



Agenda

Utah Supreme Court Advisory Committee Utah Rules of Appellate Procedure

Paul C. Burke, Chair

Location: Webex (see calendar appointment for instructions)
Date: January 7, 2021
Time: 12:00 to 1:30 p.m.

Action: Welcome and approval of December 3, 2020 minutes	Tab 1	Paul C. Burke, Chair
Action: Rule 19	Tab 2	Paul Burke, Sarah Roberts
Action: Rule 20	Tab 3	Chris Ballard
Action: Rule 25	Tab 4	Paul Burke, Sarah Roberts
Action: Rules 23 & 27	Tab 5	Paul Burke, Sarah Roberts
Action: Rule 56	Tab 6	Paul Burke, Sarah Roberts
Discussion: Old/new business		Paul C. Burke

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

2021 Meeting schedule:

February 4, 2021	May 6, 2021	August 5, 2021	November 4, 2021
March 4, 2021	June 3, 2021	September 2, 2021	December 2, 2021
April 1, 2021	July 1, 2021	October 7, 2021	

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

Via WebEx Videoconference
Thursday, December 3, 2020
12:00 pm to 1:30 pm

PRESENT

Christopher Ballard
Troy Booher—
Emeritus Member
Paul C. Burke—Chair
Tyler Green
R. Shawn Gunnarson
Michael Judd—
Recording Secretary

Alan Mouritsen
Judge Jill Pohlman
Sarah Roberts—Staff
Clark Sabey
Nathalie Skibine
Mary Westby

EXCUSED

Patrick Burt
Lisa Collins
Larissa Lee—Staff
Judge Gregory Orme
Rodney Parker
Scarlet Smith

1. **Welcome, Approval of November 2020 Minutes** **Paul C. Burke**

Paul C. Burke welcomed the committee. The committee discussed the review of the November 2020 minutes. No comments or objections were noted.

Mary Westby moved to approve the minutes from the November 2020 meeting. Judge Jill Pohlman seconded the motion and it passed by unanimous consent.

2. **Review:** **Sarah Roberts**
Supreme Court Style Guide

The Supreme Court Style Guide is intended as a reference for the committee's work. The committee reviewed the Style Guide and made note of its usefulness. No suggestions for improvement or adjustment were noted.

3. **Action:** **Paul C. Burke**
Rule 15

The Supreme Court has asked the committee to clarify language in Rule 15(b) regarding a party's choice as to where to initiate a direct appeal. The committee discussed the interplay between the Rule's subparagraphs. Tyler Green and Christopher Ballard suggested further consultation with experienced tax practitioners (including from the AG's office) to ensure the committee's amendments to Rule 15 would be consistent with established practices and would avoid creating unnecessary pitfalls. Based on that discussion, the committee determined that the best approach would be to table the discussion to allow for further consultation and refinement.

Mr. Ballard moved to table discussion of Rule 15 to allow for further consultation and refinement of the proposed amendments. Judge Pohlman seconded the motion and it passed without objection by unanimous consent.

4. **Action:** **Tyler Green**
Rules 19 & 20 **Sarah Roberts**

Rules 19 and 20 were presented to the juvenile procedure committee to inquire as to whether "district court" should be changed to "trial court," and that committee recommended that the change be made to Rule 19 but not to Rule 20, as further research is needed as to whether habeas proceedings are available for juvenile petitioners. The committee noted that further follow-up is needed regarding service issues related in Rule 20, and Mr. Ballard volunteered to take responsibility for that follow-up.

Troy Booher and Clark Sabey led the committee in a discussion of Rule 19(b), which included discussion of how to ensure that rule relates properly to now-Rule 23C.

Judge Pohlman moved to table discussion of Rules 19 and 20 to allow for further consultation and refinement of the proposed amendments. Shawn Gunnarson seconded the motion and it passed without objection by unanimous consent.

**5. Discussion: Judicial Efficiency
Rule 31 Subcommittee**

The committee briefly discussed the intent of the potential amendments to Rule 31 and suggested that the committee’s goals may be better met through an amendment to Rule 31.

Judge Pohlman moved to table discussion of Rule 31 to allow for further evaluation of the questions posed by Rule 31. Mary Westby seconded the motion and it passed without objection by unanimous consent.

**6. Action: Sarah Roberts
Rules 43, 50, 56 (Incorporating Standing Order 11)**

The intent of the proposed amendments to Rules 43, 50, and 56 is to ensure consistency with Standing Order 11 and to conform with the Supreme Court Style Guide. The committee also discussed the possible creation of a project intended to address word-court requirements similar to the requirements appearing elsewhere in the rules.

Ms. Westby moved to change the reference to “28 days” in Rule 50 to “30 days.” Clark Sabey seconded that motion, and it passed without objection by unanimous consent.

Judge Pohlman then moved to change the reference to “subject index” to “table of contents,” as well as to strike the clause “must be as short as possible” from line 21 and to otherwise clean up that sentence. Mr. Gunnarson seconded that motion in both respects, and it passed without objection by unanimous consent.

Mr. Gunnarson moved to amend the first sentence of paragraph (e) to track similar language in paragraph (c). Mr. Sabey seconded that motion and it passed without objection by unanimous consent.

Ms. Westby moved to change the reference to “10 days” in line 10 of Rule 43(b) to “14 days.” Mr. Sabey seconded that motion and it passed without objection by

unanimous consent.

With respect to Rule 56, Ms. Westby moved to table further discussion, for reasons related to formatting issues and relationship with Rule 27. Mr. Ballard seconded that motion and it passed without objection by unanimous consent.

Finally, Ms. Westby moved to approve the amendments to Rules 43 and 50 as they appeared on screen at the committee meeting. Judge Pohlman seconded the motion and it passed without objection by unanimous consent.

**7. Discussion: Paul C. Burke
Old/New Business**

Mr. Ballard made two notes about potential future business for the committee. First, Mr. Ballard noted that the rule regarding interlocutory appeals (Rule 5(c)(3)) requires the attachment of the relevant trial-court order and any findings/conclusions, while also allowing reference to other documents. Mr. Ballard observed that the committee may consider a potential revision to that rule, in light of other recent amendments to similar rules.

Second, Mr. Ballard noted an increase in filings to supplement the record, given an uptick in transcriptions from remote hearings that may contain significant gaps or periods of unintelligible testimony. Mr. Ballard suggested the committee may consider whether any rules could be revised to address such problems.

8. Adjourn

Burke declares an adjournment. The committee is scheduled to meet again on January 7, 2021.

Tab 2

1 **Rule 19. Extraordinary writs.**

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

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

- 14 (1) A ~~statement of~~list of all persons or ~~entities~~associations, by name or by class,
15 whose interests might be substantially affected;
- 16 (2) A statement of the issues presented and of the relief sought;
- 17 (3) A statement of the facts necessary to an understanding of the issues presented
18 by the petition;
- 19 (4) A statement of the reasons why no other plain, speedy, or adequate remedy
20 exists and why the writ should issue;
- 21 (5) Except in cases where the writ is directed to a ~~district~~trial court, a statement
22 explaining why it is impractical or inappropriate to file the petition for a writ in
23 the ~~district~~trial court;
- 24 (6) Copies of any order or opinion or parts of the record ~~which~~that may be
25 essential to an understanding of the matters set forth in the petition;
- 26 (7) A memorandum of points and authorities in support of the petition; and

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

28

29 (9) When seeking emergency relief, ~~Where emergency relief is sought~~, the
30 petitioner must file a separate motion that complies with ~~petition must comply~~
31 ~~with~~ Rule 23C ~~(b), including any additional requirements set forth by that~~
32 ~~subpart~~.

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

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

46 (d) **Review and disposition of petition.**

47 (1) The court ~~shall~~ will render a decision based on the petition and any timely
48 response, or it may require briefing, ~~or the submission of~~ request further
49 information, ~~and may~~ or hold oral argument at its discretion. If additional
50 briefing is required, the briefs ~~shall~~ must comply with Rules 24 and 27.

51 (2) Rule 23C(f) applies to requests for hearings in emergency matters. ~~With~~
52 ~~regard to~~ If an emergency petitions is submitted under Rule 23C, and ~~where~~
53 consultation with other court members ~~of the court~~ cannot be timely obtained, a

54 single judge or justice may grant or deny the petition, subject to the court's
55 review ~~by the court~~ at the earliest possible time.

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

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

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

72 (g) **Issuance of** ing an extraordinary writ ~~by appellate court sua sponte~~ on the court's
73 motion.

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

77 (2) A copy of the writ ~~shall~~ will be served on the named respondents in the
78 manner and by an individual authorized to accomplish personal service under
79 Rule 4 ~~of the~~ of the Utah Rules of Civil Procedure.

80 (3) The appellate court clerk must transmit~~In addition,~~ copies of the writ ~~shall be~~
81 ~~transmitted by the clerk of the appellate court,~~ by the most direct means
82 available, to all persons or entities~~associations~~ whose interests might be
83 substantially affected by the writ.

84 (4) The respondent and the persons or entities~~associations~~ whose interests are
85 substantially affected may, within four days of ~~the issuance of~~ the writ's
86 issuance, petition the court to dissolve or amend the writ. The petition ~~shall~~must
87 be accompanied by a concise statement of the reasons for dissolution~~ing~~ or
88 amend~~menting~~ ing of the writ.

Tab 3

1 **Rule 20. Habeas corpus proceedings.**

2 (a) ~~Application~~ Petition for an original writ of habeas corpus; ~~when appropriate. If a~~ A
3 petition for a writ of habeas corpus may be filed in the appellate court only if the
4 petitioner demonstrates that it is impractical or inappropriate to file in the district court
5 or other extraordinary circumstances exist. ~~is filed in the appellate court or submitted to~~
6 ~~a justice or judge thereof, it will be referred to the appropriate district court unless it is~~
7 ~~shown on the face of the petition to the satisfaction of the appellate court that the~~
8 ~~district court is unavailable or other exigent circumstances exist.~~ If a petition is initially
9 filed in a district court or the appellate court ~~is~~ refers the petition to a the district court
10 ~~by the appellate court~~ and the district court denies or dismisses the petition, a the
11 petitioner may not refiling of the petition with the appellate court. ~~is inappropriate;~~
12 Instead, the petitioner must ~~proper procedure in such an instance is an~~ appeal from the
13 district court's order ~~of the district court.~~

14 (b) **Procedure on original petition.**

15 (1) Filing. A habeas corpus proceeding may be commenced in the appellate court
16 by filing a petition with the ~~clerk of the~~ appellate clerk court or, in emergency
17 situations, with a justice or judge of the court. ~~For matters pending in the~~
18 ~~Supreme court, an original petition and seven copies must be filed in the~~
19 ~~Supreme Court. For matters pending in the Court of Appeals, an original petition~~
20 ~~and four copies must be filed in the Court of Appeals.~~

21 (2) Service. The petitioner must serve ~~a copy of~~ the petition on the respondent,
22 except: ~~pursuant to any of the methods provided for service of process in Rule 4~~
23 ~~of the Utah Rules of Civil Procedure but, if imprisoned, the petitioner may mail~~
24 ~~by United States mail, postage prepaid, a copy of the petition to the Attorney~~
25 ~~General of Utah or the county attorney of the county if imprisoned in a county~~
26 ~~jail. Such service is in lieu of service upon the named respondent, and a~~
27 ~~certificate of mailing under oath that a copy was mailed to the Attorney General~~
28 ~~or county attorney must be filed with the clerk of the appellate court.~~

29 (A) A petitioner imprisoned in the custody of the Utah Department of
30 Corrections or state mental hospital who is confined to an institution or
31 committed to a place of legal confinement other than a county jail may
32 mail, postage prepaid, the petition to the Utah Attorney General. A
33 petitioner incarcerated in a county jail may mail, postage prepaid, the
34 petition to the applicable county attorney. The petitioner must file a
35 certificate of mailing under oath that a copy was mailed to the Attorney
36 General or county attorney with the appellate clerk.

37 (B) If the respondent cannot be found or the respondent does not have the
38 person in custody, the writ and any other process issued may be served on
39 anyone having the petitioner in custody, in the manner and with the same
40 effect as if that person had been made respondent in the action.

41 (C) If the respondent refuses or avoids service, or attempts wrongfully to
42 carry the person imprisoned or restrained out of the county or state after
43 service of the writ, the person serving the writ must immediately arrest
44 the respondent or other person so resisting, together with the person
45 designated in the writ, for presentation before the court.

46 (3) Emergencies. In emergency situations, ~~an order to show cause may be issued~~
47 ~~by~~ the court, or a single justice or judge if the court is not available, may issue an
48 order to show cause and may issue a stay or injunction ~~may be issued~~ to preserve
49 the court's jurisdiction until such time as the court can hear argument on
50 whether a writ should issue.

51 ~~(24)~~ Response. If the petition is not referred to the district court, the attorney
52 general or the county attorney, as the case may be, must answer the petition or
53 otherwise plead within ~~ten~~10 days after the petition is served ~~of a copy of the~~
54 ~~petition~~. When a responsive pleading or motion is filed or an order to show
55 cause is issued, the court must set the case for hearing and the clerk must ~~give~~
56 ~~notice to~~notify the parties.

57 ~~(35)~~ Notice. The appellate clerk ~~of the appellate court~~ must, if the petitioner is
58 imprisoned or ~~is a person~~ otherwise in the custody of the state or any political
59 subdivision thereof, give notice of the time for ~~the filing of~~ memoranda and for
60 oral argument, to the attorney general, the county attorney, or the city attorney,
61 depending on where the petitioner is held and whether the petitioner is detained
62 pursuant to state, county, or city law. ~~Similar notice must be given to any other~~
63 ~~person or an association detaining the petitioner not in custody of the state.~~

64 (c) **Contents of petition and attachments.** The petition must include the following:

65 (1) A statement of where the petitioner is detained, by whom the petitioner is
66 detained, and the reason, if known, why the respondent has detained the
67 petitioner.

68 (2) A brief statement of the reasons why the detention is deemed unlawful. The
69 petition must state in plain and concise language:

70 (A) the facts giving rise to each claim that the confinement or detention ~~is~~
71 ~~in violation of~~ violates a state order or judgment or a constitutional right
72 established by the United States Constitution or the Constitution of the
73 State of Utah or is otherwise illegal;

74 (B) whether an appeal was taken from the judgment or conviction
75 ~~pursuant to~~ under which a petitioner is incarcerated; and

76 (C) whether the allegations of illegality were raised in the appeal and
77 decided by the appellate court.

78 (3) A statement ~~indicating of~~ whether any other petition for a writ of habeas
79 corpus based on the same or similar grounds has been filed and the reason why
80 relief was denied.

81 (4) Copies of the court order or legal process, court opinions, and findings
82 ~~pursuant to~~ under which the petitioner is detained or confined, affidavits, copies
83 of orders, and other supporting written documents must be attached to the

84 petition or ~~it must be stated~~ petitioner must state ~~by petitioner~~ why the same are
85 not attached.

86 (d) **Contents of answer.** The answer must concisely set forth specific admissions,
87 denials, or affirmative defenses to the petition's allegations ~~of the petition~~ and must
88 state plainly and unequivocally whether the respondent has, or at any time has had, the
89 person designated in the petition under control and restraint and, if so, the cause for the
90 restraint. The answer must not contain citations of legal authority or legal argument.

91 (e) **Other provisions.**

92 ~~(1) If the respondent cannot be found or if the respondent does not have the~~
93 ~~person in custody, the writ and any other process issued may be served upon~~
94 ~~anyone having the petitioner in custody, in the manner and with the same effect~~
95 ~~as if that person had been made respondent in the action.~~

96 ~~(2) If the respondent refuses or avoids service, or attempts wrongfully to carry~~
97 ~~the person imprisoned or restrained out of the county or state after service of the~~
98 ~~writ, the person serving the writ must immediately arrest the respondent or~~
99 ~~other person so resisting, for presentation, together with the person designated~~
100 ~~in the writ, forthwith before the court.~~

101 ~~(3)~~ At the time ~~of the issuance of~~ the writ is issued, the court may, if it appears
102 that the person detained will be carried out of the court's jurisdiction ~~of the court~~
103 or will suffer some irreparable injury before compliance with the writ can be
104 enforced, cause a warrant to issue, reciting the facts and directing the sheriff to
105 bring the detained person before the court to be dealt with according to law.

106 ~~(4)~~ The respondent must appear at the proper time and place with the person
107 designated or show good cause for not doing so. If the person designated has
108 been transferred, the respondent must state when and to whom the transfer was
109 made, and the reason and authority for the transfer. The writ must not be

110 disobeyed for any defect of form or misdescription of the person restrained or of
111 the respondent, if enough is stated to show the meaning and intent.

112 (53) The person restrained may waive any rights to be present at the hearing, in
113 which case the writ must be modified accordingly. Pending [decision](#)
114 ~~determination of the matter~~, the court may place such person in the custody of an
115 individual or association as may be deemed proper.

Tab 4

1 **Rule 25. Brief of an amicus curiae or guardian ad litem.**

2 (a) When permitted. ~~A brief of A~~an amicus curiae or ~~of~~ guardian ad litem representing
3 a minor who is not a party to the appeal may ~~be filed only by a brief only: by~~ leave of
4 court granted on motion, if the brief states that all parties have consented to its filing, or
5 at the court's request.

6 (b) Motion for leave to file. ~~The motion for leave may be accompanied by a proposed~~
7 ~~amicus brief, provided it complies with applicable rules and the number of copies~~
8 ~~specified by Rule 26(b) are submitted to the court.~~ If all parties do not consent to the
9 brief's filing, Aan amicus curiae or guardian ad litem may file a motion for leave to file
10 an amicus curiae or guardian ad litem brief.

11 (1) The motion must~~shall~~ identify the movant's interest ~~of the movant and shall~~
12 and state the reasons why ~~a brief of~~an amicus curiae or ~~the~~ guardian ad litem
13 brief is desirable and why the matters asserted are relevant to the disposition of
14 the case. The motion must be accompanied by a proposed brief.

15 (2) Except for a motion for leave to participate in support of, or in opposition to, a
16 petition for writ of certiorari filed pursuant to Rule 50(e), the motion for leave
17 ~~shall be filed~~ The motion must be filed at least 21 days ~~prior to~~ before the due
18 date of the principal brief of the party being supported, unless the motion is filed
19 under Rule 50(e) or the court orders otherwise. ~~date on which the brief of the~~
20 ~~party whose position as to affirmance or reversal the amicus curiae or guardian~~
21 ~~ad litem will support is due, unless the court for cause shown otherwise orders.~~

22 (3) Parties to the appeal ~~proceeding~~ may indicate their support for, or opposition
23 to, the motion. Any responses ~~of a party to a~~ to the motion ~~for leave~~ must ~~shall~~ be
24 filed within 7seven days of service of the motion.

25 ~~If leave is granted, an amicus curiae or guardian ad litem shall file its brief within 7~~
26 ~~days of the time allowed the party whose position the amicus curiae or guardian ad~~
27 ~~litem will support, unless the order granting leave otherwise indicates.~~

28 (d) **Brief requirements.** An amicus curiae or guardian ad litem brief must identify the
29 movant's interest and must be filed no later than seven days after the principal brief of
30 the party being supported is filed, unless the court orders otherwise.

31 (d) **Responsive briefs.** The time for responsive briefs under Rule 26(a) ~~shall~~ runs from
32 the timely service of the amicus or guardian ad litem brief or from the timely service of
33 the brief of the party whose position the amicus curiae or guardian ad litem supports,
34 whichever is later.

35 (e) **Oral argument.** ~~A motion of a~~ An amicus curiae or guardian ad litem may file a
36 motion to participate in the oral argument, which the court will ~~be granted~~ when
37 circumstances warrant ~~it in the court's discretion.~~

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 ~~shall~~must be made by filing a motion for such order or
4 relief with proof of service on all other parties. The motion ~~shall~~must contain ~~or be accompanied~~
5 ~~by the following:~~

6 (1) ~~A~~a specific and clear statement of the relief sought;

7 (2) ~~A~~a particular statement of the factual grounds;

8 (3) ~~If the motion is for other than an enlargement of time,~~ a memorandum of points and
9 authorities in support (unless the motion is for an enlargement of time); and

10 (4) ~~A~~affidavits and ~~papers~~documents, where appropriate.

11 (b) **Response.** Any party may file a response to a motion within ~~10~~4 days after the motion is
12 served~~service of the motion~~; however, the court may, for good cause shown, dispense with,
13 shorten, or extend the time for responding to any motion.

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

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

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

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

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

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

33 ~~(f) Form of papers; number of copies.~~

34 ~~(1) Only the original of a motion to enlarge time shall be filed. The number of required~~
35 ~~copies of motions for summary disposition shall be governed by Rule 10(b). For other~~
36 ~~motions presented to the Supreme Court, the movant shall file with the clerk of the court~~
37 ~~an original and three copies. For other motions pending in the Supreme Court, the~~
38 ~~respondent shall file an original and three copies of the response. For a motion presented~~
39 ~~to the Court of Appeals, the movant shall file with the clerk of the court an original and~~
40 ~~four copies. For a motion pending in the Court of Appeals, the respondent shall file an~~
41 ~~original and four copies of the response.~~

42 ~~(2) Motions and other papers shall be typewritten on opaque, unglazed paper 8 1/2 by 11~~
43 ~~inches in size. Paper may be recycled paper, with or without deinking. The text shall be~~
44 ~~in type not smaller than ten characters per inch. Lines of text shall be double spaced and~~
45 ~~shall be upon one side of the paper only. Consecutive sheets shall be attached at the upper~~
46 ~~left margin.~~

47 ~~(3) A motion or other paper shall contain a caption setting forth the name of the court, the~~
48 ~~title of the case, the docket number, and a brief descriptive title indicating the purpose of~~
49 ~~the paper. The attorney shall sign all papers filed with the court with his or her individual~~
50 ~~name. The attorney shall give his or her business address, telephone number, and Utah~~
51 ~~State Bar number in the upper left hand corner of the first page of every paper filed with~~
52 ~~the court except briefs. A party who is not represented by an attorney shall sign any paper~~
53 ~~filed with the court and state the party's address and telephone number.~~

1 **Rule 27. Form of briefs, motions, and other appellate documents.**

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

5 ~~(1) Paper s~~Size, line spacing, printing and margins. ~~Briefs shall~~All documents
6 must be prepared on 8½ by 11 inch sized paper. typewritten, printed or prepared
7 by photocopying or other duplicating or copying process that will produce clear,
8 black and permanent copies equally legible to printing, on opaque, unglazed
9 paper 8 1/2 inches wide and 11 inches long, and shall be securely bound along
10 the left margin. Paper may be recycled paper, with or without deinking.The
11 ~~printing text~~ must be double spaced, except for matter customarily single spaced
12 and indented. Margins ~~shall~~must be at least one inch on ~~the top, bottom and~~
13 ~~sides of each page~~all sides. Page numbers are required and may appear in the
14 margins.

15 ~~(b2)~~ Typeface. ~~Either a proportionally spaced or monospaced typeface in~~The
16 type must be a plain, roman style with serifs~~may be used~~. Italics or boldface may
17 be used for emphasis. Cited case names must be italicized or underlined.

18 ~~(3)~~ Typesize. ~~A proportionally spaced~~The typeface must be 13-point or larger for
19 both text and footnotes. ~~A monospaced typeface may not contain more than ten~~
20 ~~characters per inch for both text and footnotes.~~

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

26 ~~(c) **Binding.** Briefs shall be printed on both sides of the page, and bound with a~~
27 ~~compact type binding so as not unduly to increase the thickness of the brief along the~~
28 ~~bound side. Coiled plastic and spiral type bindings are not acceptable.~~

29 ~~(d) **Caption page** ~~color of cover; contents of cover.~~ The cover of the opening brief of~~
30 ~~appellant shall be blue; that of appellee, red; that of intervenor, guardian ad litem, or~~
31 ~~amicus curiae, green; that of any reply brief, or in cases involving a cross appeal, the~~
32 ~~appellant's second brief, gray; that of any petition for rehearing, tan; that of any~~
33 ~~response to a petition for rehearing, white; that of a petition for certiorari, white; that of~~
34 ~~a response to a petition for certiorari, orange; and that of a reply to the response to a~~
35 ~~petition for certiorari, yellow. All brief covers shall be of heavy cover stock. There shall~~
36 ~~be adequate contrast between the printing and the color of the cover.~~ The cover first
37 page of all each briefs, motion, or appellate document ~~shall~~ must contain a caption that
38 includes the following information ~~set forth in the caption:~~

39 (1) Case and document information:

40 (A) ~~the~~ full title given to the case in the court or agency from which the
41 appeal was taken, as modified ~~pursuant to~~ under Rule 3(g), ~~as well as~~

42 (B) the designation of the parties both as they appeared in the lower court
43 or agency and as they appear in the appeal. ~~In addition, the covers shall~~
44 ~~contain:~~

45 (C) the name of the appellate court;

46 (D) the number of the case in the appellate court opposite the case title;

47 (E) the title or description of the document (e.g., Brief of Appellant,
48 Petition for Rehearing, Motion to Dismiss);

49 (F) the nature of the proceeding in the appellate court (e.g., Appeal,
50 Petition for Review, Extraordinary Writ);

51 (G) the name of the court and judge, agency, or board below;~~and.~~

52 (2) For motions and other appellate documents, counsel or party information in
53 the upper left-hand corner, including:

54 (A) the name, and address, telephone number, Utah State Bar number,
55 of counsel for the respective parties and designation~~ed~~ as attorney for
56 appellant, petitioner, appellee, or respondent, as the case may be, or:

57 (B) An unrepresented party must list the party's name, address, and
58 telephone number.

59 (3) For briefs on the merits, the names of all counsel for the respective parties
60 must appear on the bottom half of the caption page. ~~for~~ The party filing the
61 document ~~shall~~ must appear in the lower right and opposing counsel in the
62 lower left of the cover. ~~In criminal cases, the cover of the defendant's brief shall~~
63 ~~also indicate whether the defendant is presently incarcerated in connection with~~
64 ~~the case on appeal and if the brief is an Anders brief.~~

65 (d) Additional requirements for briefs on the merits.

66 (1) Binding. Briefs ~~shall~~ must be printed on both sides of the page, and securely
67 bound on the left margin with a compact-type binding so as not unduly to
68 increase the thickness of the brief along the bound side. Coiled plastic and spiral-
69 type bindings are not acceptable.

70 (2) Color of caption page. The ~~cover~~caption page of ~~the~~appellant's opening brief
71 of appellant shall must be blue; that of appellee, red; that of intervenor, guardian
72 ad litem, or amicus curiae, green; that of any reply brief, or in cases involving a
73 cross-appeal, the appellant's second brief, gray. All brief ~~covers~~caption pages
74 shall must be of heavy ~~cover~~card stock. There ~~shall~~ must be adequate contrast
75 between the printing and the color of the ~~cover~~caption page.

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

81 (4)(e) Effect of non-compliance with rules. The clerk ~~shall~~ will examine all briefs
82 before filing. If the ~~y~~ briefs are not prepared in accordance with these rules, they
83 will not be filed but ~~shall~~ will be returned to be properly prepared. The clerk
84 ~~shall~~ will retain one copy of the non-complying brief and the party ~~shall~~ must file
85 a brief prepared in compliance with these rules within ~~5~~ seven days. The party
86 whose brief has been rejected ~~under this provision shall~~ must immediately notify
87 the opposing party in writing of the lodging. The clerk may grant additional time
88 for bringing a brief into compliance only under extraordinary circumstances.
89 This rule is not intended to permit significant substantive changes in briefs.

Tab 6

1 **Rule 56. Response to petition on appeal.**

- 2 (a) **Filing.** Any appellee, including the Guardian ad Litem, may file a response to the
3 petition on appeal with the appellate clerk. ~~An original and four copies of the response~~
4 ~~must be filed with the clerk of the Court of Appeals~~ within 15 days after service of the
5 appellant's petition on appeal. The response ~~It shall~~ must be accompanied by proof of
6 service to. ~~The response shall be deemed filed on the date of the postmark if first class~~
7 ~~mail is utilized. The appellee shall serve a copy on~~ counsel of record of each party,
8 including the Guardian ad Litem, or, on the party if the party is not represented by
9 counsel, ~~then on the party at the party's last known address, in the manner prescribed~~
10 ~~in Rule 21(c).~~
- 11 (b) **Format.** A response ~~shall~~ must substantially comply with the Response to Petition on
12 Appeal form that accompanies these rules. The response ~~shall~~ may not exceed 15 pages,
13 excluding any attachments, and ~~shall~~ must comply with Rule 27 ~~(a) and (b), except that it~~
14 ~~may be printed or duplicated on one side of the sheet.~~