

1 **Rule 19. Extraordinary ~~writ~~ relief.**

2 (a) **Petition for extraordinary ~~relief writ to a judge or agency; petition; service and~~**
3 **~~filing.~~** When no other plain, speedy, or adequate remedy is available, a person may
4 petition an appellate court for ~~An application for an~~ extraordinary relief writ referred to
5 in ~~Rule 65B, U~~Rule 65B of the Utah Rules of Civil Procedure ~~65B, directed to a judge,~~
6 ~~agency, person, or entity must be made by filing a petition with the appellate court~~
7 ~~clerk.~~

8 **(b) Respondents.** The person or entity against whom relief is sought and all parties in
9 any related district court or agency action other than the petitioner are deemed
10 respondents for all purposes.

11 **(c) Filing and service.** The petition must be filed with the appellate clerk and be served
12 on the respondent(s) ~~judge, agency, person, or entity and on all parties to the action or~~
13 ~~case in the trial court.~~ In the event of an original petition in the appellate court where no
14 action is pending in the ~~district trial~~ court or agency, the petition also must be served
15 personally on the respondent ~~judge, agency, person, or entity and service must be made~~
16 ~~by the most direct means available~~ on all persons or ~~associations~~entities whose interests
17 might be substantially affected.

18 **(d) Filing fee.** The petitioner must pay the prescribed filing fee at the time of filing,
19 unless waived by the court.

20 **(e) Contents of petition ~~and filing fee.~~** A petition for ~~an~~ extraordinary ~~writ~~relief must
21 contain the following:

22 (1) ~~Aa list~~statement of all respondents against whom relief is sought, and all
23 others persons or ~~associations~~entities, by name or by class, whose interests might
24 be substantially affected;

25 (2) ~~Aa~~ statement of the issues presented and of the relief sought;

26 (3) ~~Aa~~ statement of the facts necessary to ~~an understanding of~~understand the
27 issues presented by the petition;

28 (4) A statement of the reasons why no other plain, speedy, or adequate remedy
29 exists and why the ~~writ~~ relief should ~~issue~~ be granted;

30 ~~(5) (10) Where~~ the subject of the petition is an interlocutory order, ~~the~~
31 ~~petitioner must state~~ a statement explaining whether a petition for interlocutory
32 ~~appeal has been filed and, if so, summarize its status or, if not, state why~~
33 ~~interlocutory appeal is not a plain, speedy, or adequate remedy;~~

34 ~~(5) E~~xcept in cases where the ~~writ~~ petition is directed to a district court, a
35 statement explaining why it is impractical or inappropriate to file the petition ~~for~~
36 ~~a writ~~ in the district court;

37 ~~(6) a discussion of points and authorities in support of the petition; and~~ Copies
38 ~~of any order or opinion or parts of the record that may be essential to an~~
39 ~~understanding of the matters set forth in the petition;~~

40 ~~(8) (7) A memorandum of points and authorities in support of the petition; copies~~
41 ~~of any order or opinion or parts of the record that may be essential to understand~~
42 ~~the matters set forth in the petition.~~ and

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

44 ~~(9) f~~ Emergency relief. When ~~re~~ emergency relief is sought, the petitioner ~~and~~
45 ~~respondent(s)~~ must file a separate motion pursuant to also comply with Rule 23C
46 explaining why emergency relief is requested. Any response to a motion filed under
47 Rule 23C is governed by that rule and is separate from any response to a petition filed
48 under Rule 19. ~~file a separate petition and comply with the additional requirements set~~
49 ~~forth in Rule 23C(b).~~

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

54 ~~(g)~~ **Response.** No petition will be granted in the absence of a request by the court for a
55 response. No response to a petition will be received unless requested by the court. ~~to~~
56 ~~petition. The judge, agency, person, or entity and all parties in the action other than the~~
57 ~~petitioner will be deemed respondents for all purposes.~~

58 (1) ~~(1)~~ **Timing.** If requested, ~~Any~~ a respondent may file a response within 30 days
59 of the court's request or within such other time as the court orders. ~~after the later~~
60 ~~of the date the petition is served or the filing fee is paid or waived.~~

61 (2) **Joint Response.** Two or more respondents may respond jointly.

62 (~~23~~) **Contents.** The response must include, or respond to, as appropriate, the
63 items in paragraph (e).

64 (~~34~~) **Notice of non-participation.** If any respondent does not desire to appear in
65 the proceedings or file a response, that respondent may advise the appellate
66 court clerk and all parties by letter, but the allegations of the petition will not
67 thereby be deemed admitted. ~~Where emergency relief is sought, Rule 23C(d)~~
68 ~~applies. Otherwise, within seven days after the petition is served, any~~
69 ~~respondent or any other party may file a response in opposition or concurrence,~~
70 ~~which includes supporting authority.~~

71 (h) **Reply.** The petitioner may file a reply within 14 days after service of the response. A
72 reply must be limited to responding to the facts and arguments raised in the response.

73 (i) **Page and word limits.** A petition or response may not exceed 20 pages or 7,000
74 words. A reply may not exceed 10 pages or 3,500 words. Headings, footnotes, and
75 quotations count toward the page or word limit, but the cover page or caption, any
76 table of contents or authorities, signature block, certificates, and any attachments do
77 not.

78 (j) **Certificate of compliance.** A petition, response, and reply must include the filer's
79 certification that the document complies with:

80 (1) paragraph (i), governing the number of pages or words (the filer may rely on
81 the word count of the word processing system used to prepare the
82 brief document); and

83 ~~(2) Rule 27(a), governing format, typeface, and typesize; and~~

84 (32) Rule 21(h), governing filings containing non-public information.

85 (k) **Review and disposition of petition.**

86 (1) The court may deny a~~will render a decision based on the~~ petition without a
87 ~~and any timely~~ response. Where a response has been called for, the court will
88 render a decision based on the petition and any timely response and reply, or it
89 may require briefing or request further information, and may hold oral argument
90 at its discretion. ~~If additional briefing is required, the briefs must comply with~~
91 ~~Rules 24 and 27. Rule 23C(f) applies to requests for hearings in emergency~~
92 ~~matters.~~

93 (2) If the court determines that the petition was not appropriately filed in the
94 appellate court, the court will refer the petition to the appropriate district court.
95 Any review of the district court's decision on the petition must be pursued by
96 appeal rather than a refiling of the petition.

97 ~~(3) With regard to emergency petitions submitted under Rule 23C, and where~~
98 ~~consultation with other members of the court cannot be timely obtained, a single~~
99 ~~judge or justice may grant or deny the petition, subject to the court's review at~~
100 ~~the earliest possible time.~~

101 (33) With regard to all petitions, a single judge or justice may deny the petition
102 if it is frivolous on its face or fails to materially comply with the requirements of
103 this rule or Rule 65B, of the Utah Rules of Civil Procedure. A petition's denial by
104 a single judge or justice may be reviewed by the appellate court upon specific
105 request filed within seven days of notice of disposition, but such request may not
106 include any additional argument or briefing.

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

109 | (m) **Issuing an extraordinary writ on the court's motion.**

110 | (1) The appellate court, in aid of its own jurisdiction in extraordinary cases, may
111 | on its own motion issue a writ ~~of certiorari~~ directed to a judge, agency, person, or
112 | entity.

113 | (2) A copy of the writ will be served on the named respondents in the manner
114 | and by an individual authorized to accomplish personal service under ~~Rule~~
115 | ~~4~~Rule 4 ~~of the~~ Utah Rules ~~ss~~ of Civil Procedure ~~4~~. In addition, copies of the writ
116 | must be transmitted by the appellate court clerk, by the most direct means
117 | available, to all persons or associations whose interests might be substantially
118 | affected by the writ.

119 | (3) The respondent and the persons or ~~associations~~entities whose interests are
120 | substantially affected may, within four days of the writ's issuance, petition the
121 | court to dissolve or amend the writ. The petition must be accompanied by a
122 | concise statement of the reasons for dissolving or amending the writ.

123 | Advisory Committee Note

124 | The Utah Constitution enshrines the right to a writ of habeas corpus. Utah Const., art. I,
125 | sec. 5; art. VIII, sec. 3; art. VIII, sec. 5. The Appellate Rules Committee recommended
126 | repealing Rule 20 (Habeas Corpus Proceedings) because it was duplicative of Rule 19
127 | (Extraordinary Relief) and potentially caused incarcerated individuals to forgo filing a
128 | petition under the Post-Conviction Remedies Act (Utah Code Title 78B, Chapter 9). The
129 | repeal is not intended to substantively affect a defendant's right to a writ of habeas
130 | corpus. Rule 19 of the Utah Rules of Appellate Procedure and Rules 65B and 65C of the
131 | Utah Rules of Civil Procedure govern habeas corpus proceedings.