

## Agenda

### Utah Supreme Court Advisory Committee Utah Rules of Appellate Procedure

*Christopher D. Ballard, Chair*  
*Nathalie Skibine, Vice Chair*

Location: Webex (see calendar appointment for instructions)  
Date: September 2, 2021  
Time: 12:00 to 1:30 p.m.

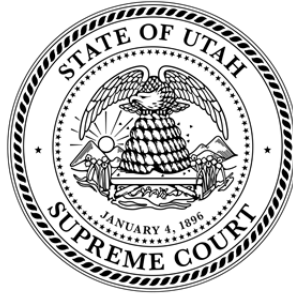
Welcome and introduction of new members		Chris Ballard, Chair Nathalie Skibine, Vice Chair
<b>Discussion:</b> Emeritus members		Nick Stiles
<b>Action:</b> Approval of June 3, 2021 minutes	Tab 1	Chris Ballard, Chair
<b>Action:</b> Rule 25	Tab 2	Clark Sabey
<b>Action:</b> Rule 11	Tab 3	Sarah Roberts
<b>Action:</b> Rule 12	Tab 4	Sarah Roberts
<b>Discussion:</b> Old/new business		Chris Ballard, Chair

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

#### **2021 Meeting schedule:**

October 7, 2021  
November 4, 2021  
December 2, 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, June 3, 2021  
12:00 pm to 1:30 pm

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#### PRESENT

Christopher Ballard  
Troy Booher—  
Emeritus Member  
Paul C. Burke—Chair  
Patrick Burt  
Tyler Green  
R. Shawn Gunnarson  
Michael Judd—  
Recording Secretary  
Margaret Lindsay—Guest  
Alan Mouritsen  
Debra M. Nelson—Guest

Kirstin Norman—Guest  
Rodney Parker  
Judge Jill Pohlman  
Sarah Roberts—Staff  
Clark Sabey  
Nathalie Skibine  
Scarlet Smith  
Adam Trupp—Guest  
Carol Verdoia—Guest  
Christopher Williams  
Mary Westby

#### EXCUSED

Lisa Collins  
Judge Gregory Orme  
Nick Stiles—Staff

**1. Welcome, Approval of May 2021 Minutes**

**Paul Burke**

Paul Burke welcomed the committee and thanked its members for their attendance. The committee reviewed the May 2021 minutes. The committee noted that a reference to a stretch of rules from “Rule 59 to 62” should actually refer to a stretch of rules from Rule 54 to 58, and the committee agreed that that correction should be made.

*Mary Westby moved to approve the minutes from the May 2021 meeting with that change. Judge Jill Pohlman seconded that motion and it passed without objection by unanimous consent.*

**2. Action:  
Rules 54–58 (Child Welfare Rules)**

**Adam Trupp  
Carol Verdoia**

Adam Trupp and Carol Verdoia guided the committee in a return to the proposed changes to Rules 54 to 58, which govern child-welfare appeals. Among the proposed changes discussed was a change to Rule 55(b) at the end of line 15 to provide that appellate counsel must be appointed within 14 days of the filing of the notice of appeal, and if not, trial counsel would have to proceed with appeal. Ms. Verdoia explained that the goal is to avoid letting cases languish, given the important interests associated with expediting these appeals, both for children and for parents. Mr. Trupp suggested that there appears to be general agreement about expediting the process of appointing counsel, and proposed that any such appointment take place within 30 days. Ms. Verdoia pointed out that with a proposed change delaying the filing of petition until transmission of record, some delay may already have been introduced into the appellate timeline for child-welfare cases. Ms. Verdoia and Mr. Trupp both expressed openness to a proposal of 21 days, splitting the difference between the two proposals.

*Mary Westby moved to adopt the package of proposed changes presented by Christopher Ballard, with 21 days as the time allowed to appoint appellate counsel. Mr. Ballard seconded that motion.*

Before any vote on that motion, the committee discussed the possibility of inverting those deadlines, with counsel being appointed within 14 days of notice of appeal and petition being due within 21 days of transmission of the record. Ms. Westby expressed hesitation about increasing the time for filing a petition to 21 days. The committee also discussed the relative



**6. Discussion:  
Old / New Business**

**Paul Burke**

None.

**7. Adjourn**

*The committee's next meeting will take place in September. Mr. Gunnarson moved to adjourn, and there were no objections.*

Tab 2

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

2 (a) Notice. An amicus curiae in the Supreme Court or Court of Appeals must provide  
3 notice to counsel of record for all parties to the appeal of its intent to file its brief at least  
4 14 days before the brief's due date as provided in paragraph (d).

5 (1) Only one signatory to any amicus curiae brief filed jointly must notify the  
6 parties of its intent to file that brief.

7 (2) An amicus curiae whose brief is requested by an appellate court need not  
8 comply with this notice requirement.

9 (b) When permitted. ~~A brief of an amicus curiae or of a guardian ad litem representing~~  
10 ~~a minor who is not a party to the appeal may be filed only by leave of court granted on~~  
11 ~~motion or at the request of the court.~~

12 (1) The following entities may file an amicus curiae brief without consent of the  
13 parties or leave of court:

14 (A) a guardian ad litem;

15 (B) the State of Utah or any agency of the State of Utah by the Office of the  
16 Utah Attorney General;

17 (C) any other State, Commonwealth, or Territory when submitted by its  
18 Attorney General; or

19 (D) the United States of America when submitted by the United States  
20 Department of Justice.

21 (2) Any other amicus curiae brief may be filed only if all parties have consented  
22 to its filing, at the court's request, or by leave of court granted on motion.

23 (c) Motion for leave to file. ~~The motion for leave may be accompanied by a proposed~~  
24 ~~amicus brief, provided it complies with applicable rules and the number of copies~~  
25 ~~specified by Rule 26(b) are submitted to the court.~~ If all parties do not consent to the  
26 brief's filing, ~~A~~an amicus curiae may file a motion for leave to file the brief.



27 (1) The motion must ~~shall~~ identify the party or parties who have withheld  
28 consent, identify the movant's interest, ~~of the movant and shall~~ and state the  
29 reasons why ~~a brief of~~ an amicus curiae ~~or the guardian ad litem~~ brief is desirable  
30 and why the matters asserted are relevant to the disposition of the case.

31 (2) The motion must not exceed 1,500 words. It must be submitted as one  
32 document with the brief sought to be filed.

33 ~~Except for a motion for leave to participate in support of, or in opposition to, a~~  
34 ~~petition for writ of certiorari filed pursuant to Rule 50(e), the motion for leave~~  
35 ~~shall be filed at least 21 days prior to the date on which the brief of the party~~  
36 ~~whose position as to affirmance or reversal the amicus curiae or guardian ad~~  
37 ~~litem will support is due, unless the court for cause shown otherwise orders.~~

38 (3) A party ~~ies~~ to the appeal proceeding ~~may indicate their support for, or~~  
39 ~~opposition to, the motion. Any responses of a party to a motion for leave shall~~  
40 ~~be by~~ filed an objection within 714 days after the motion is ~~of~~ served that  
41 concisely states its reasons for withholding consent ~~ice of the motion.~~

42 Withholding consent is disfavored.

43 (d) Time for filing. An amicus curiae brief, together with a motion under paragraph (c)  
44 when a party has withheld consent, must be filed:

45 (1) in a case before the Supreme Court when a petition for a writ of certiorari is  
46 pending, 14 days after the petition is filed; or

47 (2) in a case before the Supreme Court for merits review, or before the Court of  
48 Appeals, 14 days after the principal brief of the party being supported is filed. ~~If~~  
49 ~~leave is granted, an amicus curiae or guardian ad litem shall file its brief within 7~~  
50 ~~days of the time allowed the party whose position the amicus curiae or guardian~~  
51 ~~ad litem will support, unless the order granting leave otherwise indicates.~~

52 (3) An amicus curiae that does not support either party must file its brief no later  
53 than 7 days after the appellant's or petitioner's principal brief is filed.

54 (e) Length. An amicus curiae brief filed regarding a petition for writ of certiorari may  
55 not exceed 4,000 words. Any other amicus curiae brief may not exceed 7,000 words.  
56 Those limits will not be extended. Both limits exclude the table of contents, the table of  
57 authorities, any appendix, and required certificates of counsel.

58 (f) Contents and form. An amicus curiae brief must comply with Rule 27. In addition,  
59 the cover must identify the party or parties supported and must indicate whether the  
60 brief supports affirmance or reversal. The brief must include:

61 (1) a table of contents;

62 (2) a table of authorities;

63 (3) unless included as part of a motion under paragraph (c)(1), a concise  
64 statement of the identity of the amicus curiae and its interest in the case;

65 (4) a statement indicating whether counsel for the parties received timely notice  
66 under paragraph (a);

67 (5) unless the amicus curiae is one listed in paragraph (b)(1), a statement that  
68 indicates whether:

69 (A) a party's counsel authored the brief in whole or in part;

70 (B) a party or party's counsel contributed money that was intended to  
71 fund preparing or submitting the brief; and

72 (C) a person – other than the amicus curiae, its members, or its counsel –  
73 contributed money that was intended to fund preparing or submitting the  
74 brief, and if so, identifies each such person; and

75 (6) an argument, which may be preceded by a summary and which need not  
76 include a statement of the applicable standard of review.

77 (g) Responsive briefs. The time for responsive briefs under Rule 26(a) ~~shall~~ runs from  
78 the timely service of the amicus curiae ~~or guardian ad litem~~ brief or from the timely

79 service of the brief of the party whose position the amicus curiae ~~or guardian ad litem~~  
80 supports, whichever is later.

81 (h) Oral argument. ~~A motion of a~~ While such requests are not favored, an amicus curiae  
82 ~~or guardian ad litem~~ may file a letter requesting permission ~~motion~~ to participate in the  
83 oral argument within 14 days after the notice of oral argument. ~~will be granted when~~  
84 ~~circumstances warrant in the court's discretion.~~

85 (i) An amicus curiae brief may not be filed in support of a petition for rehearing under  
86 Rule 35.

87

# Tab 3

1 **Rule 11. The record on appeal.**

2 (a) **Composition of the record on appeal.** The record on appeal consists of the original  
3 papers documents and exhibits filed in or considered by ~~in~~ the trial court, including the  
4 presentence report in criminal matters, the transcript of proceedings, if any, and the  
5 record index. ~~prepared by the clerk of the trial court, and the docket sheet, shall~~  
6 ~~constitutes the record on appeal in all cases. A copy of the record certified by the clerk~~  
7 ~~of the trial court to conform to the original may be substituted for the original as the~~  
8 ~~record on appeal. Only those papers prescribed under paragraph (d) of this rule shall be~~  
9 ~~transmitted to the appellate court.~~

10 (b) Preparing, paginationg, and indexing ~~of~~ the record.

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

- 15 (A) the record index ~~prepared by the clerk;~~  
16 ~~(B) the docket sheet;~~  
17 ~~(C)~~ all original papers documents in chronological order;  
18 ~~(D)~~ all published depositions in chronological order;  
19 ~~(E)~~ all transcripts prepared for appeal in chronological order;  
20 ~~(F)~~ a list of all exhibits offered in the proceeding; and  
21 ~~(G)~~ in criminal cases, the presentence investigation report.

22 (2) Pagination.

23 (A) ~~The clerk shall mark the bottom right corner of every page of the~~  
24 ~~collated index, docket sheet, and all original papers as well as~~ Using bates  
25 numbering, the entire record must be paginated. ~~the cover page only of all~~  
26 ~~published depositions and the cover page only of each volume of~~

27 ~~transcripts constituting the record with a sequential number using one~~  
28 ~~series of numerals for the entire record.~~

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

39 (3) Index. ~~The clerk shall prepare a~~ A chronological index of the record must  
40 accompany the record on appeal. For each document, deposition, or transcript,  
41 ~~T~~the index ~~shall~~ must contain ~~a reference to~~ the date of filing and starting page of  
42 the record ~~on which the paper, deposition or transcript was filed in the trial court~~  
43 ~~and the starting page of the record on which the paper, deposition or transcript~~  
44 ~~will be found.~~

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

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

54 ~~(d) Papers on appeal.~~

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

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

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

63 **(ec) The transcript of proceedings; duty of appellant to order; notice to appellee if**  
64 **partial transcript is ordered.**

65 (1) Request for transcript; time for filing. Within ~~10~~4 days after filing the notice of  
66 appeal, or within 30 days of the notice of appeal where an indigent appellant has  
67 a statutory or constitutional right to counsel, the appellant ~~shall~~ must order the  
68 transcript(s) online at [www.utcourts.gov](http://www.utcourts.gov), specifying the entire proceeding or  
69 parts of the proceeding to be transcribed that are not already on file. The  
70 appellant ~~shall~~ must serve on the appellee a designation of those parts of the  
71 proceeding to be transcribed. ~~If the appellant desires a transcript in a compressed~~  
72 ~~format, appellant shall include the request for a compressed format within the~~  
73 ~~request for transcript.~~ If no such parts of the proceedings are to be requested,  
74 within the same period the appellant ~~shall~~ must file a certificate to that effect  
75 with the ~~clerk of the~~ appellate court clerk and serve a copy ~~of that certificate~~ on  
76 the appellee.

77 (2) Transcript required of all evidence regarding challenged finding or  
78 conclusion. If the appellant intends to ~~urge~~ argue on appeal that a finding or  
79 conclusion is unsupported by or is contrary to the evidence, the appellant ~~shall~~  
80 must include in the record a transcript of all evidence relevant to such finding or

81 conclusion. Neither the court nor the appellee is obligated to correct appellant's  
82 deficiencies in providing the relevant portions of the transcript.

83 (3) Statement of issues; ~~C~~cross-designation by appellee. If the appellant does not  
84 order the entire transcript, the appellee may, within ~~10~~4 days after the appellant  
85 ~~services of~~ the designation or certificate described in paragraph (e)(1) ~~of this~~  
86 ~~rule,~~ order the transcript(s) in accordance with (e)(1), and file and serve on the  
87 appellant a designation of additional parts to be included.

88 ~~(f)~~d **Agreed statement as the record on appeal.** In lieu of the record on appeal as  
89 defined in paragraph (a) of this rule, the parties may prepare and sign a statement of  
90 the case, showing how the issues presented by the appeal arose and were decided in the  
91 trial court and setting forth only so many of the facts averred and proved or sought to  
92 be proved as are essential to a decision of the issues presented. If the court deems - the  
93 statement complete and accurate ~~conforms to the truth,~~ it, together with such additions  
94 as the trial court may consider necessary fully to present the issues raised by the appeal,  
95 ~~shall~~ will be approved by the trial court. The ~~clerk of the~~ trial court clerk shall will  
96 transmit the statement to the ~~clerk of the~~ appellate court clerk within the time  
97 prescribed by Rule 12(b)(2). The ~~clerk of the~~ trial court clerk shall will transmit the  
98 record index ~~of the record~~ to the ~~clerk of the~~ appellate court clerk ~~upon~~ the trial court's  
99 approval of the statement ~~by the trial court.~~

100 ~~(g)~~e **Statement of evidence or proceedings when no report was made or when**  
101 **transcript is unavailable.** If no report of the evidence or proceedings at a hearing or  
102 trial was made, or if a transcript is unavailable, or if the appellant is impecunious and  
103 unable to afford a transcript in a civil case, the appellant may prepare a statement of the  
104 evidence or proceedings from the best available means, including recollection. The  
105 statement ~~shall~~ must be served on the appellee, who may serve objections or propose  
106 amendments within ~~10~~4 days after service. The statement and any objections or  
107 proposed amendments ~~shall~~ must be submitted to the trial court for resolution, and the  
108 trial court clerk will conform the record to such resolution. ~~for settlement and approval~~



109 ~~and, as settled and approved, shall be included by the clerk of the trial court in the~~  
110 ~~record on appeal.~~

111 ~~(h)g~~ Supplementing or Correction or modification ~~ing~~ of the record.

112 (1) If any ~~difference-dispute~~ arises as to whether the record ~~truly discloses what~~  
113 ~~occurred in the trial court~~ is complete and accurate, the ~~difference-dispute shall~~  
114 ~~may~~ be submitted to and ~~resolved~~ settled by the ~~at~~ trial court. ~~The trial court will~~  
115 ~~ensure that~~ and the record ~~made to conform to the truth~~ accurately reflects the  
116 proceedings before the trial court, including by entering any necessary findings  
117 to resolve the dispute.

118 (2) If anything material to either party is ~~omitted from or~~ misstated ~~or is omitted~~  
119 ~~from~~ in the record by error ~~of the trial court or court personnel~~, by accident, or  
120 because the appellant did not order a transcript of proceedings that the appellee  
121 needs to respond to issues raised in ~~appellant's brief~~ ~~the Brief of Appellant~~, ~~the~~  
122 ~~parties by stipulation, the trial court, or the appellate court, either before or after~~  
123 ~~the record is transmitted, may direct that~~ the omission or misstatement ~~may~~ be  
124 corrected and, ~~if necessary, that~~ a supplemental record ~~may~~ be ~~certified~~ created  
125 ~~and forwarded~~ ~~and transmitted~~:

126 (A) on stipulation of the parties;

127 (B) by the trial court before or after the record has been forwarded; or

128 (C) by the appellate court on a motion from a party.

129 (3) The moving party, or the court if it is acting on its own initiative, ~~shall~~ must  
130 serve on the parties a statement of the proposed changes. Within ~~10~~ 14 days after  
131 service, any party may serve objections to the proposed changes. ~~All other~~  
132 ~~questions as to the form and content of the record shall be presented to the~~  
133 ~~appellate court.~~

Tab 4

1 **Rule 12. Transmission of ~~the~~ the record.**

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

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

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

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

27 (a)(4) ~~Upon completion of~~On completing the transcript, the reporter and, if  
28 applicable, the transcriber ~~shall~~must certify that the transcript is a true and  
29 correct record of the court hearing or of the file provided by the ~~clerk of the~~  
30 appellate court clerk. The reporter or transcriber ~~shall~~must prepare an index of  
31 its contents and file the electronic file through the transcript management  
32 program. ~~The original hard copy of the transcript and index shall must be filed~~  
33 ~~with the clerk of the trial court.~~ At the request of the person ordering the  
34 transcript or at the request of the appellate court, the reporter or transcriber  
35 ~~shall~~must file the transcript in a compressed format that places multiple  
36 complete pages of the original transcript upon each page of compressed  
37 transcript. The compressed transcript ~~shall~~must retain the page and line numbers  
38 of the original transcript. ~~A compressed transcript may be certified as a correct~~  
39 ~~copy of the original.~~

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

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

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

52 (b)(~~3~~2) ~~Transmittal of~~ing a paginated record. Within 20 days from the date of the  
53 appellate court's request ~~from the appellate court, the trial court, juvenile court,~~

54 ~~or government agency shall~~must transmit the ~~papers~~documents, transcripts, and  
55 exhibits in the appeal to the appellate court.

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

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

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

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