law to a set of facts, which may include, but are not limited to, cases in the following categories:

- (A) appeals challenging only the sentence in a criminal case;
- (B) appeals from the revocation of probation or parole;
- (C) appeals from a judgment in an unlawful detainer action; and
- (D) petitions for review of a decision of the Department of Workforce Services Workforce Appeals Board or the Labor Commission.

**(d) Memoranda in lieu of briefs.**

(1) In appeals designated under paragraph (c), the parties must file memoranda in support of their positions instead of briefs. The schedule for preparing memoranda will be set by appellate court order.

(2) A party's principal memorandum must include:

- (A) an introduction describing the nature and context of the dispute, including the disposition in the court or agency whose judgment or order is under review;
- (B) a statement of the issues for review, including a 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;

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

(D) a claim for attorney fees, if any, including the legal basis for an award; and

(E) a certificate of compliance, certifying that the memorandum complies with [Rule 21](#) regarding public and private documents.

(3) An appellant or petitioner may file a reply memorandum limited to responding to the facts and arguments raised in appellee's or respondent's principal memorandum. The reply memorandum must include an argument and a certificate of compliance with [Rule 21](#) regarding public and private documents.

(4) Principal memoranda must be no more than 7,000 words or 20 pages if a word count is not provided. A reply memorandum must be no more than 3,500 words or ten pages if a word count is not provided.

*Effective May 1, 2025*

Tab D

1 **Rule 30. Decision of the court; notice of decision.**

2 (a) **Decision in civil cases.** The court may reverse, affirm, modify, or otherwise dispose  
3 of any appealed order or judgment. If the findings of fact in a case are incomplete, the  
4 court may order the trial court or agency to supplement, modify, or complete the findings  
5 to make them conform to the issues presented and the facts as found from the evidence  
6 and may direct the trial court or agency to enter judgment in accordance with the findings  
7 as revised. The court may also order a new trial or further proceedings to be conducted.  
8 If a new trial is granted, the court may pass upon and determine all questions of law  
9 involved in the case presented upon the appeal and necessary to the final determination  
10 of the case.

11 (b) **Decision in election cases.** In a case relating to a voting contest, an election, or the  
12 establishment of boundaries of political districts for purposes of an election, the court will  
13 establish a briefing schedule, hold oral argument, and issue a decision with sufficient  
14 promptness to, as much as possible, avoid prejudicing any candidate or voter or delaying  
15 an election deadline or election.

16 (c) **Decision in criminal cases.** If a judgment of conviction is reversed, a new trial will be  
17 held unless the court specifies otherwise. If a judgment of conviction or other order is  
18 affirmed or modified, the judgment or order affirmed or modified will be executed.

19 (d) **Decision and opinion in writing.** When a judgment, decree, or order is reversed,  
20 modified, or affirmed, the reasons will be stated concisely in writing and filed with the  
21 clerk. Any justice or judge concurring or dissenting may likewise give reasons in writing  
22 and file the same with the clerk. The clerk's entry in the court's records constitutes the  
23 entry of the judgment of the court.

24 (e) **Form of decision.** An appellate court's decision may be entered by order, opinion, or  
25 per curiam decision. An order will not stand as precedent but will otherwise have the  
26 same force and effect as other court decisions.

27 (f) **Entry and notice of decision.** The entry of the decision in the court's records  
28 constitutes the entry of the court's judgment. Immediately upon entering the decision,  
29 the clerk must give notice to the respective parties and make the decision public in  
30 accordance with the court's direction.

31 (1) If the court's decision is by order, the appellate clerk will transmit the order to the  
32 parties and to the lower court or agency.

33 (2) If the court's decision is by opinion or per curiam decision, the decision will be  
34 published on the courts' website at [utcourts.gov](http://utcourts.gov).

35 (g) **Citation of decisions.** Published decisions of the Supreme Court and the Court of  
36 Appeals, and unpublished decisions of the Court of Appeals issued between October 1,  
37 1998 and December 31, 2010, may be cited as precedent in all courts of the State. Other  
38 unpublished decisions may also be cited, so long as all parties and the court are supplied  
39 with accurate copies at the time all such decisions are first cited.

40 *Effective December 9, 2025.*

# TAB 6

1 **Rule 107. Illustrative aids.**

2 **(a) Permitted uses.** The court may allow a party to present an illustrative aid to help the  
3 trier of fact understand the evidence or argument if the aid's utility in assisting  
4 comprehension is not substantially outweighed by the danger of unfair prejudice,  
5 confusing the issues, misleading the jury, undue delay, or wasting time.

6 **(b) Use in jury deliberations.** An illustrative aid is not substantive evidence and ~~must~~  
7 will not be provided to the jury during deliberations unless:

8 (1) all parties consent; or

9 (2) the court, for good cause, orders otherwise.

10 **(c) Record.** ~~When practicable, an illustrative aid used at trial must be entered into the~~  
11 ~~record.~~ If requested, the court will permit a party to describe the illustrative aid to be  
12 included in the trial record, and if practicable and upon request, the illustrative aid itself  
13 will be entered into the record.

14 **(d) Summaries of voluminous materials admitted as evidence.** A summary, chart, or  
15 calculation admitted as evidence to prove the content of voluminous admissible evidence  
16 is governed by Rule 1006.

17 Effective: --/--/----

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18  
19 **2026 Advisory Committee Note.** This rule is adapted from Federal Rule of Evidence 107  
20 to provide clarity on the use of illustrative aids, which Utah case law has sometimes  
21 referred to as "pedagogical evidence."

22 The primary purpose of Rule 107 is to distinguish between substantive evidence (which  
23 is offered to prove a fact) and illustrative aids (which are used solely to assist the trier of  
24 fact in understanding evidence or arguments). Historically, Utah courts used the term  
25 "demonstrative evidence" to describe both. For example, in *State v. Perea*, 2013 UT 68, ¶

26 [45, 322 P.3d 624](#), the court described evidence that “carries no independent probative  
27 [value” but “aids a jury in understanding” as demonstrative evidence. Under Rule 107,](#)  
28 [such items are now formally classified as “illustrative aids.”](#)

29 [Illustrative aids are not substantive evidence because they are not offered to prove a](#)  
30 [disputed fact.](#)

31 [Given that some illustrative aids could also be used substantively to prove a disputed](#)  
32 [fact, the use of illustrative aids requires regulation. Therefore, this rule requires the](#)  
33 [court to balance the value of the illustrative aid against its potential dangers, including](#)  
34 [the danger of unfair prejudice, confusing the issues, misleading the jury, undue delay,](#)  
35 [or wasting time.](#)

36 [Examples of illustrative aids include drawings, timelines, photos, diagrams, anatomical](#)  
37 [models, video depictions, charts, graphs, or computer simulations that are used for the](#)  
38 [purpose described in this rule.](#)

39 [Users of this rule should consult other applicable rules for the logistics of using](#)  
40 [illustrative aids at trial:](#)

41 [For requirements regarding advance notice and pretrial disclosure, see Rule 26 of the](#)  
42 [Utah Rules of Civil Procedure and Rule 16 of the Utah Rules of Criminal Procedure.](#)

43 [For the marking, custody, and handling of illustrative aids, see Rule 4-206 of the Utah](#)  
44 [Code of Judicial Administration.](#)

45 [For the jury’s use of materials during deliberations, see Rule 47 of the Utah Rules of](#)  
46 [Civil Procedure and Rule 17 of the Utah Rules of Criminal Procedure.](#)

47 [For the preservation of the record for appeal, see Rule 11 of the Utah Rules of Appellate](#)  
48 [Procedure.](#)

**Commented [JW1]:** 26(a)(5)(requiring, among other things, “demonstrative exhibits,” to be served “at least 28 days before trial”); see also Utah R. Civ. P. 26, Comm. Notes (“Experts frequently will prepare demonstrative exhibits or other aids to illustrate the expert’s testimony at trial, and the costs for preparing these materials can be substantial. For that reason, these types of demonstrative aids may be prepared and disclosed later, as part of the Rule 26(a)(4) [sic] pretrial disclosures when trial is imminent.”)

**Commented [JW2]:** 16(a)(5)(B) and 16(b)(3)(B) require, “no later than 14 days, or as soon as practicable, before trial,” disclosure of exhibits the prosecution and defense “intend[] to introduce at trial.” Is clarification needed to establish that illustrative aids would be considered “introduced” if presented at trial, despite not being substantive evidence?

**Commented [JW3]:** 47(n) (“Exhibits taken by jury; notes. Upon retiring for deliberation the jury may take with them the instructions of the court and all exhibits which have been received as evidence in the cause, except exhibits that should not, in the opinion of the court, be in the possession of the jury, such as exhibits of unusual size, weapons or contraband. The court shall permit the jury to view exhibits upon request. Jurors are entitled to take notes during the trial and to have those notes with them during deliberations. As necessary, the court shall provide jurors with writing materials and instruct the jury on taking and using notes.”)

**Commented [JW4]:** 17(k) (“Deliberations. Upon retiring for deliberation, the jury may take with them the instructions of the court and all exhibits which have been received as evidence, except exhibits that should not, in the opinion of the court, be in the possession of the jury, such as exhibits of unusual size, weapons or contraband. The court shall permit the jury to view exhibits upon request. Jurors are entitled to take notes during the trial and to have those notes with them during deliberations. As necessary, the court shall provide jurors with writing materials and instruct the jury on taking and using notes.”)

**Commented [JW5]:** 11(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.”)

11(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: . . . (D) a list of all exhibits offered in the proceeding; (E) all exhibits; . . .”)

49 [For limiting instructions regarding the non-substantive nature of the aid, see Rule 51 of](#)  
50 [the Utah Rules of Civil Procedure and Rule 19 of the Utah Rules of Criminal Procedure.](#)

**Commented [JW6]:** 51(a) and (b) (preliminary and interim instructions as “will assist the juror in comprehending the case”) and (c) (final instructions “as may be needed”)

**Commented [JW7]:** 19(a) and (b) (preliminary and interim instructions as “will assist the jurors in comprehending the case”)

**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 21 days after filing the docketing statement, the appellant must order the transcript(s) online at [www.utcourts.gov](http://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, 2026*