

1 **Rule 24. Principal and reply briefs.**

2 **(a) Principal briefs.** Principal briefs must contain under appropriate headings and in the order
3 indicated:

4 **(a)(1) A list of current and former parties.** The list of parties must include:

5 (a)(1)(A) all parties to the proceeding in the appellate court and their counsel;
6 and

7 (a)(1)(B) listed separately, all parties to the proceeding in the court or agency
8 whose judgment or order is under review that are not parties in the appellate court
9 proceeding.

10 **(a)(2) A table of contents.** The table of contents must list the sections of the brief with
11 page numbers and the items in the addendum with the item number.

12 **(a)(3) A table of authorities.** The table of authorities must list all cases alphabetically
13 arranged, rules, statutes, and other authorities cited, with references to the pages on which
14 they are cited.

15 **(a)(4) An introduction.** The introduction should describe the nature and context of
16 the dispute and explain why the party should prevail on appeal.

17 **(a)(5) A statement of the issue.** The statement of the issue must set forth the issue
18 presented for review, including for each issue:

19 (a)(5)(A) the standard of appellate review with supporting authority; and

20 (a)(5)(B) citation to the record showing that the issue was preserved for review;
21 or a statement of grounds for seeking review of an issue not preserved.

22 **(a)(6) A statement of the case.** The statement of the case must include, with
23 citations to the record:

24 (a)(6)(A) the facts of the case, to the extent necessary to understand the issues
25 presented for review;

26 (a)(6)(B) the procedural history of the case, to the extent necessary to
27 understand the issues presented for review; and

28 (a)(6)(C) the disposition in the court or agency whose judgment or order is

29 under review.

30 **(a)(7) A summary of the argument.** The summary of the argument must contain
31 a succinct statement of the arguments made in the body of the brief.

32 **(a)(8) An argument.** The argument must explain, with reasoned analysis supported
33 by citations to legal authority and the record, why the party should prevail on appeal.

34 **(a)(9) A claim for attorney fees.** A party seeking attorney fees for work performed
35 on appeal must state the request explicitly and set forth the legal basis for an award.

36 **(a)(10) A short conclusion.** The conclusion may summarize the party's position and
37 must state the specific relief sought on appeal.

38 **(a)(11) A certificate of compliance.** The filer must certify that the brief complies
39 with:

40 (a)(11)(A) paragraph (g), governing the number of pages or words (the filer
41 may rely on the word count of the word processing system used to prepare the brief); and

42 (a)(11)(B) Rule 21, governing public and private records.

43 **(a)(12) An addendum.** Subject to Rule 21(g), the addendum must contain a copy of:

44 (a)(12)(A) any constitutional provision, statute, rule, or regulation of central
45 importance cited in the brief but not reproduced verbatim in the brief;

46 (a)(12)(B) the order, judgment, opinion, or decision under review and any
47 related minute entries, findings of fact, and conclusions of law; and

48 (a)(12)(C) materials in the record that are the subject of the dispute and that
49 are of central importance to the determination of the issues presented for review, such as
50 challenged jury instructions, transcript pages, insurance policies, leases, search
51 warrants, or real estate purchase contracts.

52 **(b) Reply brief.** The appellant or petitioner may file a reply brief. A reply brief must be
53 limited to responding to the facts and arguments raised in the appellee's or respondent's
54 principal brief. The reply brief must include:

55 **(b)(1)** a table of contents, as required by paragraph (a)(2);

56 **(b)(2)** a table of authorities, as required by paragraph (a)(3);

57 **(b)(3)** an argument, as required by paragraph (a)(8);

58 **(b)(4)** a conclusion, as required by paragraph (a)(10); and

59 **(b)(5)** a certificate of compliance, as required by paragraph (a)(11).

60 **(c) No further briefs; joining or adopting the brief of another party.** No further
61 briefs may be filed except with leave of the appellate court. More than one party may
62 join in a single brief. Any party may adopt by reference any part of the brief of another.

63 **(d) References in briefs to parties and others.** Parties and other persons and entities
64 should be referred to consistently by the term, phrase, or name most pertinent to the
65 issues on appeal. These may include descriptive terms based on the person or entity's
66 role in the dispute, or the designations used in the trial court or agency, or the names of
67 parties. Unless germane to an issue on appeal, a party should not be described solely by
68 the party's procedural role in the case. The surname of a minor must not be used, nor may
69 the surname of a minor's biological, adoptive, or foster parent be used.

70 **(e) References to the record.**

71 **(e)(1)** Statements of fact and references to proceedings in the court or agency whose
72 judgment or order is under review must be supported by citation to the record. A
73 citation must identify the page of the record as marked by the clerk.

74 **(e)(2)** A reference to an exhibit must set forth the exhibit number. If the reference is to
75 evidence the admissibility of which is in controversy, the reference must set forth the
76 pages of the record at which the evidence was identified, offered, and received or
77 rejected.

78 **(f) References to legal authority.** A reference to an opinion of the Utah Supreme Court
79 or the Utah Court of Appeals issued on or after January 1, 1999, must include the
80 universal citation (e.g., 2015 UT 99, ¶ 3; or 2015 UT App 320, ¶ 6).

81 **(g) Length of briefs.**

82 **(g)(1)** Unless a brief complies with the following page limits, it must comply with the
83 following word limits:

84

Type of brief	Page limit	Word limit
Legality of death sentence, principal brief	60	28,000
Legality of death sentence, reply brief	30	14,000
Other cases, principal brief	30	14,000
Other cases, reply brief	15	7,000

85 (g)(2) Headings, footnotes, and quotations count toward the page or word limit, but
86 the table of contents, table of authorities, and addendum, and any certificates of counsel
87 do not.

88 (h) **Permission to file over length brief.** Although over length briefs are disfavored,
89 a party may file a motion for leave to file a brief that exceeds the page, or word
90 limitations of this rule. The motion must state with specificity the issues to be briefed,
91 the number of additional pages, or words requested, and good cause for granting the
92 motion. A motion filed at least 7 days before the brief is due or seeking three or fewer
93 additional pages, or 1,400 or fewer additional words need not be accompanied by a copy
94 of the proposed brief. Otherwise, a copy of the proposed brief must accompany the
95 motion. If the motion is granted, the responding party is entitled to an equal number of
96 additional pages, or words without further order of the court. Whether the motion is
97 granted or denied, the court will destroy the proposed brief.

98 (i) **Sanctions.** The court on motion or on its own initiative may strike or disregard a
99 brief that contains burdensome, irrelevant, immaterial, or scandalous matters, and the
100 court may assess an appropriate sanction including attorney fees for the violation.

101 (j) **Notice of supplemental authorities.** When authority of central importance to an
102 issue comes to the attention of a party after briefing or oral argument but before
103 decision, that party may file a notice of supplemental authority setting forth:

104 (j)(1) the citation to the authority;

105 (j)(2) a reference either to the page of the brief or to a point argued orally to
106 which the authority applies; and

107 (j)(3) relevance of the authority. The body of the notice must not exceed 350
108 words. Any other party may file a response no later than 7 days after service of the
109 notice. The body of the response must not exceed 350 words.

110 111 **Advisory Committee Notes**

112 **2017 amendments**

113 The 2017 amendments substantially change the organization and
114 content of briefs. An important objective of the amendments is to
115 present the party's case in logical order, in measured increments, and
116 without unnecessary repetition. The principal brief of each party must meet
117 the same requirements.

118 **Paragraph (a)(4).** A party's principal brief should include an
119 introduction. The author should focus the introduction on the important
120 features of the case. The introduction to one case may be only a few
121 sentences, while a more complex case may require a few paragraphs or
122 perhaps a few pages. The objective of the introduction is to give the
123 reader a sense of the forest before detailing the trees.

124 **Paragraph (a)(6).** The statement of the case should describe the facts
125 surrounding the dispute and procedural history of the litigation, but only
126 to the extent that these are necessary to understand the issues.
127 Describing a fact or circumstance or proceeding that has no bearing on
128 the issues adds words of no value and distracts the reader. When stating a
129 fact or describing a proceeding, a concise narrative is sometimes a better
130 presentation than a numbered, itemized list. The party must cite to the
131 places in the record that support the statement.

132 **Paragraph (a)(8).** The 2017 amendments remove the reference to
133 marshaling. *State v. Nielsen*, 2014 UT 10, 326 P.3d 645, holds that the
134 failure to marshal is not a technical deficiency resulting in default, but is a
135 manner in which an appellant may carry its burden of persuasion
136 when challenging a finding or verdict.

137 **Paragraph (a)(11).** The certificate of compliance is expanded to
138 include not only compliance with the limit on the length of the brief,
139 but also compliance with the public/private record requirements of Rule
140 21. Briefs, including the addendum containing trial court records, are
141 public documents, increasingly available on the Internet. However, many
142 trial court records are not public. If the author needs to include a non-
143 public document in an addendum or non-public information in the
144 body of the brief, Rule 21 requires that an identical, public brief be
145 filed, but with the non-public information removed.

146 **Paragraph (b).** The purpose of a reply brief is to respond to the facts
147 and arguments presented in an appellee’s principal brief, not to reiterate
148 points already made in the appellant’s principal brief, nor to introduce
149 new matters that should have been raised in that brief. Although not
150 required, it is good practice to identify the point that is being responded
151 to.

152 **Paragraph (d).** Describing the actors in a dispute and litigation
153 presents a challenge to the author of a brief. Consistency promotes
154 clarity; having chosen a term, phrase, name, or initials to define a
155 party, person, or entity, the author should use it throughout a brief.

156 The name of a minor is often a private record and caution should be
157 used to avoid including other names or information from which a minor
158 might be identified. A minor’s surname should be used only with the
159 informed consent of a mature minor. The author may file a private brief
160 for the parties and the court using the minor’s name while
161 simultaneously filing an otherwise identical public brief with the minor’s
162 name omitted, redacted, reduced to initials, or substituted with a
163 placeholder name. A minor may be referred to by a descriptive term such
164 as “the child,” “the 11-year old,” or “the sister.” The biological,
165 adoptive, or foster parents of minors may be referred to by their relation to
166 the minor, such as “mother,” “adoptive parent,” or “foster father.”

167 While the name of an adult is usually a public record, the author
168 should recognize the intrusion into the lives of victims, witnesses, and others
169 who are not principals in the dispute caused by a brief published on
170 the Internet. Also, the use of names is disfavored when clarity and
171 discretion can be promoted by use of a reference based on the person’s role
172 in the dispute or the case. Parties and other persons and entities should
173 generally be referred to by their role in the dispute, such as “employee,”
174 “Defendant Employer,” or “the Taxpayer.” Descriptions such as
175 “witness” or “neighbor” can also be useful while respecting the interests of
176 non-parties. The reference chosen should be the one most relevant to the
177 matters on appeal.

178 **Paragraph (g).** Because of the increasing rarity of monospaced font,
179 the 2017 amendments eliminated the number of lines as a measure of
180 a brief’s length. And to improve the clarity of Rule 24, the 2017
181 amendments moved the requirements for briefs in a cross-appeal to Rule
182 24A.