



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=me6ead910340fd8bcd8a815e547e1b492
Date:	October 1, 2026
Time:	12:00 to 1:30 p.m.

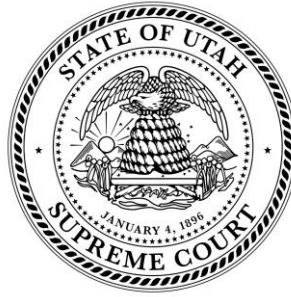
Action: Welcome and approval of September 3, 2026 Minutes	Tab 1	Nathalie Skibine, Chair
Action: Final Approval of Rules 1, 19, 27, and 48	Tab 2	Nathalie Skibine
Action: URE 107/URAP 11	Tab 3	Nick Stiles
Action: Rule 8	Tab 4	Caroline Olsen
Action: Rule 23	Tab 5	All
Action: Rule 23B	Tab 6	Mary Westby
Action: Rule 23D (Appellate Disqualification)	Tab 7	Nathalie Skibine
Discussion: Old/new Business		Nathalie Skibine, Chair

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

2026/2027 Meeting schedule:

November 5, 2026	February 4, 2027	May 6, 2027
December 3, 2026	March 4, 2027	June 3, 2027
January 7, 2027	April 1, 2027	

TAB 1



Minutes

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

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

In Person and by WebEx Videoconference
Thursday, September 3, 2026
12:00 pm to 1:30 pm

PRESENT

Rachel Phillips Ainscough
Dick Baldwin
Daniel Day
Judge Michele
Christiansen Forster
Nicole Gray
Amber Griffith—Staff
Michael Judd—Recording
Secretary
Debra Nelson

Caroline Olsen
Judge Gregory Orme
Martha Pierce
Michelle Quist
Stan Purser—
Vice Chair
Clark Sabey
Nathalie Skibine—
Chair
Mary Westby

EXCUSED

Tera Peterson
Scarlet Smith
Nick Stiles—Staff

1. Action: Approval of June 2026 Minutes

Nathalie Skibine, Chair

The committee reviewed the June 2026 minutes and proposed no changes.

Following that discussion, Mary Westby moved to approve the June 2026 minutes as modified and displayed on screen at the committee's meeting. Debra Nelson seconded that motion, and it passed without objection by unanimous consent.

Nathalie Skibine, Chair

Ms. Westby moved to approve the revised rule as displayed on screen. Stan Purser seconded the motion, which passed without objection by unanimous consent. The rule will be resubmitted to the Supreme Court with a recommendation to post it for public comment.

Nathalie Skibine, Chair

Rule 55. The committee discussed whether to allow replies in support of petitions on appeal. Ms. Westby stated that replies were unnecessary because full briefing hinges on the the nature of the issues raised. Clark Sabey flagged potential due-process concerns that could be raised by an appellant complaining about new matters raised in a response. Rachel Phillips Ainscough expressed a competing concern: a reply could be redundant and prolong the process. Ms. Nelson offered her view that parties should have the option to reply and volunteered to prepare a draft amendment for the October meeting. Alexa Mareschal of IADD will attend that meeting as a guest to participate in the discussion.

2

Lack of preservation in truncated proceedings. The committee discussed whether to create a rule addressing when appellate courts may rely on a lack of preservation to dispose of issues in truncated proceedings under Rules 10(a), 10(c), and 55. Ms. Westby noted that each rule requires a party to address preservation. Dick Baldwin suggested that allowing replies under Rule 55 might resolve the concern under that rule. The committee reached a consensus to take no action on the request.

Rule 30. The committee discussed whether to amend Rule 30 to limit unpublished orders to cases resolved by well-established law. Judge Gregory Orme explained that unpublished orders are used in cases with no value beyond the parties and that parties who disagree with an unpublished order may still seek certiorari review. The committee determined that no action was needed.

4. **Action:** Clark Sabey
Rule 38/Cronquist

The committee discussed whether to amend Rule 38 in response to *Nielsen v. Cronquist*. Mr. Sabey described the question as one of policy, and Daniel Day noted that the federal rules allow the approach under discussion.

The committee tabled the issue for further consideration. Judge Michele Christiansen Forster volunteered to draft a procedure if one is needed.

5.	Action: Rule 23	Mary Westby
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Caroline Olsen questioned whether motions under Rule 8 must comply with Rule 23 and, if so, whether the word limit is sufficient. Ms. Olsen volunteered to draft an amendment to Rule 8 that includes a word limit.

The committee tabled Rule 23 until the October meeting for further discussion and consideration of the Rule 8 draft.

6. Action: Mary Westby
Rule 23B

Ms. Westby raised the question whether Rule 23B should include a provision allowing an overlength motion.

The committee tabled Rule 23B until the October meeting for further discussion.

7. Adjourn Nathalie Skibine, Chair

Judge Orme moved to adjourn, and Ms. Westby seconded the motion. The committee adjourned. The next meeting will take place on October 1, 2026.

TAB 2

**One thought on “Rules of Appellate Procedure –
Comment Period Closed September 8, 2026”**

William Hains

September 4, 2026 at 11:46 am

Rule 27

Expanding the case type designations to be added to the cover of a brief is a great idea. I have one recommended change to the designations. The current rule requires the “defendant” in a criminal appeal to indicate whether they are incarcerated, but the new rule places that requirement on the “appellant.” Compare lines 52-54, with lines 104-05. I suggest continuing to require the defendant, rather than the appellant, to indicate incarceration status on their brief cover. Otherwise, the State will be required to indicate incarceration status on the brief cover in any State’s appeal. While the burden of determining the defendant’s current status may be small, the rule does impose a real administrative burden on the State. And defense counsel is better positioned to know their client’s status.

Rule 1. Scope of rules.

(a) **Applicability of rules.** These rules govern the procedure before the Supreme Court and the Court of Appeals ~~of Utah~~ in all cases. Applicability of these rules to the review of decisions or orders of administrative agencies is governed by [Rule 18](#). When these rules provide for a motion or application to be made in a trial court or an administrative agency, commission, or board, the procedure for making such motion or application ~~is~~shall be governed by the Utah Rules of Civil Procedure, Utah Rules of Criminal Procedure, and the rules of practice of the trial court, administrative agency, commission, or board.

(b) **Reference to "court"** Except as provided in [Rule 43](#), when these rules refer to a decision or action by the court, the reference ~~shall~~s includes a panel of the court. The term "trial court" means the court or administrative agency, commission, or board from which the appeal is taken or whose ruling is under review. The term "appellate court" means the court to which the appeal is taken.

(c) **Procedure established by statute.** If a procedure is provided by state statute as to the appeal or review of an order of an administrative agency, commission, board, or officer of the state which is inconsistent with one or more of these rules, the statute ~~shall~~s governs. In other respects, these rules ~~shall~~ apply to such appeals or reviews.

(d) **Rules not to affect jurisdiction.** These rules ~~shall~~ will not be construed to extend or limit the jurisdiction of the Supreme Court or Court of Appeals as established by law.

(e) **Title.** These rules ~~shall be~~are known as the Utah Rules of Appellate Procedure and are abbreviated Utah R. App. P.

(f) Rules for appeals in child welfare proceedings.

(1) Appeals taken from juvenile court orders related to abuse, neglect, dependency, termination, and adoption proceedings are governed by [Rules 52](#) through [59 \(child welfare rules\)](#). ~~except for only r applies to orders related to substantiation proceedings under Section 78-3a-320. Rules 9 and 23B do not apply. Due to the summary nature of child~~

28 ~~welfare appeals, Rule 10(a)(2)(A) does not apply.;~~ Other appellate rules apply if not
29 inconsistent with [Rules 52](#) through [59](#).
30 [\(2\) Except for Rules 52 and 53, the child welfare rules do not apply to appeals taken](#)
31 [from orders related to substantiation proceedings under Utah Code section 80-3-504.](#)

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 under appropriate headings and in the order indicated: ~~the following:~~

(1) a list of all respondents against whom relief is sought, and all other~~s~~ 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 ~~want~~~~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~~~~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~~, 2025

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

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

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

(2) **Typeface.** The type must be plain and legible. Italics or boldface may be used for emphasis. Cited case names must be italicized or underlined.

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

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

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

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

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

(B) the name of the appellate court;

(C) the full title given to the case in the court or agency from which the appeal is taken;

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

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

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

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

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

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

(i) name;

(ii) Utah State Bar number;

(iii) mailing address;

(iv) email address;

(v) telephone number; and

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

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

(i) name;

(ii) mailing address;

(iii) email address (if any);

(iv) telephone number (if any); and

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

(3) Incarceration and case type designations.

(A) Incarceration. In a criminal case, the cover of the appellant's brief must indicate whether the defendant is presently incarcerated in connection with the case on appeal.

(B) Anders brief. In a criminal case, the cover of the appellant's brief must, if applicable, state that it is an *Anders* brief filed pursuant to *Anders v. California*, 386 U.S. 793 (1967), because counsel believes no nonfrivolous appellate issue exists.

(C) Pretrial detention. In a criminal case challenging a pretrial detention order, the cover of the appellant's brief must, if applicable, state that the appellant claims the right to an expedited appeal pursuant to Utah Code section 77-20-209.

(D) Parental rights and child custody. In a case challenging an order affecting parental rights or a child's physical custody, the cover of the appellant's brief must state that it is such a case.

(E) Capital case. In a criminal case involving a capital charge or conviction, including a postconviction case, the cover of the appellant's brief must state that it is a capital case.

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

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

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

(B) the name of the appellate court;

(C) the full title given to the case in the court or agency from which the appeal is taken;

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

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

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

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

(i) name;

(ii) Utah State Bar number;

(iii) mailing address;

(iv) email address;

(v) telephone number; and

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

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

(i) name

(ii) mailing address;

(iii) email address (if any);

(iv) telephone number (if any); and

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

(e) Additional requirements for briefs on the merits.

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

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

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

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

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

Effective ~~May 1, 2026~~

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.

24 (e) **Time extensions.**

25 (1) Before the time prescribed by paragraph s (a), ~~or~~ (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 paragraph s (a), ~~or~~ (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 petition will be granted. The Supreme Court may rule at any
34 time 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~~*

TAB 3

On Wed, May 6, 2026 at 3:32 PM Jace Willard <jacew@utcourts.gov> wrote:

Hi Nick:

This is the email we discussed previously for the URApP Committee.

The URE Committee has proposed to create URE 107 (draft redline attached to the initial email on this thread), which is modeled after FRE 107. (Highlights show where the draft rule differs from FRE 107, but only as to the language of the rule, not the accompanying note, which is significantly different.) In considering the proposal, the Supreme Court has asked the Committee to coordinate with other relevant rules committees to make any related changes.

As shown in the attached redline, the draft note references the following URApP rule:

- [Utah R. App. P. 11](#)

Additionally, the redline reference to this rule includes a comment quoting the provisions that appear most relevant. Would you mind putting this on an upcoming agenda for the URApP Committee to consider whether any amendments are necessary to rule 11 or any other URApP rules if URE 107 is adopted? We aren't suggesting that any URApP amendment is needed. We just wanted the URApP experts to be aware in case they see something that needs to be changed.

Please let me know if you have any questions or concerns.

Thanks!

Jace

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: --/--/----

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, ¶

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

Illustrative aids are not substantive evidence because they are not offered to prove a disputed fact.

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

Examples of illustrative aids include drawings, timelines, photos, diagrams, anatomical models, video depictions, charts, graphs, or computer simulations that are used for the purpose described in this rule.

Users of this rule should consult other applicable rules for the logistics of using illustrative aids at trial:

For requirements regarding advance notice and pretrial disclosure, see Rule 26 of the Utah Rules of Civil Procedure and Rule 16 of the Utah Rules of Criminal Procedure.

For the marking, custody, and handling of illustrative aids, see Rule 4-206 of the Utah Code of Judicial Administration.

For the jury’s use of materials during deliberations, see Rule 47 of the Utah Rules of Civil Procedure and Rule 17 of the Utah Rules of Criminal Procedure.

For the preservation of the record for appeal, see Rule 11 of the Utah Rules of Appellate 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.

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

26 (1) **Request for transcript; time for filing.** Within 21 days after filing the docketing
27 statement, the appellant must order the transcript(s) online at www.utcourts.gov,
28 specifying the entire proceeding or parts of the proceeding to be transcribed that are
29 not already on file. The appellant must serve on the appellee a designation of those
30 parts of the proceeding to be transcribed. If no such parts of the proceedings are to be
31 requested, within the same period the appellant must file a certificate to that effect
32 with the appellate court clerk and serve a copy on the appellee.

33 (2) **Transcript required of all evidence regarding challenged finding or conclusion.**
34 If the appellant intends to argue on appeal that a finding or conclusion is unsupported
35 by or is contrary to the evidence, the appellant must include in the record a transcript
36 of all evidence relevant to such finding or conclusion. Neither the court nor the
37 appellee is obligated to correct appellant's deficiencies in providing the relevant
38 portions of the transcript.

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

44 **(d) Supplementing or modifying the record.**

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

49 (2) If anything material to either party is omitted from or misstated in the record by
50 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

TAB 4

Rule 8. Stay or injunction pending appeal.

(a) Stay or injunctive relief.

(1) **Available relief.** A party may move the appellate court for the following relief pending appeal or pending disposition of a petition under [Rule 5](#) or [Rule 19](#):

(A) a stay of the judgment or order with or without security; or

(B) an order suspending, modifying, restoring, or granting injunctive relief.

(2) **Initial motion in trial court.** Before seeking relief in the appellate court under this rule, a party must first seek the requested relief in the trial court unless the party can show extraordinary circumstances or that the trial court has already rejected the basis for the requested relief.

(b) Motion requirements. Motions filed under this rule must include:

(1) the content required by [Rule 23\(a\)](#); and

(2) as applicable, the reason the trial court denied the requested relief, the reason the trial court denied the basis for the requested relief, or the extraordinary circumstances justifying seeking relief for the first time in the appellate court.

(c) Security requirement.

(1) Except as provided in paragraphs (c)(2) and (c)(3), the appellate court ordinarily will require the movant to give a bond or other appropriate security as a condition of the requested relief.

(2) In the case of a stay, the court may waive the requirement for a bond or other security if the movant demonstrates:

(A) a likelihood of prevailing on appeal;

(B) a likelihood of irreparable harm to the movant outweighing the harm to any other party; and

(C) the stay is not adverse to the public interest.

(3) In the case of an injunction, the court may waive the requirement for a bond or other security if the movant demonstrates:

(A) a substantial likelihood of prevailing on appeal;

(B) the movant will suffer irreparable harm without the injunction;

(C) the irreparable harm to the movant outweighs whatever harm the injunction may cause the party enjoined; and

(D) the injunction is not adverse to the public interest.

(d) **Response.** Any party may file a response to a motion within 14 days after the motion is served; however, the court may, for good cause shown, dispense with, shorten, or extend the time for responding to any motion.

(e) **Reply to Response.** The moving party may file a reply to answer new matters raised in the response. A reply, if any, may be filed no later than 5 days after the response is served, but the court may rule on the motion without awaiting a reply.

(d) **Stay in criminal cases.** Stays pending appeal in criminal cases in which the defendant has been sentenced are governed by Utah Code section 77-20-302 and Rule 27 of the Utah Rules of Criminal Procedure. Stays in other criminal cases are governed by this rule.

(g) **Page Limitation.** Motions made under this rule may not exceed 9,000 words or 25 pages. Any response to a motion may not exceed 9,000 words or 25 pages. A reply to a response may not exceed 4,500 words or 12 pages. If a word count is used, the filer must include a certification that the document complies with the applicable word count.

Effective ~~May 1, 2025~~

TAB 5

1 Rule 23. Motions.

2 (a) **Content of motion.** Unless another form is elsewhere prescribed by these rules, an
3 application for an order or other relief must be made by filing a motion for such order or
4 relief with proof of service on all other parties. The motion must contain:

5 (1) a specific and clear statement of the relief sought;

6 (2) a particular statement of the factual grounds;

7 (3) a discussion of points and authorities in support (unless the motion is for an
8 enlargement of time); and

9 (4) affidavits or declarations and documents, where appropriate.

10 (b) **Response.** Any party may file a response to a motion within 14 days after the motion
11 is served; however, the court may, for good cause shown, dispense with, shorten, or
12 extend the time for responding to any motion.

13 (c) **Reply.** The moving party may file a reply only to answer new matters raised in the
14 response. A reply, if any, may be filed no later than ~~five~~5 days after the response is served,
15 but the court may rule on the motion without awaiting a reply.

16 (d) **Determination of motions for procedural orders.** Notwithstanding paragraph (a) as
17 to motions generally, motions for procedural orders not substantially affecting the rights
18 of the parties or the ultimate disposition of the appeal, including any motion under
19 ~~Rule -22(b)~~, may be acted upon at any time, without awaiting a response or reply.
20 Pursuant to rule or at the court's direction, the clerk may dispose of motions for specified
21 types of procedural orders. The court may review a clerk's disposition upon a party's
22 motion or upon its own motion.

23 (e) **Power of a single justice or judge to entertain motions.** In addition to the authority
24 expressly conferred by these rules or by law, a single justice or judge of the court may
25 entertain and may grant or deny any request for relief that under these rules may
26 properly be sought by motion, except that:

(1) a single justice or judge may not dismiss or otherwise determine an appeal or other proceeding;

(2) the court may provide by order or rule that any motion or class of motions must be acted upon by the court; and

(3) the action of a single justice or judge may be reviewed by the court.

(f) **Page limitation.** Motions may not exceed 15 pages or 5,400 words. Any memorandum in opposition to a motion may not exceed 15 pages or 5,400 words. If a word count is used, the filer must include a certificate~~ion~~ that the document complies with the applicable word count.

Effective ~~May 1, 2023~~

TAB 6

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

(a) **Grounds for motion; time.** A party to an appeal in a criminal case may move the court to remand the case to the trial court for entry of findings of fact, necessary for the appellate court's determination of a claim of ineffective assistance of counsel. The motion will be available only upon a nonspeculative allegation of facts, not fully appearing in the record on appeal, which, if true, could support a determination that counsel was ineffective.

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

(b) **Content of motion.** The content of the motion must conform to the requirements of [Rule 23](#). The motion may incorporate by reference the statement of the case from the principal brief. The motion must identify the ineffectiveness claims and specify the factual issues relevant to each such claim to be addressed on remand. The motion must 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.

(c) **Orders of the court; response; reply.** If a motion under this rule is filed at the same time as appellant's principal brief, any response and reply must be filed within the time for the filing of the parties' respective briefs on the merits, unless otherwise specified by the court. If a motion is filed before appellant's brief, the court may elect to defer ruling on the motion or decide the motion prior to briefing.

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

(2) If the court elects to decide the motion prior to briefing, it will issue a notice that any response must be filed within 30 days of the notice or within such other time as the court may specify. Any reply in support of the motion must be filed within ten 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) have been met, the court may order that the case be temporarily remanded to the trial court to enter findings of fact relevant to a claim of ineffective assistance of counsel. The remand order will identify the ineffectiveness claims and specify the factual issues relevant to each such claim to be addressed by the trial court. The order will also direct the trial court to complete the proceedings on remand within 90 days of issuance of the remand order, absent a finding by the trial court of good cause for a delay of reasonable length.

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

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

(e) **Proceedings before the trial court.** Upon remand the trial court will promptly conduct hearings and take evidence as necessary to enter the findings of fact necessary to determine the claim of ineffective assistance of counsel. Any claims of ineffectiveness not identified in the remand order 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. Evidentiary hearings will

be conducted without a jury and as soon as practicable after remand. The burden of proving a fact will be upon the proponent of the fact. The standard of proof will be a preponderance of the evidence. The trial court will enter written findings of fact concerning the claimed deficient performance by counsel and the claimed prejudice suffered by appellant as a result, in accordance with the remand order. Proceedings on remand must be completed within 90 days of entry of the remand order, unless the trial court finds good cause for a delay of reasonable length.

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

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

(h) **Page limitation.** Motions and responses ~~may~~ must not exceed 1411,000 words. Any reply in support of the motion ~~may~~ must not exceed 75,000 words. The filer must include a certificate~~ion~~ of compliance that the document complies with the applicable word count. Although disfavored, a party may file a motion for leave to file an overlength motion or response. The court may grant the motion to file an overlength motion or response only upon a showing of good cause.

Effective ~~May 1, 2026~~

81 **Advisory Committee Note**

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

84 *Note adopted 2022*

TAB 7

Rule 23D

(a) Motion to Disqualify.

(1) Requirements.

(A) Any party to an appeal may file a motion to disqualify a justice or a judge [for bias, prejudice, or a conflict of interest](#).

(B) 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) Time for filing.

(A) **Supreme Court.** The motion must be filed within 14 days after the later of the following:

(i) notice of oral argument;

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

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

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

(i) notice of appearance;

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

Commented [JP1]: How does a party learn which judges are on its panel if no OA is set? Should we tie it to that rather than the attorney's appearance?

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

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

(4) **Subsequent motion.** 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.

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

(b) **Resolution of Motion.**

(1) **Supreme Court.**

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

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

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

Commented [JP2]: I'm never a fan of including something like this where it's superfluous. But I know we have something like this in Rule 63.

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

(C) In determining issues of fact or of law, the reviewing justices may consider any part of the record and may request of the subject justice a ~~n affidavit or~~ declaration responding to questions posed by the reviewing justices.

(2) Court of Appeals.

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

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

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