

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH



SEPTEMBER 16, 2022

NOTICE TO MEMBERS OF THE BAR AND PUBLIC

Proposed Supplemental Changes to the Local Rules of Practice

Public Comment Opportunity Expires on September 28, 2022

The Advisory Committee on the Local Rules of Practice invites comments about the proposed supplemental changes. The summary that follows was prepared to help the public quickly understand the general changes to the rules. The summary should not be relied on as a substitute for a complete review of each rule and the proposed changes.

CIVIL RULES

DUCivR 7-6	Amicus Curiae Participation (New) After receiving and reviewing public comments, the Advisory Committee has revised the newly proposed rule to also require the government to file a motion for leave; allow for no more than 25 pages or 7,750 words; delete former section (e); and clarify that an amicus may only argue for relief that a party is seeking.
DUCivR 41-1	Sanctions: Failure to Notify Court When Settlement is Reached Before a Scheduled Jury Trial (Amend) After receiving and reviewing public comments, the Advisory Committee has clarified that parties should notify chambers that the case is settled no later than 10:00 a.m. the last business day before the scheduled jury trial.

Members of the bar and the public are encouraged to make suggestions or proposals regarding the local rules by sending an email to Utd_public_comments@utd.uscourts.gov ([link sends e-mail](#)). The deadline for sending suggestions or proposals to be considered during the local rules amendment cycle is May 1 each year.

PROPOSED RULE

DUCivR 7-6 AMICUS CURIAE PARTICIPATION

(a) Participation.

~~In any case, the United States, An attorney or its officer, person, entity, or agency, or a State the government through an attorney may automatically file an amicus curiae memorandum, which complies with this Local Rule, without the consent of the parties or seek leave of the court. Any amicus curiae not automatically permitted to file a memorandum an amicus curiae brief in a case. Those seeking leave must file a motion seeking leave consistent with section 7-6(b).~~

(b) Motion for Leave to File a Memorandum.

- (1) The motion must include the following:
 - (A) the amicus's interest in the litigation;
 - (B) the usefulness of the memorandum to the disposition of the case;
and
 - (C) whether the parties consent to the filing of the memorandum.
- (2) The motion must be accompanied by:
 - (A) a proposed order granting the motion; and
 - (B) the proposed memorandum.
- (3) Any party may file a response to the motion, without responding to the substance of the proposed memorandum, within 7 days after service of the motion. Further briefing on the motion for leave is not permitted.
- (4) A party who has been granted leave to file must subsequently file the memorandum with the court within 3 days of the order.

(c) Memorandum Form and Length.

- (1) Form. A memorandum must comply with the formatting requirements of DUCivR 10-1.

(2) Length. Except as the court authorizes, a memorandum may be no more than ~~one half the maximum length of the motion that the amicus's memorandum addresses~~ 25 pages or 7,750 words. The court's order allowing a party's overlength motion or response does not affect the length of an amicus memorandum.

(d) Memorandum Contents.

(1) The memorandum must include the following sections:

- (A) if the amicus curiae is a nongovernmental corporate party, the disclosure statement required by Fed. R. Civ. P. 7.1(a);
- (B) a concise statement of the identity of the amicus curiae and its interest in the case;
- (C) unless the amicus curiae is one listed in the first sentence of section 7-6(a), a statement that indicates whether—
 - (i) a party's counsel authored the memorandum in whole or in part;
 - (ii) a party or a party's counsel contributed money to support preparing the memorandum; and
 - (iii) a person (other than the amicus curiae, its members, or its counsel) contributed money to support preparing the memorandum and identifies each contributor;
- (D) an argument, which may be preceded by an introduction or a statement of the appropriate legal standard; and
- (E) if applicable, a word count certification under DUCivR 7-1(a)(5)(C)~~7~~.

~~(e) — The memorandum must include only facts that the parties have offered in the record, are judicially noticeable, are appropriate legislative facts, are included to demonstrate the amicus's interest in or the consequences of the litigation, or are otherwise admissible.~~

~~(f)~~ ~~The memorandum must only seek relief the parties have requested.~~

(2) The memorandum may only argue for relief a party is seeking.

~~(g)~~(e) **Time for filing.**

- (1) Supporting the Moving Party. The amicus must file the motion for leave and amicus memorandum no later than 14 days after the moving party files its motion.
- (2) Opposing the Moving Party. The amicus must file the motion for leave and amicus memorandum no later than 7 days after the response to the moving party's motion has been filed.
- (3) Modifying the Filing Deadlines. Upon a showing of good cause and no unfair prejudice to any party, the court may modify these deadlines.

~~(h)~~(f) **Prohibiting or Striking an Amicus Memorandum.**

The court may prohibit the filing or strike any amicus memorandum if:

- (1) the memorandum would result in the judge's disqualification; or
- (2) after review, the court determines that the memorandum merely restates the arguments of a party, is not useful in the determination of the case, is an effort by a party to circumvent the length limits of the local rules, otherwise violates these Rules, or for other good cause.

~~(i)~~(g) **Restrictions and Exceptions on Amicus Participation in the Case.**

- (1) Except as the court authorizes, an amicus curiae may not:
 - (A) file a reply or participate in oral argument; and
 - (B) otherwise participate in the case, including discovery and appearing at evidentiary hearings or trial.
- (2) The prohibitions in section 7-6(i)(1) do not apply to parties who have been granted the right to intervene as a party, have been appointed to represent the interest of a party, or who are otherwise granted the right to participate in the case by other statute or rule.

DUCivR 41-1 DISMISSAL OR SETTLEMENT BEFORE JURY TRIAL

(a) Duty to Notify the Court.

The parties must immediately notify the court about any agreement that eliminates the need to empanel a jury.

(b) Jury Costs.

- (1) The court may assess jury costs against an attorney, a party, or both unless the parties have complied with section DUCivR 41-1(a) by filing a notice about dismissal or settlement and informing the judge's chambers ~~at least~~ by no later than 10:00 a.m. the last business day before the scheduled jury trial.
- (2) Jury costs include attendance fees, per diem, mileage, and parking.