

1 **Rule 5. Discretionary appeals from interlocutory orders.**

2 **(a) Petition for permission to appeal.** An appeal from an interlocutory order may be sought by any  
3 party by filing a petition for permission to appeal from the interlocutory order with the clerk of the appellate  
4 court with jurisdiction over the case within 20 days after the entry of the order of the trial court, ~~with proof~~  
5 ~~of service on all other parties to the action.~~ A timely appeal from an order certified under Rule [54\(b\)](#), Utah  
6 Rules of Civil Procedure, that the appellate court determines is not final may, in the discretion of the  
7 appellate court, be considered by the appellate court as a petition for permission to appeal an  
8 interlocutory order. The appellate court may direct the appellant to file a petition that conforms to the  
9 requirements of paragraph (c) ~~of this rule.~~

10 **(b) Fees and copies** ~~Notice of petition.~~ For a petition presented to the Supreme Court, the  
11 petitioner shall file with the Clerk of the Supreme Court an original and five copies of the petition, together  
12 with the fee required by statute. For a petition presented to the Court of Appeals, the petitioner shall file  
13 with the Clerk of the Court of Appeals an original and four copies of the petition, together with the fee  
14 required by statute. ~~The petitioner shall serve the petition on the opposing party and must file notice of the~~  
15 ~~filing of the petition on with the trial court. If an order is issued authorizing the appeal, the clerk of the~~  
16 ~~appellate court shall immediately give notice of the order by mail to the respective parties and shall~~  
17 ~~transmit a certified copy of the order, together with a copy of the petition, to the trial court where the~~  
18 ~~petition and order shall be filed in lieu of a notice of appeal.~~

19 **(c) Content of petition.**

20 (c)(1) The petition shall ~~shall~~ must contain:

21 (c)(1)(A) A concise statement of facts material to a consideration of the issue presented and  
22 the order sought to be reviewed;

23 (c)(1)(B) The issue presented expressed in the terms and circumstances of the case but  
24 without unnecessary detail, and a demonstration that the issue was preserved in the trial court.  
25 Petitioner must state the applicable standard of appellate review and cite supporting authority;

26 (c)(1)(C) A statement of the reasons why an immediate interlocutory appeal should be  
27 permitted, including a concise analysis of the statutes, rules or cases believed to be determinative  
28 of the issue stated; and

29 (c)(1)(D) A statement of the reason why the appeal may materially advance the termination of  
30 the litigation.

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

35 (c)(3) The petitioner shall ~~shall~~ must attach a copy of or link to the order of the trial court from which an  
36 appeal is sought and any related findings of fact and conclusions of law and opinion. Other

37 ~~documents parts of the record~~ that may be relevant to determining whether to grant permission to  
 38 appeal may be referenced by identifying trial court docket entries of the documents.

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

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

44 ~~**(f)(e) Response; no reply.** No petition will be granted in the absence of a request by the court for a  
 45 response. No response to a petition for permission to appeal will be received unless requested by the  
 46 court. Within 10-14 days after an order requesting a response, any other party may oppose or concur with  
 47 the petition. Any response to a petition for permission to appeal shall be is subject to the same page  
 48 limitation set out in subsection paragraph (d), and may refer to parts of the record that may be relevant to  
 49 determining whether to grant permission to appeal by identifying trial court docket entries of the  
 50 documents. An original and five copies of the answer shall be filed in the Supreme Court. An original and  
 51 four copies shall be filed in the Court of Appeals. The respondent shall serve the response on the  
 52 petitioner. The petition and any response shall will be submitted without oral argument unless otherwise  
 53 ordered. No reply in support of a petition for permission to appeal shall be is permitted, unless requested  
 54 by the court.~~

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

67 ~~**(g) Notice of order.** The clerk of the appellate court will promptly transmit the order granting or  
 68 denying the petition to the parties and trial court. If the order grants the petition, the clerk of the appellate  
 69 court will promptly transmit a copy of the petition to the trial court.~~

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

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

76           The provisions for service, proof of service, and paying filing fees, formerly found in this rule, have  
77 been consolidated in Rule 21.

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