

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

2 (a) **Petition for permission to appeal.** Any party may seek an appeal from an  
3 interlocutory order by filing a petition for permission to appeal from the interlocutory  
4 order with the appellate court with jurisdiction over the case. The petition must be filed  
5 and served on all other parties to the action within 21 days after the entry of the trial  
6 court's order. If the trial court enters an order on a Saturday, Sunday, or legal holiday,  
7 the date of entry will be deemed to be the first day following the trial court's entry that is  
8 not a Saturday, Sunday, or legal holiday. A timely appeal from an order certified under  
9 Rule [54\(b\)](#), Utah Rules of Civil Procedure, that the appellate court determines is not final  
10 may, in the appellate court's discretion, be considered by the appellate court as a petition  
11 for permission to appeal an interlocutory order. The appellate court may direct the  
12 appellant to file a petition that conforms to the requirements of paragraph (c) of this rule.

13 (b) **Fees and filing of petition.** The petitioner must file the petition with the appellate  
14 court clerk ~~and pay the fee required by statute and, pursuant to Rule 21, pay the fee~~  
15 ~~required by law, unless waived by the appellate court. at the time of electronic filing or~~  
16 ~~within seven days of filing by email, mail, or in person.~~ The petitioner must serve the  
17 petition on the opposing party and notice of the filing of the petition on the trial court. If  
18 the appellate court issues an order granting permission to appeal, the appellate court  
19 clerk will immediately give notice of the order to the respective parties and will transmit  
20 the order to the trial court where the order will be filed instead of a notice of appeal.

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

22 (1) The petition must contain:

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

25 (B) The issue presented expressed in the terms and circumstances of the case but  
26 without unnecessary detail, and a demonstration that the issue was preserved in

27 the trial court. Petitioner must state the applicable standard of appellate review  
28 and cite supporting authority;

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

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

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

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

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

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

49 (f) **Response; no reply.** No petition will be granted in the absence of a request by the court  
50 for a response. No response to a petition for permission to appeal will be received unless  
51 requested by the court. Within 14 days after an order requesting a response, any other  
52 party may oppose or concur with the petition. Any response to a petition for permission  
53 to appeal is subject to the same page limitation set out in paragraph (d) and must be filed

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

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

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

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

76 (j) **Record.** If the petition is granted, the trial court will prepare and transmit the record  
77 under Rule [11](#) or [12](#). Any transcript(s) must be ordered in compliance with Rule [11](#).

78 *Effective: 11/1/2023*