



Agenda

Utah Supreme Court Advisory Committee

Utah Rules of Appellate Procedure

Paul C. Burke, Chair

Location: Judicial Council Room
Scott M. Matheson Courthouse, 450 S. State St., Salt Lake City, UT 84111

Date: February 6, 2020

Time: 12:00 to 1:30 p.m.

Tab 1	Action: Welcome and approve January 2020 minutes	Paul C. Burke, Chair
	Action: Create two new subcommittees: (1) legislative outreach, (2) public outreach	Paul C. Burke, Chair
Tab 2	Discussion & Action: Review comments received on proposed changes to Rules 5, 10, 21, and 26 and send final versions to Supreme Court for review	Larissa Lee
Tab 3	Discussion & Action: Rule 35A/B, and related Rules 36 & 48	Clark Sabey
Tab 4	Discussion & Action: Remove mention of physical copies of non-briefs—Rules 9, 11, 12, 19	Larissa Lee
	Discussion: Other business	Paul C. Burke

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

Meeting schedule:

March 5, 2020
April 2, 2020
May 7, 2020
June 4, 2020

July 2, 2020
August 6, 2020
September 10, 2020
October 1, 2020

November 5, 2020
December 3, 2020

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

Judicial Council Room
Thursday, January 9, 2020
12:00 pm to 1:30 pm

PRESENT

Christopher Ballard
Paul C. Burke—Chair
Patrick Burt
Lisa Collins
Tyler Green
R. Shawn Gunnarson
Michael Judd—
Recording Secretary
Larissa Lee—Staff

EXCUSED

Troy Booher—
Emeritus Member
Alan Mouritsen
Judge Gregory Orme

1. Welcome and approval of November 2019 minutes Paul C. Burke

Paul C. Burke welcomed the committee and began by discussing a scheduling issue. Mr. Burke asked whether there was any preference and/or objection to moving the September 3, 2020 meeting to September 10, 2020. No objections or preferences were raised. The committee reviewed the December 2019 minutes. Paul C. Burke recommended one change, on page 3, to change “meeting notes” to “meeting agenda.” No objections were noted.

Mary Westby moved to approve and adopt the minutes from the December 2019 meeting. Judge Jill Pohlman seconded the motion and it passed unanimously.

2. Discussion and Action:

Clark Sabey

Stays and quantifying security (Rule 8)

Mr. Sabey discussed recommended changes to Rule 8, which arise from an order from the Utah Supreme Court dated October 18, 2019, directing the committee to “consider revisions to Rule 8 that will provide more useful guidance . . . in determining whether to grant a stay in circumstances where there is no reasonable means of quantifying the security referenced by Rule 62 of the Rules of Civil Procedure in monetary or other terms.” The committee discussed revisions to eliminate redundancies and to make more clear Rule 8’s relationship to Rule 62 of the Rules of Civil Procedure.

The committee discussed adding an advisory committee note explaining the intent of the amendment, in light of the Utah Supreme Court’s October 2019 order. After lengthy discussion regarding how best to fulfill the Utah Supreme Court’s directive, the committee considered the idea of submitting to the Court a draft rule, along with questions regarding the Court’s intent and a proposal that amendments made by the appellate rules committee be coordinated with potential parallel amendments made by the civil rules committee.

Given the complexity of the issue and the aspects of the proposed amendment that remain unresolved, discussion of Rule 8 was tabled until the next meeting.

3. Discussion and Action:

Clark Sabey

Petitions for rehearing/to modify (Rule 35A/35B)

Ms. Westby recommended a change to the proposed amendment to ensure that the rule also covers “opinion orders,” which have been used by the appellate courts with increasing frequency. The committee discussed a proposed change to the title of Rule 35B that would best identify the nature of the relief sought under the rule. Judge Pohlman noted that corollary changes will need to be made to Rules 36 and 48, as the Rule 35 changes will affect remittitur and other procedural matters. The committee discussed the length of time afforded to Rule 35A/35B filings and declined to recommend any extension.

Given the complexity of the issue and the aspects of the proposed amendment that remain unresolved, discussion of Rules 35A/35B was tabled until the next meeting.

Clark Sabey

Tyler Green moved to approve and adopt the amendment to Rule 33. Mary Westby seconded the motion and it passed unanimously.

Larissa Lee

6. Discussion: Other Business

Paul C. Burke

None.

7. Adjourn

Mr. Burke adjourned the meeting. The committee is scheduled to meet again on February 6, 2020.

Tab 2

Posted: November 20, 2019

Utah Courts

Rules of Appellate Procedure – Comment Period Closed January 4, 2020

URAP005. Discretionary appeals from interlocutory orders. Amend. The proposed amendments to Rules 5 and 10 incorporate substantial changes meant to streamline and modernize the appellate process. For example, the proposed addition of subsection (j) in Rule 5 defines the record on appeal and permits a party to submit an appendix to be filed separately with the party’s principal brief. The proposed amendments authorize citations to the record, to an appendix, or both.

URAP010. Procedures for summary disposition or simplified appeal process. Amend. The proposed amendments to Rule 10 allow specific classes of appeals to be designated for expedited review. The proposed amendments also narrow the grounds for parties to seek summary disposition by limiting such motions to jurisdictional objections. The Court retains its right to summarily dismiss, affirm, or reverse a case on its own initiative.

This entry was posted in [URAP005](#), [URAP010](#).

[« Rule Governing the Utah State Bar, Supreme Court Rules of Professional Practice – Comment Period Closes January 23, 2020](#)
[Rules of Criminal Procedure – Comment Period Closed January 4, 2020 »](#)

UTAH COURTS

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6 thoughts on “Rules of Appellate Procedure – Comment Period Closed January 4, 2020”

1. [Joanna Landau](#)
[November 21, 2019 at 2:45 pm](#)

Why do the amendments to Rule 10, dealing with the “simplified appeal process,” use the term “well-settled” law, and twice? Who is to say what is “well-settled”? The courts? the appellant? Do you have to have client-consent to file for a Rule 10 expedited appeal? What if the appellant files it without client consent In the criminal context, it seems like grounds for a challenge to the effectiveness of appellate defense counsel if s/he files the motion under 10(b)(2)(E) and misses some legal development or the pocket part of a statutory update, and the AG doesn’t respond. Having Utah’s appointed attorney

appellate roster alone, does not guarantee effective assistance on appeal every single time. Appellate attorneys are human too.

It doesn't need to be in lines 34-35, and I don't know what it means in line 45. I would take "well-settled" out of lines 34-35, and 45. Leave the procedure just for sentencing appeals, but even then, the aforementioned scenario could still occur.

2. **J. Bogart**

[December 5, 2019 at 7:23 am](#)

Re Simplified Appeal Process:

The elements of the principal memoranda are designed for the appellant. If the appellee thinks an issue is not preserved, there is no place that gets addressed as (c)(2)(B) is about listing issues and showing they are preserved. I suppose one could ignore the text, but it does seem off. Also, what happens if there are cross-appeals sent into Simplified Appeal Process? Do the page limits remain? Is that to be addressed by the scheduling order?

3. **J. Robinson**

[December 6, 2019 at 4:16 pm](#)

Re: rule 10.

I'm generally in favor of allowing an expedited appeals process for a variety of reasons, but it's not clear exactly what problem these changes are meant to solve/address. I wonder if there might be a better mechanism than modifying the summary dispo rule only. For example, changing rule 31 comes to mind, or maybe a comprehensive set of changes to rules 10 and 31.

In any event, the amended rule appears out of joint with standing order 11 regarding paper vs. electronic, etc. The rule points to 23(f)(2)-(3) for form, but 23(f) is antiquated (the "ten characters per inch" directive only applies to monospaced fonts, monospace fonts are suboptimal, and characters per inch cannot be translated into a font's point size). 23(f) also suggests that paper copies need to be filed with the court, but amended rule 10 makes that somewhat confusing because it only references subsections 2 and 3, but not 1 (where the number of copies to be delivered resides).

Given standing order 11 says that no paper copies need be filed for papers other than briefs, this situation will likely be confusing to appellants who aren't frequent flyers in the court of appeals. Is a rule 10 memorandum a brief under SO 11, or a "document other than a brief."

Granted it may be that efilng is right around the corner and SO 11 will be codified soon, and it may also be that rule 23 will be revised soon. But there is potential confusion in the interim.

In addition, it's not clear how/on what timeline the appellee can contest a motion for simplified appeals process. Nor why the appellee shouldn't be able to move for a simplified process in the first instance.

4. **J. Robinson**
[December 6, 2019 at 4:20 pm](#)

Re: rule 5.

If we're modernizing the rule, I suggest we change the timeline for petitioning from 20 days to 21 days. That would be good for consistency, as it appears that most of our somewhat-recently-updated rules (ie., civ pro) express timelines in multiples of 7, ie. 7, 14, 21, 28 ...

5. **William Hains**
[January 3, 2020 at 5:43 pm](#)

Rule 10:

1. The changes on Lines 17-18 (deleting the 10-day response time for summary dispo motions) has the effect of making summary dispo motions under (a)(1) subject to the timing requirements of rule 23. Rule 23 allows the court to change the response time. It also allows for a reply. If that change was unintentional, you could tack the following sentence onto the end of Line 4, "The parties moved against shall have 10 days from the service of such a motion in which to file a response."

2. The wording on Lines 34-35 and Line 45 create a significant ambiguity—it is not clear whether appeals for the categories listed on Lines 39-44 must also "involv[e] the application of well-settled law to a set of facts," or whether they are stand-alone categories that will always warrant a simplified appeal. The problem is in the placement of the phrase "for appeals involving the application of well-settled law to a set of facts" on Line 34. Preceding that phrase with "and" makes it sound like that is not the controlling test. Assuming the application of well-settled law to a set of facts is a minimum requirement applicable to all simplified appeals, I suggest one of the two following changes:

a) Rewrite Lines 34-35 as follows: “For appeals involving the application of well-settled law to a set of facts, the court may, after a docketing statement has been filed, designate the appeal for a simplified appeal process.”

That should make it clear that Line 45 is a catchall, and that the list on Lines 39-44 is illustrative of types of cases that typically meet that test.

-or-

b) Delete “and for appeals involving the application of well-settled law to a set of facts,” from Lines 34-35. Rewrite Line 39 as follows: “(b)(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:”
Then delete Line 45.

6. **William Hains**

January 3, 2020 at 5:54 pm

Rule 5:

If the changes proposed to rule 21 are adopted, consider not including the email addresses in Rule 5 (Lines 16-18 and 55-57). They will be redundant. Any reference to “filing” in Rule 5 will automatically trigger the new Rule 21.

You could also get rid of the proposed references to paper copies and emailed copies on Lines 12-13 and 54-55 and just refer to filing a “petition” or “answer” (deleting “original and five copies of the” etc. from the current rule). Rule 21 will make it clear that hard copies or emailed copies are acceptable. But references to emailed copies would be less glaringly redundant with Rule 21 than the email addresses.

Rule 5. Discretionary appeals from interlocutory orders.

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

(b) **Fees and ~~copies~~ filing of petition.** ~~For a petition presented to the Supreme Court, the~~ The petitioner ~~shall~~ must file with the ~~C~~clerk of the ~~Supreme Court~~ appellate court an original paper ~~and five copies of the~~ petition or an emailed petition, together with the fee required by statute. ~~For a petition presented to the Court of Appeals, the petitioner shall file with the Clerk of the Court of Appeals an original and four copies of the petition, together with the fee required by statute.~~ A petition filed by email in the Utah Supreme Court must be sent to supremecourt@utcourts.gov. A petition filed by email in the Utah Court of Appeals must be sent to courtofappeals@utcourts.gov. The petitioner ~~shall~~ must serve the petition on the opposing party and notice of the filing of the petition on the trial court. If an order is issued ~~authorizing the~~ granting permission to appeal, the clerk of the appellate court ~~shall~~ will immediately give notice of the order by email or mail to the respective parties and ~~shall~~ will transmit a certified copy of the order, together with a copy of the petition, to the trial court where the petition and order ~~shall~~ will be filed instead ~~lieu~~ of a notice of appeal.

(c) Content of petition.

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

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

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

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

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

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

(c)(3) The petitioner ~~shall~~must attach a copy of the order of the trial court from which an appeal is sought and any related findings of fact and conclusions of law and opinion. Other documents that may be relevant to determining whether to grant permission to appeal may be referenced by identifying trial court docket entries of the documents.

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

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

(f) **Response; no reply.** No petition will be granted in the absence of a request by the court for a response. No response to a petition for permission to appeal will be received unless requested by the court. Within ~~10~~14 days after an order requesting a response, any other party may oppose or concur with the petition. Any response to a petition for permission to appeal ~~shall be~~is subject to the same page limitation set out in paragraph (d). An original paper response or an emailed response must be filed in the appellate court. A response filed by email in the Utah Supreme

Court must be sent to supremecourt@utcourts.gov. A response filed by email in the Utah Court of Appeals must be sent to courtofappeals@utcourts.gov.~~and five copies of the answer shall be filed in the Supreme Court. An original and four copies shall be filed in the Court of Appeals.~~

The respondent ~~shall~~must serve the response on the petitioner. The petition and any response ~~shall~~will be submitted without oral argument unless otherwise ordered. No reply in support of a petition for permission to appeal ~~shall~~will be permitted unless requested by the court.

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

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

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

(j) Record citations in merits briefs.

(j)(1) The trial court will not prepare or transmit the record under rule 11(b) or 12(b). The record on appeal is as defined in rule 11(a).

84 (j)(2) A party may cite to the record by identifying documents by name and date and then using a
85 short form after the first citation. A party may prepare and cite to a paginated appendix of select
86 documents from the record. Any such appendix must be filed separately with the party's
87 principal brief.

88 (j)(3) If a hearing was held regarding the order on appeal, within five days after the grant of
89 permission to appeal, the appellant must order the transcript of the hearing as provided in rule
90 11(e)(1).

Rule 10. ~~Motion~~ Procedures for summary disposition or simplified appeal process.

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

(a)(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.

(a)(2) ~~Within 10 days a~~ After the docketing statement ~~or an order granting a petition under Rule 5(e) is served, a party may move:~~

~~(a)(2)(A) To affirm the order or judgment which is the subject of review on the basis that the grounds for review are so insubstantial as not to merit further proceedings and consideration by the appellate court; or~~

~~(a)(2)(B) To reverse the order or judgment which is the subject of review on the basis of manifest error.~~

~~(b) Number of copies; form of motion. For matters pending in the Supreme Court, an original and seven copies of a motion made pursuant to this rule shall be filed with the Clerk of the Supreme Court. For matters pending in the Court of Appeals, an original and four copies shall be filed with the Clerk of the Court of Appeals. The motion shall be in the form prescribed by Rule 23.~~

~~(c) Filing of response. The party moved against shall have 10 days from the service of such a motion in which to file a response. For matters pending in the Supreme Court, an original response and seven copies shall be filed in the Supreme Court. For matters pending in the Court of Appeals, an original response and four copies shall be filed in the Court of Appeals.~~

~~(d) Submission of motion; suspension of further proceedings. Upon the filing of a response or the expiration of time therefor, the motion shall be submitted to the court for consideration and an appropriate order. The time for taking other steps in the appellate procedure is suspended pending disposition of a motion to affirm or reverse or dismiss.~~

~~(e) Ruling of court.~~ has been filed. ~~T~~he court, upon 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 which is the subject of review, if it plainly appears that no substantial question is presented; or may summarily reverse in cases of manifest error.

~~(f) Deferral of ruling.~~ (a)(3) The time for taking other steps in the appellate process is suspended pending disposition of a motion for summary disposition to affirm, reverse, or dismiss.

(a)(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) Simplified appeal process; eligible appeals.

(b)(1) After a docketing statement has been filed, and 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 subsection within 10 days after the docketing statement is filed or the case is transferred to the court of appeals, whichever is later.

(b)(2) Appeals eligible for a simplified process are:

(b)(2)(A) appeals challenging only the sentence in a criminal case;

(b)(2)(B) appeals from the revocation of probation or parole;

(b)(2)(C) appeals from a judgment in an unlawful detainer action;

(b)(2)(D) petitions for review of a decision of the Department of Workforce Services Workforce Appeals Board or the Labor Commission; and

(b)(2)(E) other appeals involving the application of well-settled law to a set of facts.

(c) Memoranda in lieu of briefs.

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

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

51 (c)(2)(A) an introduction describing the nature and context of the dispute, including the
52 disposition in the court or agency whose judgment or order is under review;

53 (c)(2)(B) a statement of the issues for review, including a citation to the record showing that the
54 issue was preserved for review or a statement of grounds for seeking review of an issue not
55 preserved;

56 (c)(2)(C) an argument, explaining with reasoned analysis supported by citations to legal
57 authority and the record, why the party should prevail on appeal; no separate statement of facts is
58 required, but facts asserted in the argument must be supported by citations to the record;

59 (c)(2)(D) a claim for attorney fees, if any, including the legal basis for an award; and

60 (c)(2)(E) a certificate of compliance, certifying that the memorandum complies with rule 21
61 regarding public and private documents.

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

66 (c)(4) Principal memoranda must be no more than 7000 words or 20 pages if a word count is not
67 provided. A reply memorandum must be no more than 3500 words or 10 pages if a word count is
68 not provided. The form of memoranda must comply with the requirements of rule 23(f)(2) and
69 23(f)(3).

70 (d) **Extension of time.** By stipulation filed with the court before the date a memorandum is due
71 to be filed, the parties may extend the time for filing by no more than 21 days. Any additional
72 motions for an extension of time will be governed by rule 22(b).

Posted: December 19, 2019

Utah Courts

Rules of Appellate Procedure – Comment Period Closed February 2, 2020

URAP021. Filing and Service. Amend. The proposed amendments to Rules 21 and 26 incorporate Utah Supreme Court Standing Order 11 (Regarding filing documents by email). Rule 21 amendments would allow parties to file and serve papers by email, with different requirements for briefs and papers other than briefs. Paragraph (f) directs the parties on electronic signatures. The amendments in proposed paragraph (b) incorporate the Standing Order's timing for paying fees.

URAP026. Filing and Service of Briefs. Amend. The proposed amendments to Rule 26 address email service and number of paper copies required in the appellate courts.

This entry was posted in [URAP021](#), [URAP026](#).

[« Rules of Criminal Procedures – Comment Period Closed February 3, 2020](#)
[Rule Governing the Utah State Bar, Supreme Court Rules of Professional Practice – Comment Period Closed January 23, 2020 »](#)

UTAH COURTS

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One thought on “Rules of Appellate Procedure – Comment Period Closed February 2, 2020”

1. **Patrick Larson**
[January 31, 2020 at 7:54 am](#)

These rules about undocumented people being allowed to practice law are absurd!!!!!! They are breaking the law. Make them become citizens 1st. you are violating the citizens of this countries rights by doing this. NO DRIVERSE LICENSE< NO VOTE< NO LAW LICENSE!!!!!! are you freaking crazy or just democrat. STOP this This is Illegal in itself.Shame on you.

Rule 21. Filing and service.

(a) **Filing.** A paper may be filed by email, by mail, or in person. Papers required or permitted to be filed by these rules ~~shall~~must be filed with the appellate clerk ~~of the appropriate court.~~ ~~Filing may be accomplished by mail addressed to the clerk.~~ If emailed, a paper must be in a searchable PDF format of no more than 25 megabytes. Papers filed by email in the Supreme Court must be sent to supremecourt@utcourts.gov. Papers filed by email in the Court of Appeals must be sent to courtofappeals@utcourts.gov. Except as provided in ~~subpart~~paragraph (fg):

(a)(1) Papers other than briefs are timely:

(a)(1)(A) if received by email to the appropriate court by 11:59 p.m. of the due date; or

(a)(1)(B) if received by mail or hand delivery to the Appellate Clerks' Office before 5 p.m. of the due date.

(a)(2) Briefs are timely:

(a)(2)(A) if received by email to the appropriate court by 11:59 p.m. of the due date;

(a)(2)(B) if postmarked by the due date; or

(a)(2)(C) if received by hand delivery to the Appellate Clerks' Office before 5 p.m. of the due date.

~~filing is not considered timely unless the papers are received by the clerk within the time fixed for filing, except that briefs shall be deemed filed on the date of the postmark if first-class mail is utilized. If a motion requests relief which may be granted by a single justice or judge, the justice or judge may accept the motion, note the date of filing, and transmit it to the clerk.~~

(b) **Filing Fees.** If a statute or rule establishes a fee for the filing, the party must pay the fee to the appellate clerk no more than 7 days after the filing, or the filing may be stricken.

(c) **Service of all papers required.** Copies of all papers filed with the appellate court ~~shall~~must, at or before the time of filing, be served on all other parties to the appeal or review. Service on a party represented by counsel ~~shall~~must be made on counsel of record, or, if the party is not represented by counsel, upon the party at the last known address or email address provided to the

[appellate court](#). A copy of any paper required by these rules to be served on a party ~~shall~~must be filed with the court and accompanied by proof of service.

(ed) Manner of service. Service may be personal ~~or~~, by mail, or by email. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by mail or email is complete on mailing or emailing.

(de) Proof of service. Papers presented for filing ~~shall~~must contain an acknowledgment of service by the person served or a certificate of service in the form of a statement of the date and manner of service, the names of the persons served, and the addresses at which they were served. The certificate of service may appear on or be affixed to the papers filed. If counsel of record is served, the certificate of service ~~shall~~must designate the name of the party represented by that counsel.

(ef) Signature. All papers filed in the appellate court ~~shall~~must be signed by counsel of record or by a party who is not represented by counsel. For papers filed by email, the papers may be electronically signed as follows: /s/ name of unrepresented party or name of counsel of record.

(fg) Filing by inmate.

(fg)(1) For purposes of this paragraph **(fg)**, an inmate is a person confined to an institution or committed to a place of legal confinement.

(fg)(2) Papers filed by an inmate are timely filed if they are deposited in the institution's internal mail system on or before the ~~last day for filing~~due date. Timely filing may be shown by a contemporaneously filed notarized statement or written declaration setting forth the date of deposit and stating that first-class postage has been, or is being, prepaid, or that the inmate has complied with any applicable requirements for legal mail set by the institution. Response time will be calculated from the date the papers are received by the court.

(gh) Filings containing other than public information and records. If a filing, including an addendum, contains non-public information, the filer must also file a version with all such information removed. Non-public information means information classified as private, controlled, protected, safeguarded, sealed, juvenile court legal, or juvenile court social, or any

57 other information to which the right of public access is restricted by statute, rule, order, or case
58 law.

Rule 26. Filing and ~~service of~~serving briefs.

(a) **Time ~~for~~to file and ~~service and filing~~ briefs.** The appellant ~~shall~~must file and ~~serve and file~~ a principal brief within 40 days after date of notice from the ~~clerk of the~~ appellate court clerk pursuant to Rule 13. If a motion for summary disposition of the appeal or a motion to remand for determination of ineffective assistance of counsel is filed after the Rule 13 briefing notice is sent, ~~service and filing of an~~ appellant's principal brief ~~shall~~must be filed and served within 30 days from the denial of such motion. The appellee, or in cases involving a cross-appeal, the cross-appellant, ~~shall~~must ~~serve and file~~ and serve a principal brief within 30 days after service of the appellant's principal brief. In cases involving cross-appeals, the appellant ~~shall~~must ~~serve and~~ file and serve the appellant's reply brief described in Rule 24A(d) within 30 days after service of the cross-appellant's principal brief. A reply brief may be ~~served and~~ and served by the appellant or the cross-appellant in cases involving cross-appeals. If a reply brief is filed, it ~~shall~~must be ~~served and~~ and served within 30 days after the filing and service of the appellee's principal brief or the appellant's reply brief in cases involving cross-appeals. If oral argument is scheduled fewer than 35 days after the filing of appellee's principal brief, the reply brief must be filed at least 5 days prior to oral argument. By stipulation filed with the court in accordance with Rule 21(a), the parties may extend each of such periods for no more than 30 days. A motion for enlargement of time need not accompany the stipulation. No such stipulation ~~shall~~will be effective unless it is filed prior to the expiration of the period sought to be extended.

(b) **Number of copies ~~to be filed and served~~.** For matters pending in the Supreme Court, ~~ten~~eight paper copies of each brief, one of which shall contain an original signature, ~~shall~~must be filed with the Supreme Court Clerk ~~of the Supreme Court~~. For matters pending in the Court of Appeals, ~~eight~~six paper copies of each brief, one of which shall contain an original signature, ~~shall~~must be filed with the Court of Appeals Clerk ~~of the Court of Appeals~~. If a brief was filed by email, the required paper copies of the brief must be delivered no more than seven days after filing. If a brief is served by email, upon request ~~Two~~ paper copies ~~shall be served on~~ must be delivered to counsel for each party separately ~~represented~~requesting paper copies.

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

32 | ~~order of the~~ appellate court order, an appellant may move that the appellee not be heard at oral
33 | argument.

34 | (d) **Return of record to the clerk.** Each party, upon ~~the~~ filing ~~of~~ its brief, ~~shall~~ must return the
35 | record to the court clerk ~~of the court~~ having custody pursuant to these rules.

Tab 3

Rule 35A. Petition for rehearing.

(a) ~~Petition for rehearing permitted. A rehearing will not be granted in the absence of a petition for rehearing.~~ A petition for rehearing requesting to alter a decision that affects the substantive rights of the parties or any mandate or rule of law established by the decision, may be filed only in cases in which the court has issued an opinion, memorandum decision, ~~or~~ per curiam decision, or order resolving the appeal on the merits. ~~No other petitions for rehearing will be considered.~~

(b) **Time for filing.** A petition for rehearing may be filed with the clerk within 14 days after the court ~~issuance of~~ the opinion, memorandum decision, or per curiam decision ~~of the court~~, unless the time is shortened or enlarged by order. Remittitur of the case will be deferred pending a decision on any timely motion complying with the requirements of subpart (a).

(c) **Contents of petition.** The petition ~~shall~~ must succinctly state and explain with particularity the points of law or fact ~~which~~ that the petitioner claims the court has overlooked or misapprehended ~~and shall contain such argument in support of the petition as the petitioner desires.~~ ~~Counsel for~~ The petitioner must certify that the petition is presented in good faith and not for delay.

~~(d) Oral argument. Oral argument in support of the petition will not be permitted.~~

~~(e)~~ **Response.** No response to a petition for rehearing will be received unless requested by the court. Any response ~~shall~~ must be filed within 14 days after the entry of the order requesting the response, unless otherwise ordered by the court. A petition for rehearing will not be granted in whole or in part in the absence of a request for a response.

(~~f~~e) **Form of petition.** The petition ~~shall~~must be in ~~a~~the form prescribed by Rule 27(a), (b), and (d) with respect to contents of the cover and ~~shall~~must include a copy of the decision to which it is directed.

~~(g) **Number of copies to be filed and served.** An original and 6 copies shall be filed with the court. Two copies shall be served on counsel for each party separately represented.~~

(~~h~~f) **Length.** Except by ~~order of the~~ court order, a petition for rehearing and any response requested by the court ~~shall~~may not exceed 15 pages.

~~(i) **Color of cover.** The cover of a petition for rehearing shall be tan; that of any response to a petition for rehearing filed by a party, white; and that of any response filed by an amicus curie, green. All brief covers shall be of heavy cover stock. There shall be adequate contrast between the printing and the color of the cover.~~

(~~j~~g) **Action by court if granted.** If a petition for rehearing is granted, ~~t~~the court may make a final disposition of ~~the cause~~a petition for rehearing without reargument, or may restore ~~it~~the case to the calendar for reargument or resubmission, or may make such other orders as are deemed appropriate under the circumstances of the particular case.

(~~k~~h) **Untimely or consecutive petitions.** Petitions for rehearing that are not timely presented under this rule and consecutive petitions ~~for rehearing~~ will ~~not~~ be ~~received~~refused by the clerk.

(~~i~~i) **Amicus curiae.** An amicus curiae may not file a petition for rehearing but may file a response to a petition if the court has requested a response under paragraph (~~e~~d) of this rule.

1 **Rule 35B. Motion to amend decision.**

2 (a) A party seeking to amend a decision in a manner not affecting the substantive rights of
3 the parties or any mandate or rule of law established by the decision may file a motion to
4 amend decision.

5 (b) **Time for filing.** A motion to amend decision may be filed with the clerk within 14 days
6 after the appellate court issues any decision that includes an explanation of the reasoning for
7 the decision.

8 (c) **Contents of motion.** The motion must identify the portions of the decision that should
9 be modified and must state or suggest how it should be modified. The movant must certify
10 that the motion is presented in good faith and not for delay.

11 (d) **Response.** Any party to the case may choose to respond to a motion to amend decision.
12 Any response must be filed within 14 days after service of the motion to amend decision.
13 Remittitur of the case will be deferred pending a decision on the motion; and the court will
14 not act on the motion until all other parties have responded or the response time has
15 elapsed.

16 (e) **Length.** A motion to amend decision, and any response, may not exceed 10 pages.

17 (f) This provision does not affect the court's authority to make non-substantive amendments
18 or corrections to a decision in the absence of a motion by a party or notice to the parties.

Rule 36. Issuance of remittitur.**(a) Date of issuance.**

(1) ~~In the~~ The Supreme Court will issue a ~~the~~ remittitur ~~of the court shall issue~~ 15 days after ~~the entry of~~ the judgment is entered. If a petition for rehearing under Rule 35A or a motion to modify under Rule 35B is timely filed, the remittitur ~~of the court shall~~ will issue five days after ~~the entry of~~ the order disposing of the petition is entered.

(2) ~~In the~~ The Court of Appeals will issue a ~~the~~ remittitur ~~of the court shall issue~~ immediately after ~~the expiration of~~ the time for filing a petition for writ of certiorari expires. If a petition for writ of certiorari is timely filed, ~~issuance of the remittitur by~~ the Court of Appeals will automatically ~~be stayed~~ issuing the remittitur until the Supreme Court's disposition on the petition for writ of certiorari. If the Supreme Court denies the petition, the Court of Appeals ~~shall~~ will issue its remittitur five days after ~~entry of~~ the order denying the petition is entered. If the Supreme Court grants the petition, jurisdiction of the appeal ~~shall~~ will ~~be transferred~~ transfer to the Supreme Court, and the Court of Appeals ~~shall~~ will close its file and transfer the record on appeal, if any, to the Supreme Court.

(3) The time ~~for issuance of~~ to issue the remittitur may be otherwise stayed, enlarged, or shortened by ~~order of the court~~ order. ~~A certified copy of the court's opinion of the court,~~ any direction as to costs, and the record of the proceedings ~~shall~~ will constitute the remittitur.

(b) Stay, supersedeas, or injunction pending application for review to the Supreme Court of the United States. A stay or supersedeas of the remittitur or an injunction pending application for review to the United States Supreme Court may be granted on motion and for good cause. Any motion for a stay of the remittitur or for approval of a supersedeas bond or for an order suspending, modifying, restoring, or granting an injunction during ~~the pendency of~~ the appeal ~~shall~~ must be filed in the Utah Supreme Court. Reasonable notice of the motion ~~shall~~ must be given to all parties. The period of the stay, supersedeas, or injunction ~~shall~~ will be for such time as the court ~~orders, by the~~

31 | ~~court~~ up to and including the final disposition of the application for review. A bond or
32 | other security on such terms as the court deems appropriate may be required as a
33 | condition to the grant or continuance of relief under this paragraph. If the stay,
34 | supersedeas, or injunction is granted until the final disposition of the application for
35 | review, the party seeking the review ~~shall~~must, within the time permitted for seeking the
36 | review, file with the clerk of the court ~~which~~that entered the decision sought to be
37 | reviewed, ~~a certified copy of~~ the notice of appeal, petition for writ of certiorari, or other
38 | application for review, or ~~shall~~must file a certificate that such application for review has
39 | been filed. ~~Up~~On ~~the filing of a copy of~~ an order of the United States Supreme Court
40 | dismissing the appeal or denying the petition for a writ of certiorari, the remittitur
41 | ~~shall~~will issue immediately.

Rule 48. Time for petitioning.

(a) **Timeliness of petition.** A petition for a writ of certiorari must be filed with the ~~Clerk of the~~ Supreme Court clerk within 30 days after ~~the entry of the final decision by~~ the Court of Appeals' final decision is entered. The docket fee ~~shall~~must be paid when ~~at the time of filing~~ the petition is filed.

(b) **Refusal of petition.** The clerk will refuse ~~to receive~~ any petition for a writ of certiorari not timely filed or ~~which is beyond the time indicated in paragraph (a) of this rule or which is not~~ accompanied by the docket fee.

(c) **Effect of petition for rehearing or motion to modify.** The time for filing a petition for a writ of certiorari runs from the date ~~the decision is entered by~~ the Court of Appeals' final decision is entered, not from the date ~~of the issuance of the~~ remittitur is issued. If a petition for rehearing that complies with Rule 35A(a) or a motion to modify that complies with Rule 35B(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 ~~of the denial of~~ the petition for rehearing or motion to modify is denied or ~~of the entry of~~ a subsequent decision on entered upon the rehearing or motion is entered.

(d) Time for cross-petition.

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

(d)(1)(A) within the time provided in Subdivisions (a) and (c) of this rule; or

(d)(1)(B) within 30 days of ~~the filing of~~ the petition for a writ of certiorari.

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

(d)(3) The docket fee ~~shall~~must be paid when ~~at the time of filing~~ the cross-petition is filed. The clerk ~~shall~~will refuse any cross-petition not accompanied by the docket fee.

(d)(4) A cross-petition for a writ of certiorari may not be joined with any other filing. The clerk ~~of the court shall~~ will refuse any filing so joined.

(e) Time Extensions of time.

(e)(1) ~~The Supreme Court, upon a showing of good cause,~~ A party may file a motion to may extend the time for filing a petition or a cross-petition for a writ of certiorari ~~upon motion filed not later than~~ within 30 days after ~~the expiration of~~ the time prescribed by paragraph (a) or (c) ~~of this rule expires.~~ The Supreme Court will grant the motion only for good cause or excusable neglect. Responses to such motions are disfavored and the court may rule at any time after the ~~filing of the~~ motion is filed. No extension ~~shall~~ will exceed 30 days past the prescribed time or 14 days from the date ~~of entry of~~ the order granting the motion is entered, whichever occurs later, and no more than one extension will be granted.

~~(e)(2) The Supreme Court, upon a showing of good cause or excusable neglect, may extend the time for filing a petition or a cross-petition for a writ of certiorari upon motion filed not later than 30 days after the expiration of the time prescribed by paragraph (a) or (e) of this rule, whichever is applicable. No extension shall exceed 30 days past the prescribed time or 14 days from the date of entry of the order granting the motion, whichever occurs later, and no more than one extension will be granted.~~

~~(f) Seven copies of the petition for a writ of certiorari, one of which shall contain an original signature, shall be filed with the Clerk of the Supreme Court.~~

Tab 4

Rule 9. Docketing statement.

(a) **Purpose.** A docketing statement has two principal purposes: (1) to demonstrate that the appellate court has jurisdiction over the appeal, and (2) to identify at least one substantial issue for review. The docketing statement is a document used for jurisdictional and screening purposes. It should not include argument.

(b) **Time for filing.** Within 21 days after a notice of appeal, cross-appeal, or a petition for review of an administrative order is filed, the appellant, cross-appellant, or petitioner ~~shall~~must file ~~an original and two copies of a~~the docketing statement with the ~~clerk of the~~ appellate court clerk and serve ~~a copy~~the docketing statement with any required attachments on all parties. The Utah Attorney General ~~shall~~must be served in any appeal arising from a crime charged as a felony or a juvenile court proceeding.

(c) **Content of docketing statement in a civil case.** The docketing statement in an appeal arising from a civil case ~~shall~~must include:

(c)(1) A concise statement of the nature of the proceeding and the effect of the order appealed, and the district court case number, e.g., “This appeal is from a final judgment of the First District Court granting summary judgment in case number 20190300001900055.”

(c)(2) The following dates relevant to a determination of the ~~timeliness of the notice of~~ appeal’s timeliness and the ~~jurisdiction of the~~ appellate court’s jurisdiction:

(c)(2)(i) The date ~~of entry of~~ the final judgment or order from which the appeal is taken is entered.

(c)(2)(ii) The date the notice of appeal was filed in the trial court.

(c)(2)(iii) If the notice of appeal was filed after receiving ~~an~~ time extension ~~of the time to file pursuant to~~under Rule 4(e), the date the motion for an extension was granted.

(c)(2)(iv) If any motions listed in Rule 4(b) were filed, the date such motion was filed in the trial court and the date ~~of entry of~~ any order disposing of such motion was entered.

(c)(2)(v) If the appellant is an inmate confined in an institution and is invoking Rule 21(f), the date the notice of appeal was deposited in the institution's internal mail system.

(c)(2)(vi) If a motion to reinstate the time to appeal was filed ~~pursuant to~~under Rule 4(g), the date ~~of~~ the order disposing of such motion was entered.

(c)(3) If the appeal is taken from an order certified as final ~~pursuant to~~under Rule 54(b) of the Utah Rules of Civil Procedure, a statement of what claims and parties remain for adjudication before the trial court ~~for adjudication~~.

(c)(4) A statement of at least one substantial issue appellant intends to assert on appeal. An issue not raised in the docketing statement may nevertheless be raised in ~~the appellant's~~ brief ~~of the appellant~~; conversely, an issue raised in the docketing statement does not have to be included in the appellant's ~~brief~~ ~~of the appellant~~.

(c)(5) A concise summary of the facts necessary to provide context for the issues presented.

(c)(6) A reference to all related or prior appeals in the case, with case numbers and citations.

(d) Content of a docketing statement in a criminal case. The docketing statement in an appeal arising from a criminal case ~~shall~~must include:

(d)(1) A concise statement of the nature of the proceeding, including the highest degree of any of the charges in the trial court, and the district court case number, e.g., "This appeal is from a judgment of conviction and sentence of the Third District Court on a third degree felony charge in case number 20190300~~001900055~~."

(d)(2) The following dates relevant to a determination of the ~~timeliness of the~~ timeliness and the ~~jurisdiction of the~~ jurisdiction of the appellate court's jurisdiction:

(d)(2)(i) The date ~~of entry of~~ the final judgment or order from which the appeal is taken is entered.

(d)(2)(ii) The date the notice of appeal was filed in the district court.

(d)(2)(iii) If the notice of appeal was filed after receiving ~~an extension of the~~ time ~~extension to file pursuant to~~under rule 4(e), the date the motion for an extension was granted.

(d)(2)(iv) If a motion ~~pursuant to~~under Rule 24 of the Utah Rules of Criminal Procedure was filed, the date such motion was filed in the trial court and the date ~~of entry of~~ any order disposing of such motion was entered.

(d)(2)(v) If a motion to reinstate the time to appeal was filed ~~pursuant to~~under Rule 4(f), the date ~~of~~ the order disposing of such motion was entered.

(d)(2)(vi) If the appellant is an inmate confined to an institution and is invoking Rule 21(f), the date the notice of appeal was deposited in the institution's internal mail system.

(d)(3) The charges of which the defendant was convicted, and any sentence imposed; or, if the defendant was not convicted, the dismissed or pending charges.

(d)(4) A statement of at least one substantial issue appellant intends to assert on appeal. An issue not raised in the docketing statement may nevertheless be raised in ~~the~~ appellant's brief ~~of the appellant~~; conversely, an issue raised in the docketing statement does not have to be included in ~~the~~ appellant's brief ~~of the appellant~~.

(d)(5) A concise summary of the facts necessary to provide context for the issues presented. If the conviction was pursuant to a plea, the statement of facts should include whether a motion to withdraw the plea was made ~~prior to~~before sentencing, and whether the plea was conditional.

(d)(6) A reference to all related or prior appeals in the case, with case numbers and citations.

(e) Content of a docketing statement in a review of an administrative order. The docketing statement in a case arising from an administrative proceeding ~~shall~~must include:

(e)(1) A concise statement of the nature of the proceedings and the effect of the order appealed, e.g., "This petition is from an order of the Workforce Appeals Board denying reconsideration of the denial of benefits."

(e)(2) The statutory provision that confers jurisdiction on the appellate court.

(e)(3) The following dates relevant to a determination of the timeliness of the petition for review:

(e)(3)(i) The date ~~of entry of~~ the final order from which the petition for review is filed.

(e)(3)(ii) The date the petition for review was filed.

(e)(4) A statement of at least one substantial issue petitioner intends to assert on review.

An issue not raised in the docketing statement may nevertheless be raised in ~~the~~ petitioner's brief ~~of petitioner~~; conversely, an issue raised in the docketing statement does not have to be included in ~~the~~ petitioner's brief ~~of petitioner~~.

(e)(5) A concise summary of the facts necessary to provide context for the issues presented.

(e)(6) If applicable, a reference to all related or prior petitions for review in the same case.

(e)(7) ~~Copies of~~ The following documents must be attached to ~~each copy of~~ the docketing statement:

(e)(7)(i) The final order from which the petition for review is filed.

(e)(7)(ii) In appeals arising from an order of the Public Service Commission, any application for rehearing filed pursuant to Utah Code section 54-7-15.

(f) Consequences of failure to comply. In a civil appeal, failure to file a docketing statement within the time period provided in subsection (b) may result in dismissal of a civil appeal or a petition for review. In a criminal case, failure to file a docketing statement within the time period provided in subsection (b) may result in a finding of contempt or other sanction.

(g) Appeals from interlocutory orders. When a petition for permission to appeal from an interlocutory order is granted under Rule 5, a docketing statement ~~shall~~ may not be filed unless otherwise ordered.

Rule 11. The record on appeal.

(a) **Composition of the record on appeal.** The record on appeal consists of the original papers and exhibits filed in the trial court, including the presentence report in criminal matters, the transcript of proceedings, if any, and the index prepared by ~~the clerk of~~ the trial court clerk, ~~and the docket sheet, shall constitutes the record on appeal in all cases.~~ A copy of the record certified by ~~the clerk of~~ the trial court clerk to conform to the original may be substituted for the original as the record on appeal. ~~Only those papers prescribed under paragraph (d) of this rule shall may be transmitted to the appellate court.~~ Unless otherwise directed by the appellate court on its own motion or motion of a party, the trial court clerk must include all papers in the underlying case as part of the record on appeal.

(b) **Preparing, paginationg, and indexing ofthe record.**

(b)(1) Preparing the record. ~~Immediately upon filing of the notice of appeal~~ On the appellate court's request, ~~the clerk of~~ the trial court clerk shall will ~~securely fasten the record in a trial court case file, with collation~~ prepare the record in the following order:

(b)(1)(A) the index prepared by the clerk;

~~(b)(1)(B) the docket sheet;~~

(b)(1)(~~E~~B) all original papers in chronological order;

(b)(1)(~~D~~C) all published depositions in chronological order;

(b)(1)(~~E~~D) all transcripts prepared for appeal in chronological order;

(b)(1)(~~F~~E) a list of all exhibits offered in the proceeding; and

(b)(1)(~~G~~F) in criminal cases, the presentence investigation report.

(b)(2) Pagination.

(b)(2)(A) Using bates numbering, ~~T~~the clerk ~~shall will~~ paginate the entire record ~~mark the bottom right corner of every page of the collated index, docket sheet, and all original papers except that the clerk need only need only will mark as well as~~ the cover pages only of all published depositions and ~~and the cover page only of each volume of~~ transcripts constituting the record ~~with a sequential number using one series of numerals for the entire record.~~

(b)(2)(B) If the appellate court requests a supplemental record ~~is forwarded to the appellate court~~, the clerk ~~shall will~~ collate follow the same procedures as in (b)(2)(A), beginning continuing bates numbering from the last page number of the original record, the papers, depositions, and transcripts of the supplemental record in the same order as the original record and mark the bottom right corner of each page of the collated original papers as well as the cover page only of all published depositions and the cover page only of each volume of transcripts constituting the supplemental record with a sequential number beginning with the number next following the number of the last page of the original record.

(b)(3) Index. The clerk ~~shall will~~ prepare a chronological index of the record. For each paper, deposition, or transcript, the index shall must contain ~~a reference to the date of filing and starting page of the record on which the paper, deposition or transcript was filed in the trial court and the starting page of the record on which the paper, deposition or transcript will be found.~~

(b)(4) Examining the record. ~~Clerks of the trial and a~~ Appellate courts clerks shall will establish rules and procedures for parties to checking out the record after pagination, ~~for use by the parties in preparing briefs for an appeal or in preparing or briefing a petition for writ of certiorari.~~

(c) **Duty of appellant.** ~~After filing the notice of appeal, t~~ The appellant, or in the event that more than one appeal is taken, each appellant, ~~shall must~~ comply with ~~the provisions of paragraphs (d) and (ed) of this rule~~ and ~~shall must~~ take any other action necessary to enable ~~the clerk of the trial court clerk~~ to assemble and transmit the record. ~~A single record shall be transmitted.~~

(d) Papers on appeal.

~~(d)(1) Criminal cases. All of the papers in a criminal case shall be included by the clerk of the trial court as part of the record on appeal.~~

~~(d)(2) Civil cases. Unless otherwise directed by the appellate court upon sua sponte motion or motion of a party, the clerk of the trial court shall include all of the papers in a civil case as part of the record on appeal.~~

~~(d)(3) Agency cases. Unless otherwise directed by the appellate court upon sua sponte motion or motion of a party, the agency shall include all papers in the agency file as part of the record.~~

(e) The transcript of proceedings; duty of appellant to order; notice to appellee if partial transcript is ordered.

(e)(1) Request for transcript; time for filing. Within 10 days after filing the notice of appeal, the appellant ~~shall~~ must order the transcript(s) online at www.utcourts.gov, specifying the entire proceeding or parts of the proceeding to be transcribed that are not already on file. The appellant ~~shall~~ must serve on the appellee a designation of those parts of the proceeding to be transcribed. ~~If the appellant desires a transcript in a compressed format, appellant shall include the request for a compressed format within the request for transcript.~~ If no such parts of the proceedings are to be requested, within the same period the appellant ~~shall~~ must file a certificate to that effect with the ~~clerk of the~~ appellate court clerk and serve a copy ~~of that certificate~~ on the appellee.

(e)(2) Transcript required of all evidence regarding challenged finding or conclusion. If the appellant intends to ~~urge~~ argue on appeal that a finding or conclusion is unsupported by or is contrary to the evidence, the appellant ~~shall~~ 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.

(e)(3) Statement of issues; ~~C~~ cross-designation by appellee. If the appellant does not order the entire transcript, the appellee may, within 10 days after the appellant services ~~of~~ the designation or certificate described in paragraph (e)(1) ~~of this rule~~, order the transcript(s) in accordance with (e)(1), and file and serve on the appellant a designation of additional parts to be included.

(f) Agreed statement as the record on appeal. In lieu of the record on appeal as defined in paragraph (a) of this rule, the parties may prepare and sign a statement of the case, showing how the issues presented by the appeal arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the statement conforms to the truth, it, — together with such additions as

the trial court may consider necessary fully to present the issues raised by the appeal, ~~shall~~ will be approved by the trial court. The ~~clerk of the~~ trial court clerk shall will transmit the statement to the ~~clerk of the~~ appellate court clerk within the time prescribed by Rule 12(b)(2). The ~~clerk of the~~ trial court clerk shall will transmit the record index ~~of the record~~ to the ~~clerk of the~~ appellate court clerk upon the trial court's approval of the statement ~~by the trial court~~.

(g) Statement of evidence or proceedings when no report was made or when transcript is unavailable. If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, or if the appellant is impecunious and unable to afford a transcript in a civil case, the appellant may prepare a statement of the evidence or proceedings from the best available means, including recollection. The statement ~~shall~~ must be served on the appellee, who may serve objections or propose amendments within 10 days after service. The statement and any objections or proposed amendments ~~shall~~ must be submitted to the trial court for settlement and approval and, as settled and approved, ~~shall~~ will be included by the ~~clerk of the~~ trial court clerk in the record on appeal.

(h) Correction or modification of the record. If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference ~~shall~~ must be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is misstated or is omitted from the record by error, by accident, or because the appellant did not order a transcript of proceedings that the appellee needs to respond to issues raised in appellant's brief ~~the Brief of Appellant~~, the parties by stipulation, the trial court, or the appellate court, either before or after the record is transmitted, may direct that the omission or misstatement be corrected and, if necessary, that a supplemental record be certified and transmitted. The moving party, or the court if it is acting on its own initiative, ~~shall~~ must serve on the parties a statement of the proposed changes. Within 10 days after service, any party may serve objections to the proposed changes. All other questions as to the form and content of the record ~~shall~~ must be presented to the appellate court.

Rule 12. ~~Transmission of~~ftting the record.

(a) Duty to prepare and file transcript; request for enlargement of time; notice to appellate court.

(a)(1) ~~Upon receipt of a request for a transcript~~On receiving a transcript request, the ~~clerk of the~~ appellate court ~~clerk shall~~will assign ~~the preparation of~~ the transcript preparation to the court reporter who reported the proceedings or, if recorded on video or audio equipment, to an official court transcriber and notify the requesting party of the assignment. With appellate court approval, ~~By stipulation of the parties approved by the appellate court,~~ the parties may stipulate that a person other than an official court transcriber may transcribe a recorded hearing.

(a)(2) A party requesting a transcript ~~shall~~must make satisfactory arrangements for paying the fee to the reporter or transcriber~~and notify the clerk of the appellate court of the date on which satisfactory arrangements were made~~. The transcript ~~shall~~must be completed and filed within 30 days after that date.

(a)(3) The reporter or transcriber may request through the Transcript Management System~~from the clerk of the appellate court~~ an enlargement of time in which to file the transcript. The request for enlargement of time ~~shall be in writing and shall~~must contain the elements stated in CJA 5-201(1). If filed ~~prior to the expiration of~~before the transcript preparation period expires, the request ~~shall~~must make a showing of good cause. If filed after the period ~~expiration of the period~~, the request ~~shall~~must make a showing of extraordinary circumstances beyond the control of the reporter or transcriber. ~~The reporter or transcriber shall provide a copy of the request to the parties. The clerk of the appellate court shall provide written notice of the disposition of the request for enlargement of time to the reporter or transcriber and the parties.~~

(a)(4) ~~Upon completion of~~On completing the transcript, the reporter and, if applicable, the transcriber ~~shall~~must certify that the transcript is a true and correct record of the court hearing or of the file provided by the ~~clerk of the~~ appellate court clerk. The reporter or transcriber ~~shall~~must prepare an index of its contents and file the electronic file through the transcript management program. ~~The original hard copy of the transcript and index shall~~must ~~be filed with the clerk of the trial court.~~ At the request of the person ordering

the transcript or at the request of the appellate court, the reporter or transcriber ~~shall~~must file the transcript in a compressed format that places multiple complete pages of the original transcript upon each page of compressed transcript. The compressed transcript ~~shall~~must retain the page and line numbers of the original transcript. ~~A compressed transcript may be certified as a correct copy of the original.~~

(b) ~~Transmittal of~~ing the record on appeal to the appellate court.

(b)(1) ~~Transmittal of~~ing an index. Within 20 days from the date of the appellate court's request ~~from the appellate court~~, the trial court, ~~juvenile court, or government agency~~ ~~shall~~must transmit ~~a certified copy of~~ the index prepared ~~pursuant to~~under Rule 11(b) to the ~~clerk of the~~ appellate court clerk.

~~(b)(2) Transmittal of non-paginated record. Within 7 days from the date of request from the appellate court, the trial court, juvenile court, or government agency shall transmit the papers and any transcripts on file to the clerk of the appellate court. These papers may be sent "as is," without pagination, and will be used by the appellate court for purposes of preliminary review. If the appeal is not summarily dismissed, the record will be returned for indexing and pagination.~~

(b)(~~32~~) ~~Transmittal of~~ing a paginated record. Within 20 days from the date of the appellate court's request ~~from the appellate court~~, the trial court, ~~juvenile court, or government agency~~ ~~shall~~must transmit the papers, transcripts, and exhibits in the appeal to the appellate court.

(b)(~~43~~) ~~Transmission of~~ting exhibits. Documents of unusual bulk or weight, and physical exhibits other than documents, photographs, or binders, ~~shall~~must not be transmitted by the trial court, ~~juvenile court, or government agency~~ unless directed to do so by a party or by the ~~clerk of the~~ appellate court clerk. A party must make advance arrangements with the clerks for ~~the transportation and receipt of~~transporting and receiving exhibits of unusual bulk or weight.

(b)(~~54~~) Examining the record. During the briefing period, the parties may obtain a copy of the record on appeal from the appellate courts. If a digital record is available, it may be shared with the parties electronically.

(b)(65) Checking out the record on appeal. If a physical record on appeal exists, dDuring the briefing period, counsel for the parties who are members of the Utah State Bar in good standing may, as officers of the court, check out the record upon written request to the clerk of court of the court in possession of the record on appeal. The record may be mailed by registered mail or other reputable overnight carrier, return receipt requested, provided that counsel requesting mailing makes advance arrangements with the clerk and pays the cost of shipping. The record may be picked up in person by counsel, or his or her authorized agent. Counsel ~~shall~~must be responsible for promptly returning the record to the court not later than when the party's brief is filed.

(c) **Expedited**ing the transmittal of parts of the record. If ~~prior to~~the appellate court requires the record before the time the record is transmitted ~~the record is required in the appellate court~~, the ~~clerk of the~~ trial court clerk at the request of any party or of the appellate court ~~shall~~must transmit to the appellate court such parts of the original record as designated.

Rule 19. Extraordinary writs.

(a) **Petition for extraordinary writ to a judge or agency; petition; service and filing.** An application for an extraordinary writ referred to in Rule 65B, Utah Rules of Civil Procedure, directed to a judge, agency, person, or entity ~~shall~~must be made by filing a petition with the ~~clerk of the~~ appellate court clerk. ~~Service of the~~ The petition ~~shall~~must be ~~made~~served on the respondent judge, agency, person, or entity and on all parties to the action or case in the trial court ~~or agency~~. In the event of an original petition in the appellate court where no action is pending in the trial court ~~or agency~~, the petition ~~shall~~must be served personally on the respondent judge, agency, person, or entity and service ~~shall~~must be made by the most direct means available on all persons or associations whose interests might be substantially affected.

(b) **Contents of petition and filing fee.** A petition for an extraordinary writ ~~shall~~must contain the following:

(b)(1) A statement of all persons or associations, by name or by class, whose interests might be substantially affected;

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

(b)(3) A statement of the facts necessary to an understanding of the issues presented by the petition;

(b)(4) A statement of the reasons why no other plain, speedy, or adequate remedy exists and why the writ should issue;

(b)(5) Except in cases where the writ is directed to a district court, a statement explaining why it is impractical or inappropriate to file the petition for a writ in the district court;

(b)(6) Copies of any order or opinion or parts of the record ~~which~~that may be essential to an understanding of the matters set forth in the petition;

(b)(7) A memorandum of points and authorities in support of the petition; and

(b)(8) The prescribed filing fee, unless waived by the court.

(b)(9) Where emergency relief is sought, the petitioner must file a separate petition ~~must~~and comply with the additional requirements set forth in Rule 23C(b), ~~including any additional requirements set forth by that subpart.~~

(b)(10) Where the subject of the petition is an interlocutory order, the petitioner must state whether a petition for interlocutory appeal has been filed and, if so, summarize its status or, if not, state why interlocutory appeal is not a plain, speedy, or adequate remedy.

(c) **Response to petition.** The judge, agency, person, or entity and all parties in the action other than the petitioner ~~shall~~will be deemed respondents for all purposes. Two or more respondents may respond jointly. If any respondent does not desire to appear in the proceedings, that respondent may advise the ~~clerk of the~~ appellate court clerk and all parties by letter, but the allegations of the petition ~~shall~~will not thereby be deemed admitted. Where emergency relief is sought, Rule 23C(d) ~~shall~~must apply~~ies~~. Otherwise, within seven days after ~~service of the~~ petition is served, any respondent or any other party may file a response in opposition or concurrence, which includes supporting authority.

(d) **Review and disposition of petition.** The court ~~shall~~will render a decision based on the petition and any timely response, or it may require briefing or ~~the submission of~~submitting request further information, and may hold oral argument at its discretion. If additional briefing is required, the briefs ~~shall~~must comply with Rules 24 and 27. Rule 23C(f) applies to requests for hearings in emergency matters. With regard to emergency petitions submitted under Rule 23C, and where consultation with other members of the court cannot be timely obtained, a single judge or justice may grant or deny the petition, subject to the court's review ~~by the court~~ at the earliest possible time. With regard to all petitions, 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, Utah Rules of Civil Procedure. A petition's ~~The denial of a petition~~ 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 ~~shall~~may not include any additional argument or briefing.

(e) **Transmission of record.** In reviewing a petition for extraordinary writ, the appellate court may order transmission of the record, or any relevant portion thereof, ~~to be transmitted~~.

~~(f) **Number of copies.** For a petition presented to the Supreme Court, petitioner shall file with the clerk of the court an original and five copies of the petition. For a petition pending in the Supreme Court, respondent shall file with the clerk of the court an original and five copies of the response. For a petition presented to the Court of Appeals, petitioner shall file with the clerk of the court an original and four copies of the petition. For a petition pending in the Court of~~

~~Appeals, respondent shall file with the clerk of the court an original and four copies of the response.~~

(~~g~~f) ~~Issuance of~~ing an extraordinary writ ~~by appellate court sua sponte~~on the court's motion. The appellate court, in aid of its own jurisdiction in extraordinary cases, may on its own motion issue a writ of certiorari ~~sua sponte~~ directed to a judge, agency, person, or entity. A copy of the writ ~~shall~~will be served on the named respondents in the manner and by an individual authorized to accomplish personal service under Rule 4, Utah Rules of Civil Procedure. In addition, copies of the writ ~~shall~~must be transmitted by the ~~clerk of the~~ appellate court clerk, by the most direct means available, to all persons or associations whose interests might be substantially affected by the writ. The respondent and the persons or associations whose interests are substantially affected may, within four days of ~~the issuance of~~ the writ's issuance, petition the court to dissolve or amend the writ. The petition ~~shall~~must be accompanied by a concise statement of the reasons for dissolutioning or amendmenting of the writ.