

# Researching and Using Utah Appellate Briefs and Other Appellate Resources

by Mari Cheney

## WHY USE APPELLATE BRIEFS?

In law school, we were taught how to analyze legal opinions but rarely, if ever, were we required to read the briefs related to the case. Briefs help the court decide the case, and if the court has not heard your oral arguments, the briefs are the sole source of your arguments. As such, briefs can be a valuable research tool for seasoned appellate litigators, recent law school graduates, and those who are new to appellate litigation.

For example, you can review briefs with similar issues to your own to see what arguments succeeded with the appellate court, and to get an idea of how to organize your own brief. You can research briefs filed by opposing counsel to learn more about their approach to issues.

## HOW TO FIND BRIEFS

Briefs are organized by appellate case number, which you will find near the beginning of the court's opinion. After the creation of the Utah Court of Appeals in 1986, docket numbers were preceded by a 2-digit or 4-digit year designation. Court of Appeals cases have the suffix "CA." Supreme Court cases will sometimes have the suffix "SC."

Examples:

Court of Appeals	Supreme Court
860123 CA	10823
20010054 CA	20030158-SC
	20060003-SC

Briefs are not available for every case filed with the appellate court. For example, briefs in child welfare and other juvenile-related cases are only available for review by the parties and attorneys in the case. Additionally, briefs may not be available because the parties settled before the briefing occurred.

Cases sometimes move between the two appellate courts. For example, a case filed with the Utah Supreme Court may be "poured over" to the Utah Court of Appeals. The Utah Supreme Court may also "recall" a case that had been previously "poured over" to the Court of Appeals. Cases may also be certified to the Supreme Court from the Court of Appeals if the issues merit certification. This can make it confusing for the researcher who is trying to track down briefs.

Here is a tip: The docket number assigned to the case stays with it regardless of whether it has moved back and forth between courts because the sequential docket numbering is shared by both courts.

Additionally, cases can be consolidated, and may carry two or more docket numbers. If you don't find a case under one docket number, try the other.

The easiest way to find briefs is by docket number, but if you only know the party names, you can use LexisNexis, Westlaw, or the court's online opinion database to find the docket number. Law library staff and the Appellate Clerks' Office staff can also help you find the docket number.

## WHERE TO FIND BRIEFS

### Utah State Law Library

The Utah State Law Library, located inside the Matheson Courthouse, has the most comprehensive collection of post-World War II Utah appellate briefs in the state. Our collection includes Utah Supreme Court briefs from 1929 and the 1940s to present, and Utah Court of Appeals briefs from the inception of the court in 1986 to present. Our collection is the most comprehensive because we house both appellate courts' copies of the briefs.

Once an appellate case is closed, the original briefs are eventually sent to the Utah State Law Library. Law library staff log the briefs and file them by docket number. Eventually the briefs are bound into volumes to protect them for future researchers.

Briefs are available for your review and copying at the Utah State Law Library. We also offer a document delivery service wherein we will copy and fax, e-mail, or mail copies of briefs for a fee.

### Brigham Young University, Howard W. Hunter Law Library, and University of Utah, S.J. Quinney Law Library

If there are extra briefs available when the court has finished with a case, the appellate clerk sends them to Utah's two law school libraries. Extra briefs are available only about 25% of the time, and distribution of them alternates between the two law libraries. Because neither of these collections is complete,

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it is best to call ahead to ensure the brief you are interested in is located at that library.

The brief collections of Utah's law school libraries include Utah Supreme Court briefs from 1895 to present and Utah Court of Appeals from 1986 to present.

### Utah State Archives

The Utah State Archives has the most complete collection of older Utah Supreme Court briefs in the state, ranging from 1888 to the 1940s.

### Utah Appellate Clerks' Office

Briefs in cases that are open or pending are only available from the Appellate Clerks' Office, also located inside the Matheson Courthouse.

### Subscription-Based Legal Databases

Some newer appellate briefs are available on-line through Westlaw.

Court of Appeals: UT-APP-BRIEF Selective coverage 2005-present  
Supreme Court: UT-SCT-BRIEF 1995-present

These databases may not be included in your existing subscription plan; contact your Westlaw representative for more information.

## OTHER APPELLATE RESOURCES

### Appellate Docket Search

To find information about cases currently pending in the appellate court, use the Appellate Docket Search available on the court's website:

<http://www.utcourts.gov/courts/appell/appellatesearch.htm>

You need to have the docket number to search this database, and cases are removed from the database after the case has been closed for a year. Contact the Appellate Clerks' Office for

information about older cases.

### Law and Motion Files

Law and Motion files contain all documents, other than briefs, filed in an appellate court case.

Both the Court of Appeals and Supreme Court keep newer Law and Motion files in the Appellate Clerks' Office. Older Law and Motion files are housed off site at the Utah State Archives, so it can take up to a week for the Appellate Clerks' Office to retrieve these documents. Please allow enough time for those files to be retrieved.

Contact the Appellate Clerks' Office for more information about which Law and Motion files are available at the Matheson Courthouse or off site at the Archives.

### Opinion Notification Service

Sign up to receive an e-mail alert when new opinions from the Supreme Court or the Court of Appeals are released to the Court's website. Visit <http://www.utcourts.gov/opinions/subscribe/> to sign up.

### Oral Arguments

You can listen online to Supreme Court oral arguments dating back to September 2003, and Court of Appeals oral arguments dating back to 2005. You can also listen to live streaming audio of oral arguments in either court.

For more information, go to <http://www.utcourts.gov/courts/sup/streams/> and <http://www.utcourts.gov/courts/appell/streams/>.

### Pro Se Guides

The appellate courts offer three guides directed at people who are appealing their case without the help of an attorney. However, these guides are also useful resources for attorneys who are new

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to appellate litigation.

- Pro Se Guide to Appeals Procedures
- Pro Se Guide for Child Welfare Appeals
- Pro Se Guide to Filing Petition of Writ for Certiorari
- Pro Se Guide for Petition of Writ for Review (Agency Review)

These are available on the court's website.

### Trial Court Records

While a case is inactive in the appellate court, the trial court

records remain with the case file in the Appellate Clerks' Office.

Once the case is closed, the file is returned to the trial court. You will need to contact the clerk's office of the court in which the case was filed to request copies. Please note that juvenile court cases are not public.

### Utah Rules of Appellate Procedure

The Utah Rules of Appellate Procedure govern the deadlines, format requirements, and other issues relating to briefs. Form 8 also provides a checklist for briefs which summarizes the requirements.

### CONTACT INFORMATION

#### Appellate Clerks' Office Matheson Courthouse

450 South State Street, 5th Floor  
Salt Lake City  
801-578-3900

#### Howard W. Hunter Law Library

**J. Reuben Clark Law School**  
526 J. Reuben Clark Building  
Provo  
801-422-3593  
<http://lawlib.byu.edu/>

#### S.J. Quinney Law Library University of Utah S.J. Quinney College of Law

332 South 1400 East  
Salt Lake City  
801-581-6438  
<http://www.law.utah.edu/library/>

#### Utah State Archives – Research Center

300 South Rio Grande  
Salt Lake City  
801-533-3504  
<http://archives.utah.gov/research/question.html>

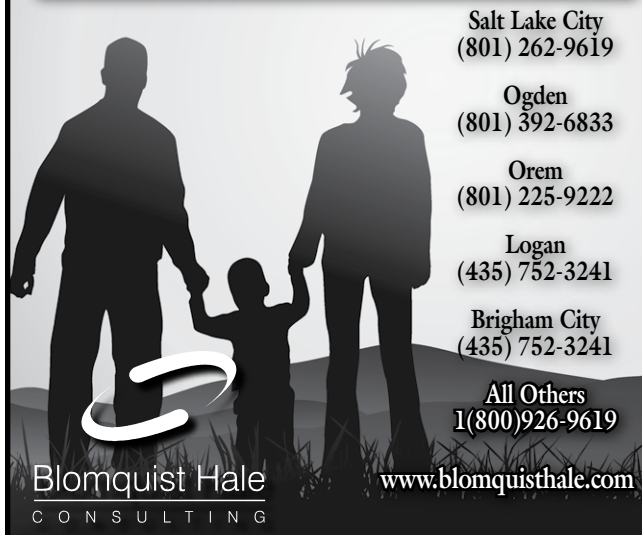
#### Utah State Law Library Matheson Courthouse

450 South State Street, W-13  
Salt Lake City  
801-238-7990  
[library@email.utcourts.gov](mailto:library@email.utcourts.gov)

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### Other disabling condition or circumstance?

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- ▲ Personalized one-on-one communication to identify and meet needs
- ▲ Referrals to experienced treatment providers
- ▲ Mentoring provided by experienced and dedicated attorneys
- ▲ Assistance with cases during extenuating circumstances through referrals (no direct LHL involvement in cases)
- ▲ Monthly Support Group Meetings to unite and discuss issues

#### LHL Support Group Meetings:

January 20, 2009 @ 6:00 pm  
February 17, 2009 @ 6:00 pm

Cliff Bldg. 10 W. Broadway (300 S)  
SLC – 3rd floor conference room

Parking available in Wells Fargo lot between Main & State on 300 S. Parking Validation is provided.

Rule 8.3. Reporting Professional Misconduct. (c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.



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