UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

AUGUST 11, 2023

NOTICE TO MEMBERS OF THE BAR AND PUBLIC

Proposed changes to the Local Rules of Practice

Public Comment Opportunity Expires on September 1, 2023

The Advisory Committee on the Local Rules of Practice invites comments about the proposed rule 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. There will be formatting anomalies between the clean and redline copies – please focus on the formatting in the clean copy. As a courtesy, the court has provided copies of the forms that either have been updated or were newly created during the 2023 rule revision cycle. While the court welcomes comments on these forms, the court will revise its forms, from time to time, without seeking public comment.

CIVIL RULES

DUCivR 7-1	**Motions and Memoranda (Amend)** The Committee received a comment requesting that clarifying language be added to notify parties that informal arrangements to extend the motion filing deadlines are ineffective. The court must approve agreements to extend deadlines as required in DUCivR 83-6. Section (a)(5) was added to clarify that a stipulation to extend filing times is ineffective without a court order.
DUCivR 7-4	**An Action Seeking Judicial Review of a Decision from an Administrative Agency (Amend)** Clarifies the sections of the rule that apply to Social Security Actions under 42 U.S.C. § 405 and refers those who electronically file to the ECF Procedures Manual for guidance.

DUCivR 26-1	**General Provisions Governing Discovery (Amend)** The Committee received a comment requesting clarifying language be added to section (a)(1)(D) to notify parties that they should not file a certificate of service for initial disclosures discovery, expert disclosures, or notices of depositions. Clarifying language was also added to section (a)(2) confirming that parties should file a notice of designation of experts for conflict purposes.,
DUCivR 30-2	**Notices Required for Depositions Under Fed. R. Civ. P. 30(b)(6) (Amend)** General stylistic clean up to improve clarity and readability. The Committee received a comment suggesting use of the phrase "notice or subpoena" to be consistent with Fed. R. Civ. P. 30(b)(6). The title and rule were amended to include "subpoena."
DUCivR 37-1	**Discovery Disputes (Amend)** Section (b)(3) was amended to clarify that exhibits in addition to the disputed discovery should not be attached. Section (b)(7) was amended to clarify that a motion for leave to file an overlength motion or response must adhere to the requirements of DUCivR 7-1(a)(4)(D). Section (b)(7) was added to the rule to clarify that a motion to quash a subpoena and a motion related to the standard protective order are exempt from the short form briefing requirements of DUCivR 37-1 and instead follow DUCivR 7-1(a)(4)(D).
DUCivR 54-2	**Costs: Taxation of Costs and Attorney's Fee (Amend)** General stylistic clean up to improve clarity and readability. Clarifies a motion for attorney's fees should be separate from a Bill of Costs. Clarifies the briefing requirements for the motion and affidavit for motion for attorney's fees. Additionally, specified the briefing requirements related to a Bill of Costs and eliminated the Clerk of Court's ability to hold a hearing to resolve objections. The title of the rule was revised to mirror the proposed amendments.
DUCivR 55-1	**Default and Default Judgments (Amend)** General stylistic clean up to improve clarity and readability. Clarifies that a Clerk's Certificate of Default is not required when a party seeks a default judgment as a sanction. Clearly identified the briefing requirements for parties seeking a default judgment for a sum certain. The title of the rule was revised to mirror the proposed amendments.
DUCivR 56-1	**Summary Judgment Motions and Memoranda (Amend)** The first sentence of section (b) was eliminated because the Committee received a comment that some practitioners were

	interpreting it to mean that a party could file only 1 summary judgment motion during the pendency of the case. The rule was clarified to confirm parties should cite to the appropriate appendices. instead of the Statement of Undisputed Facts.
DUCivR 67-1	**Receipt and Deposit of Registry Funds (Amend)** General stylistic clean up to improve clarity and readability. In 2015 and 2016, the court issued General Orders 15-002a and 16-007. These orders adopted local procedures to ensure uniformity in the deposit, investment, and tax administration of funds held in the court's registry. Sections of General Order 16-007 conflicted with this rule. Additionally, changes were made to the Guide to Judiciary Policy related to when a court must accept electronic fund transfers. The amendments to the rule supersede the General Orders referenced above and clearly identify the necessary information that must be contained in the court order for depositing or withdrawing funds from the court's registry.
DUCivR 71.1-1	**Deposits in the Court Registry (Eliminate)** This rule is unnecessary because of the amendments to DUCivR 67-1.
DUCivR 72-3	**Response to an Objection to a Magistrate Judge Decision (Amend)** General stylistic clean up to improve clarity and readability. Clarifies the page or word limits for an objection and response. The title of the rule was revised to mirror the proposed amendments.
DUCivR 72-4	**Consent to the Jurisdiction of the Magistrate Judge (Amend)** An amendment was made to section (b)(1)(A) to incorporate the requirements of General Order 23-003 to exempt cases filed by a party who is incarcerated from direct assignment to a magistrate judge.
DUCivR 81-2	**Removed Actions (Amend)** The court changed the requirements associated with filing the Attorney Planning Meeting Report and proposed Scheduling Order after removal. Section (d) has been amended to reflect the current requirements for filing those documents with the court.
DUCivR 83-1.2	**Attorneys – Annual Registration (Amend)** An amendment was made to section (d)(2) to incorporate the requirements of General Order 23-005 to permit the court to set the attorney reinstatement fee.
DUCivR 83-1.3	**Attorneys – Appearances by Attorneys (Amend)** General stylistic clean up to improve clarity and readability. Clarifies that an attorney who signs a waiver of service has entered a general appearance in the case and must be admitted to practice

	before the court. Clarifies that an attorney who has accepted a limited scope pro bono assignment, at the court's request, on behalf of a party who is incarcerated does not need to secure the party's signature on the limited appearance. Clarifies in section (c) that a federally recognized tribe may be exempt from needing an attorney to appear on its behalf. In section (e), clarifies the requirements for an attorney to provide the court with updated contact information. The title of the rule was revised to mirror the proposed amendments.
DUCivR 83-1.4	**Attorneys – Substitution and Withdrawal of Attorney (Amend)** General stylistic clean up to improve clarity and readability. The Committee received a comment requesting clarification about what happens when an attorney withdraws leaving the client unrepresented and without the client's consent. Clarifies that when a trial date is pending and an attorney is being replaced by new counsel, an attorney does not need to file a motion for leave before withdrawing from the case.
DUCivR 83-1.5-1	**Attorney Disciplinary Actions – General Provisions (Amend)** General stylistic clean up to improve clarity and readability. Combined all attorney discipline rules and the reinstatement rule in 1 rule. Established a process for the Clerk of Court to impose reciprocal discipline, which an attorney may challenge by filing a motion for relief from the Clerk's order. If a motion to challenge the Clerk's order is filed, the Disciplinary Panel will address the motion. Explained the various disciplinary authorities the court may employ to assist in resolving an attorney disciplinary matter. Section (f)(4) clarifies that an order of discipline will be reflected in the attorney's status in the court's public attorney directory. The title of the rule was revised to mirror the proposed amendments. The rule will be renumbered to DUCivR 83-1.7 to accommodate the renumbering of DUCivR 83-1.6 and 83-1.7.
DUCivR 83-1.5-2	**Reciprocal Discipline (Eliminate)** This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-3	**Criminal Conviction Discipline (Eliminate)** This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-4	**Referral by a Judicial Officer (Eliminate)** This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-5	**Attorney Misconduct Complaint (Eliminate)**

	This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-6	**Committee on the Conduct of Attorneys (Eliminate)** This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-7	**Evidentiary Hearing (Eliminate)** This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-8	**Reinstatement (Eliminate)** This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.6	**Attorneys – Student Practice Rule (Renumbered)** This rule will be renumbered to DUCivR 83-1.5 because of the changes to DUCivR because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.7	**Conduct of an Unrepresented Party (Renumbered)** This rule will be renumbered to DUCivR 83-1.6 because of the changes to DUCivR because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-5	**Custody and Disposition of Trial Exhibits (Amend)** General stylistic clean up to improve clarity and readability. Clarifies the process for retention of hearing and trial exhibits by the court and parties. The amendments are made to create uniform retention and disposal of hearing and trial exhibits by the court and parties.

CRIMINAL RULES

DUCrimR 5-2	**Pretrial Service Reports (Amend)** General stylistic clean up to improve clarity and readability. Identified a process in section (c) for the handling and filing of documents the court receives related to the issue of detention before the hearing. Eliminated the requirement in section (d) for defense counsel and the government to destroy copies of the reports. In section (e), clarifies when the court may authorize additional disclosure of the reports. The title of the rule was revised to mirror the proposed amendments.
DUCrimR 32-1	**Presentence Investigation Reports: Time, Objections, Submission, Resolution of Disputes (Amend)** General stylistic clean up to improve clarity and readability. Clarifies the process for objecting to the Presentence Investigation Report, which is modeled after the process in the United States Sentencing Commission Guidelines. Identified a process in section (b)(4) for the handling and filing of documents the court receives related to

	sentencing before the hearing. The title of the rule was revised to mirror the proposed amendments.
DUCrimR 41-1	**Sealing of Fed. R. Crim. P. 41 Cases and Documents (Amend)** The Committee received a request from the United States Attorney's Office to create a carve out from the motion requirement if all that is being redacted is personal identifiers that are required to be redacted under Fed. R. Crim P. 49.1. Section (a)(2) was created to address the United States Attorney's Office request.
DUCrimR 44-1	**Right to and Assignment of Counsel (Eliminate)** This rule is unnecessary because case law and Fed. R. Crim. P. 44 sufficiently address a defendant's right to counsel.
DUCrimR 57-3	**Association and Filing of Criminal Cases (Amend)** General stylistic clean up to improve clarity and readability. Clarifies the process for transferring cases when supervised release violations are pending and when they are not. Identified the judge who should rule on the motion to transfer.

PATENT RULES

LPR Preamble	**Preamble (Eliminate)** Recommendation is to eliminate Preamble because it is superfluous to the content that is already in the rules.
LPR 1	**Scope of Rules and Sections (Amend)** General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. Added LPR 1.8 to replace LPR 3.5, which has been eliminated. This new section clarifies the process for a motion to stay pending reexamination or other post-grant proceedings.
LPR 2	**Patent Initial Disclosures and Sections (Amend)** General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. Section 101 ineligibility contentions were added to LPR 2.4 in response to comments the Committee received.
LPR 3	**Final Contentions and Sections (Amend)** General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. LPR 3.5 was eliminated.
LPR 4	**Claim Construction Proceedings and sections (Amend)** General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. LPR

	4.3(e) clarifies that a second deposition is not available for witnesses who have been previously deposed, which was part of the old LPR 4.2(a).
LPR 5	**Expert Witnesses and Sections (Amend)** General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. Amended LPR 5.1 to provide 3 sets of expert reports to be consistent with the changes to the proposed Scheduling Order used in general civil litigation cases. Deleted LPR 5.1(d) because it is redundant with the federal rule.
LPR 6	**Dispositive Motions and Sections (Amend)** General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. Eliminated LPR 6.2 because it created unnecessary premature summary judgment briefing before the court had ruled on the claim construction briefs.
LPR 7	**Final Pretrial Conference and Sections (Amend)** General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized.
Appendix	**Appendix (New)** Added as an illustrative display of the chronology of the LPR deadlines and events.

FORMS

Attorney Planning Meeting Report – General (Amend) General stylistic clean up to improve clarity and readability. Those stylistic changes are not summarized. Adds statement regarding good cause to support the entry of the court's Standard Protective Order. Creates a process for utilization of a protective order that is not court's Standard Protective Order. Adds option to clarify if the parties do not intend to disclose information, documents, or other materials that will be designated as confidential. Clarifies filing of notice designation of experts, as required in DUCivR 26-1, to support internal court conflict checks. Better aligns deadlines with court practices.
Attorney Planning Meeting Report – Patent (New)
Proposed Scheduling Order – General (Amend) General stylistic clean up to improve clarity and readability. Those stylistic changes are not summarized. Adds statement regarding good cause for entry of the court's Standard Protective Order. Clarifies filing of notice designation of experts, as required in DUCivR 26-1, to support internal court conflict checks. Better aligns deadlines with court practices.
Proposed Scheduling Order Pre-Claim Construction – Patent (New)

Proposed Scheduling Order Post-Claim Construction – Patent (New)
Proposed Scheduling Order – Administrative Case Under DUCivR 7-4 (Amend) General stylistic clean up to improve clarity and readability. Those stylistic changes are not summarized.
Proposed Scheduling Order – ERISA (New)
Standard Protective Order (Amend) Complete rewrite and stylistic clean up to improve clarity and readability. Those stylistic changes are not summarized. Clarifies who is allowed access information, documents, or other material that is designated as CONFIDENTIAL. Includes a revised Acknowledgement and Agreement to be Bound for technical advisors to sign. Clarifies that an inadvertent disclosure of attorney-client privileged or work-product protected information is not a waiver of the privilege or protection. Imposing the inadvertence standard under Fed. R. Evid. 502(b) undermined the reason that Rule 502 was enacted, which was imposed for those instances where no protective order is in place.

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. The deadline for submitting suggestions or proposals to be considered during the local rules amendment cycle is May 1 each year.

DUCivR 7-1 MOTIONS AND MEMORANDA

(a) Motion, Response, and Reply.

(1) Motion and Memorandum. Except as otherwise allowed by this rule, a motion and memorandum must be contained in the same document and include the following:

(A) an initial separate section stating succinctly the specific relief sought and the grounds for the relief; and

(B) a recitation of relevant facts, supporting authority, and argument.

(2) Exception to the Requirement to Include Facts and Supporting Authority. The requirement to include facts and supporting authority under section 7-1(a)(1)(B) does not apply to the following motions:

(A) to extend time for the performance of an act, whether required or permitted, if the motion is made before the current deadline expires;

(B) to continue a hearing or other court proceeding;

(C) to appoint a next friend or guardian ad litem;

(D) to substitute a party;

(E) for a settlement conference;

(F) for referral to or withdrawal from the court's ADR program; and

(G) for approval of a stipulation between the parties.

(3) No Motion Within a Response or Reply. A party may not make a motion, including a motion under Fed. R. Civ. P. 56(d), or a cross-motion in a response or reply. Any motion must be separately filed. A cross-motion may incorporate by reference the arguments contained in a response, if applicable.

(4) Page and Word Limits and Filing Times. Unless the court orders otherwise or the parties stipulate to shorter requirements, the following apply:

(A) *Motions Filed Under Fed. R. Civ. P. 12(b), 12(c), or 23(c).*

(i) A motion or a response may not exceed 25 pages or 7,750 words.

(ii) A reply may not exceed 10 pages or 3,100 words.

(iii) A response to a motion must be filed within 28 days after service of the motion.

(iv) A reply may be filed within 14 days after service of the response.

(B) *Motions Filed Under Fed. R. Civ. P. 56(a).*

(i) A motion or a response may not exceed 40 pages or 12,400 words.

(ii) A reply may not exceed 20 pages or 6,200 words.

(iii) A response to a motion must be filed within 28 days after service of the motion.

(iv) A reply may be filed within 14 days after service of the response.

(C) *Motions Filed Under Fed. R. Civ. P. 65*.

(i) A motion or a response may not exceed 25 pages or 7,750 words.

(ii) A reply may not exceed 10 pages or 3,100 words.

(iii) A response to a motion must be filed within 14 days after service of the motion.

(iv) A reply may be filed within 14 days after service of the response.

(D) *All Other Motions.*

(i) A motion, response, or reply not specified above may not exceed 10 pages or 3,100 words.

(ii) A response to a motion must be filed within 14 days after service of the motion.

(iii) A reply may be filed within 14 days after service of the response.

(5) Stipulation to Extend Filing Time. Parties seeking to extend the filing time for a response or reply must file a stipulated motion before the filing time has passed. A stipulation to extend a filing time is ineffective without a court order.

(6) Sections Applicable to Page or Word Limits and Certification Requirement.

(A) All headings, citations, quotations, and footnotes count toward the page or word limit.

(B) The caption, face sheet, table of contents, table of authorities, signature block, certificate of service, and exhibits do not count toward the page or word limit.

(C) When a document exceeds the page limit, a party must certify at the end of the document that the document complies with the word limit (e.g., "I, [attorney's name], certify that this [name of document] contains [number of words] words and complies with DUCivR 7-1(a)(4).").

(7) Overlength Motion, Response, or Reply.

(A) Unless modified by the assigned judge in a court order or on their "practices and procedures" page on the court website, a party must first obtain a court order authorizing the additional pages or words before filing a motion, response, or reply that exceeds the page or word limits in section 7-1(a)(4). The motion must be filed, and the

order obtained, before filing the overlength motion, response, or reply. The motion to exceed the page or word limit must include:

(i) the number of additional pages or words that are needed; and

(ii) a statement of good cause why additional pages or words are needed.

(B) An overlength motion, response, or reply must contain a table of contents.

(8) Motion Seeking Relief Similar to Another Party's Motion. Each party seeking relief from the court must file a motion that identifies the relief sought and grounds for the requested relief. A party may incorporate by reference another party's arguments in the party's own motion, if applicable, but filing a "Notice of Joinder" is improper.

(9) Additional Memoranda. Unless otherwise ordered, the court will not consider additional memoranda.

(b) Motion to Strike Evidence Improper; Evidentiary Objections Permitted.

(1) A motion to strike evidence offered in another party's motion, response, or reply is improper.

(2) If evidence is offered in a motion or a response, the response or reply may include an objection to the evidence. In exceptional circumstances, the objection may be filed as a separate document simultaneously with the response or reply.

(3) If new evidence is offered in a reply, an evidentiary objection must be filed within 7 days after service of the reply.

(4) A party may file a response to an evidentiary objection at the same time any response or reply is due or no later than 7 days after the objection was filed, whichever is later.

(c) Supplemental Authority.

When pertinent and significant authority comes to the attention of a party before the court has entered a decision on a motion, the party may file a Notice of Supplemental Authority, which may not exceed 2 pages.

(1) The notice must contain, without argument, the following:

(A) a reference either to the page of the memorandum or to a point argued orally to which the supplemental authority pertains; and

(B) the reasons why the supplemental authority is relevant.

(2) The court may decide a motion without waiting for a response to the notice. If the court has not ruled on the motion, a party may file a response, which may not exceed 2 pages, within 7 days after service of the notice.

(d) Supporting Exhibits.

When evidence is cited in a motion, response, or reply, the relevant portions of the evidence must be attached or filed separately and contemporaneously with the document.

(e) Proposed Orders.

(1) When Required. A party must provide a proposed order when filing a motion under section 7-1(a)(2) of this rule or when the court orders otherwise.

(2) Filing Procedures. To file a proposed order, a party must:

(A) attach it as an exhibit to the motion; and

(B) email an editable copy of the proposed order, copied to other parties or their counsel—

(i) for motions filed under DUCivR 77-2, to utdecf_clerk@utd.uscourts.gov; and

(ii) for all other motions, to the assigned judge's chambers.

(f) Failure to Respond.

Except as provided in DUCivR 56-1(f), failure to respond timely to a motion may result in the court granting the motion without further notice.

(g) Oral Arguments on Motions.

The court may set any motion for oral argument. Otherwise, a party may request oral argument on a motion and must show good cause. If oral argument is not set, the court will determine a motion based upon the parties' written memoranda.

(h) Summary Judgment.

This rule and DUCivR 56-1 apply to motions for summary judgment and related memoranda.

(i) Courtesy Copies.

The court may require a party to provide courtesy copies as described in the court's ECF Procedures Manual and on the Judge Information section of the court's website.

(j) Sanctions.

Failure to comply with the requirements of this rule may result in the court imposing sanctions, including:

(1) returning the document for resubmission in accord with the rule;

(2) denial of the motion; or

(3) any other sanction the court deems appropriate.

DUCivR 7-4 AN ACTION SEEKING JUDICIAL REVIEW OF A DECISION FROM AN ADMINISTRATIVE AGENCY

(a) Governing Rules.

When a party seeks judicial review of an administrative agency's decision under an arbitrary and capricious or substantial evidence standard of review in civil actions, the Federal Rules of Civil Procedure apply unless other law or these rules require otherwise.[1] Review of Social Security decisions is governed by the Supplemental Rules for Social Security Actions under 42 U.S.C. § 405(g) and is not covered by this rule, except for the formatting requirements in section 7-4(d)(4)-(6). For the CM/ECF filing requirements for Social Security Actions, see the ECF Procedures Manual for guidance.

(b) Initial Filings.

(1) A complaint must include:

(A) identification of the final agency action or any part being challenged;

(B) factual allegations supporting the grounds for the challenge; and

(C) the legal basis for subject-matter jurisdiction for the action.

(2) In response to a complaint, the agency must file one of the following responsive documents within the time prescribed by statute, rule, or court order:

(A) a motion to dismiss under Fed. R. Civ. P. 12(b); or

(B) a short and plain statement—

[1] Advisory Committee Note: This provision is intended to clarify that the Federal Rules of Civil Procedure govern other matters that arise in litigation challenging agency decisions, such as amendments to complaints, motions to intervene, motions for injunctive relief, and other matters not otherwise precluded by other law or rules.

(i) admitting or denying that the decision, or any part of it, is arbitrary and capricious or not supported by substantial evidence; and

(ii) identifying any affirmative defenses.

(3) The following responsive pleadings are not allowed:

(A) an answer;

(B) a motion for judgment on the pleadings;

(C) a motion for summary judgment; or

(D) a motion to affirm or reverse the decision.

(4) If the agency files a motion to dismiss and the court denies that motion, the agency must comply with section 7-4(b)(2)(B) within the time prescribed by Fed. R. Civ. P. 12(a)(4)(A).

(c) Scheduling Order.

(1) In lieu of an Attorney Planning Meeting Report under Fed. R. Civ. P. 26(f), and within 14 days after the agency files its short and plain statement, the parties must submit a proposed scheduling order that contains:

(A) a brief statement of—

(i) the claimed errors in the agency's decision; and

(ii) the reasons the agency claims its decision was not arbitrary and capricious or was supported by substantial evidence;

(B) dates by which the following will be filed—

(i) the indexed administrative record, if one has not already been filed;

(ii) objections to the administrative record and responses;

(iii) any other motions;

(iv) an Opening Brief, which must be filed using the CM/ECF event, "Motion for Review of Agency Action";

(v) an Answer Brief, which must be filed using the CM/ECF event, "Memorandum in Opposition to Motion" and linked to the "Motion for Review of Agency Action"; and

(vi) a Reply Brief, which is limited to addressing only those issues raised in the Answer Brief, and which must be filed using the CM/ECF event, "Reply Memorandum/Reply to Response to Motion" and linked to the "Motion for Review of Agency Action."[2]

(2) The Scheduling Order will govern the filing deadlines for the parties' respective briefs unless the court orders otherwise.

(d) Brief Requirements.

(1) Fed. R. App. P. 28(a)(2), (3), (5)-(10) govern the Opening Brief;

(2) Fed. R. App. P. 28(b) governs the Answer Brief, except that it need not follow the requirements of Fed. R. App. P. 28(a)(1) or (4);

(3) Fed. R. App. P. 28(c) governs the Reply Brief;

(4) The following page and word limits apply, unless, on showing of good cause, the court orders otherwise:

(A) in a case seeking review of a Social Security Administration Commissioner's decision, Opening and Answer Briefs must not exceed 7,750 words, and a Reply Brief must not exceed 3,875 words;

(B) in all other cases, brief length is governed by Fed. R. App. P. 32(a)(7); and

[2] The parties must follow the proper naming and filing conventions to ensure that the documents appear on the proper CM/ECF reports to assist the court in managing its docket and tracking these filings.

(C) word limits exclude the caption, face sheet, table of contents, table of authorities, signature block, certificate of service, and exhibits.

(5) The formatting requirements of DUCivR 10-1 apply.

(6) Unless the court orders otherwise, the court will not consider additional briefs.

DUCivR 26-1 GENERAL PROVISIONS GOVERNING DISCOVERY

(a) Filing.

(1) Not Filed. Unless the court orders otherwise, the following must not be filed:

(A) the disclosures required by Fed. R. Civ. P. 26(a)(1);

(B) the expert disclosures and reports required by Fed. R. Civ. P. 26(a)(2);

(C) the deposition notice required by Fed R. Civ. P. 30(b);

(D) the discovery requests or responses served under Fed. R. Civ. P. 33, 34, or 36; and

(E) a certificate of service for discovery requests or responses, including the items listed in section (a)(1)(A)-(D).

(2) Expert Designation for Conflict Check. To allow the court to conduct a conflict check, the parties must file a notice of designation by the date specified in the governing scheduling order that lists their experts and the experts' subjects of expertise.

(3) Exceptions. Section (a)(1) does not preclude filing a copy of the materials identified above to be used at a hearing, trial, or as an exhibit to a motion, response, or reply.

(b) Form.

(1) A party serving a discovery request under Fed. R. Civ. P. 33, 34, or 36 must sequentially number each request.

(2) When serving discovery on behalf of a represented party, the requesting party must provide the discovery request in an editable electronic format to opposing counsel upon request.

(3) A party responding to a discovery request served under Fed. R. Civ. P. 33, 34, or 36 must repeat in full each sequentially numbered discovery request above the response.

(c) Custody.

The party serving the discovery material or taking the deposition must retain the original.

DUCivR 30-2 NOTICE OR SUBPOENA REQUIRED FOR DEPOSITIONS UNDER FED. R. CIV. P. 30(b)(6)

(a) Notice or Subpoena.

(1) A 30(b)(6) notice or subpoena must be served at least 28 days before the scheduled deposition and at least 45 days before the discovery cutoff date.

(2) A notice or subpoena must not:

(A) exceed more than 20 topics, including subparts;

(B) exceed 7 hours in length for the deposition of all corporate representatives; or

(C) be a duplicative notice or subpoena to a party or nonparty.

(D) The court, or the parties by agreement, may modify the limitations in section (a)(2).

(E) If a request for documents accompanies a notice or subpoena, it is subject to the provisions of Fed. R. Civ. P. 34. If a subpoena duces tecum accompanies the notice, it is subject to the applicable Federal Rules of Civil Procedure and Local Rules.

(b) Objection.

Within 7 days of being served with a notice or subpoena, the noticed entity may serve a written objection. If the objection remains unresolved within 7 days of service of the objection, a party may seek resolution from the court by filing a motion in accordance with DUCivR 37-1. If the motion is not resolved before the date set for the deposition, the deposition may proceed on subject matters not addressed by the motion.

DUCivR 37-1 DISCOVERY DISPUTES

(a) Resolution Without Court Assistance.

(1) The parties must make reasonable efforts to resolve a discovery dispute arising under Fed. R. Civ. P. 26-37 before seeking court assistance.

(2) At a minimum, those efforts must include a prompt written communication sent to the opposing party:

(A) identifying the discovery disclosure or request at issue, the response, and specifying why the response or objection is inadequate; and

(B) requesting to meet and confer, either in person or by telephone, and include suggested dates and times.

(b) Short Form Discovery Motion.

(1) If the discovery dispute remains after reasonable efforts, and the parties need a court order to resolve the dispute, the parties (either individually or jointly) must file a Short Form Discovery Motion, which should not exceed 500 words exclusive of caption and signature block.

(2) The motion must:

(A) include a certification that states—

(i) the parties made reasonable efforts to reach agreement on the disputed matters;

(ii) the date, time, and method of the reasonable efforts; and

(iii) the names of all participating parties or attorneys;

(B) include as the only exhibits to the motion a copy of the disputed discovery request and any response; and

(C) be filed no later than 45 days after the prompt written communication in section 37-1(a)(2) was sent to opposing counsel,

unless the court grants an extension of time for good cause. Failure to meet the deadline may result in automatic denial of the motion.

(3) The opposing party must file its response 5 business days[1] after the filing of the motion, unless the court orders otherwise. The response must not exceed 500 words, exclusive of caption and signature block and must not include any additional exhibits.

(4) At the time of filing a motion or response, each party must email to chambers and the opposing party a proposed order in a word processing format.

(5) To resolve the dispute, the court may:

(A) set a hearing without waiting for a response to the motion;

(B) decide the motion after the opposing party has had an opportunity to respond, either at a hearing or in writing; or

(C) request additional briefing and set a briefing schedule.

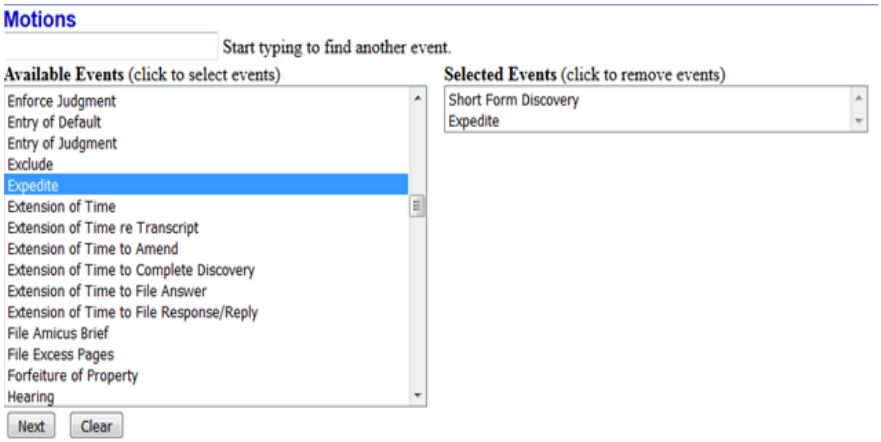
(6) A party may request leave to file an overlength short form discovery motion or response consistent with DUCivR 7-1.

(7) A motion to quash a subpoena or a motion related to the standard protective order is exempt from the Short Form Discovery Motion requirements above and must follow DUCivR 7-1(a)(4)(D).

(c) Expedited Consideration.

When filing its motion in CM/ECF, the moving party must first select the "Short Form Discovery" event and then select "Expedite."

[1] This provision is not subject to the addition of 3 days provided by Fed. R. Civ. P. 6(d).



(d) Discovery Dispute Conference.

The parties may request that the court conduct a discovery dispute conference by contacting chambers or filing a stipulated one-page motion requesting a discovery dispute conference, which includes suggested dates and times the parties are available.

(e) Deposition Dispute.

This rule does not apply to disputes arising during a deposition. Those disputes, including those that arise under Fed. R. Civ. P. 30(d)(3), may be resolved by contacting the assigned judge by phone.

(f) Objection to Magistrate Judge's Discovery Ruling.

(1) Fed. R. Civ. P. 72(a) and DUCivR 72-3 govern objections to the magistrate judge's oral or written discovery ruling.

(2) When filing an objection, the party must seek expedited treatment.

DUCivR 54-2 ATTORNEY'S FEES AND BILL OF COSTS

(a) Attorney's Fees.

(1) Separate from Bill of Costs. A party seeking attorney's fees must file a motion instead of including the request in a bill of costs.

(2) Procedures and Requirements for a Motion for Attorney's Fees.

(A) *Timing*. Unless otherwise provided by statute or extended by the court under Fed. R. Civ. P. 6(b), a motion for attorney's fees must be filed and served within 14 days after:

(i) entry of a judgment; or

(ii) an appellate remand that modifies or imposes a fee award.

(B) *Motion*. The motion must:

(i) comply with DUCivR 7-1(a)(4)(D);

(ii) state the basis for the award;

(iii) specify the total amount claimed; and

(iv) be accompanied by an affidavit identifying—

- each person for whom fees are claimed and a summary of that person's relevant qualifications and experience;
- a detailed description of the person's services rendered, the amount of time spent, the hourly rate charged; and
- any other pertinent supporting information that justifies the award.

(C) *Response and Reply*. The response and reply must comply with DUCivR 7-1(a)(4)(D).

(b) Bill of Costs.

(1) Form. A party seeking taxation of costs must use the bill of costs form on the court's website.

(2) Procedures and Requirements for Bill of Costs.

(A) *Timing*. Within 14 days after the entry of final judgment, the party entitled to recover costs must file a bill of costs on the court's form and a supporting memorandum.

(B) *Memorandum*.

(i) The memorandum must:

- comply with DUCivR 7-1(a)(1) and (a)(4)(D)(i);
- clearly and concisely itemize and describe the costs;
- identify the statutory basis for seeking reimbursement of those costs under 28 U.S.C. § 1920; and
- include and reference copies of applicable invoices, receipts, and disbursement instruments.

(ii) Failure to itemize and verify costs may result in costs being disallowed.

(C) *Objection to Bill of Costs*.

(i) A party may object to the requested costs by filing an objection, which must:

- comply with DUCivR 7-1(a)(1) and (a)(4)(D)(i);
- be filed within 14 days after service of the bill of cost; and
- be served on all parties.

(D) *Reply*. Within 14 days of service of the objection, the party requesting the costs may file a reply.

(E) *Judicial Review*. A party may seek judicial review of the taxation of costs by filing a motion within 7 days of the clerk's entry of the bill of costs.

DUCivR 55-1 DEFAULT AND DEFAULT JUDGMENT

(a) Procedure.

To obtain a default judgment, a party must:

(1) request the entry of a default certificate under Fed. R. Civ. P. 55(a), except in circumstances identified in section (c)(2)(C); and

(2) file a motion for default judgment under Fed. R. Civ. P. 55(b)(1) or (b)(2).

(b) Certificate of Default.

(1) A party requesting an entry of a default certificate under Fed. R. Civ. P. 55(a) must:

(A) file a motion for entry of default;

(B) file an affidavit confirming that the party against whom default is sought—

(i) is not an infant, in military service, or an incompetent person;

(ii) was served with process in a manner authorized in Fed. R. Civ. P. 4 and the date of service;

(iii) has failed to plead or otherwise defend; and

(C) email a proposed certificate of default in an editable format to utdecf_clerk@utd.uscourts.gov.

(2) A party may file a motion for judicial review of any order denying entry of a default certificate.

(c) Default Judgment.

(1) By the Clerk. A party must file a motion for default judgment for a sum certain to obtain a default judgment under Fed. R. Civ. P. 55(b)(1), which includes:

(A) the certificate of default;

(B) supporting affidavit; and

(C) a proposed order, which must also be emailed in editable format to utdecf_clerk@utd.uscourts.gov, that includes:

(i) the party or parties in favor of whom judgment will be entered;

(ii) the party or parties against whom judgment will be entered;

(iii) when there are multiple parties against whom judgment will be entered, whether the judgment should be entered jointly, severally, or jointly and severally; and

(iv) the sum certain or the computation consisting of the principal amount.

(2) By the Court.

(A) In all other cases, a party must file a motion for default judgment under Fed. R. Civ. P. 55(b)(2), which includes:

(i) the certificate of default; and

(ii) a proposed default judgment, which must also be emailed to the chambers of the assigned judge.

(B) In cases against the United States, its officers, or agencies, the party seeking default judgment must provide evidentiary support that satisfies Fed. R. Civ. P. 55(d).

(C) A court may enter default judgment as a sanction without the clerk entering a certificate of default.

DUCivR 56-1 SUMMARY JUDGMENT MOTIONS AND MEMORANDA

(a) Compliance with DUCivR 7-1.

A motion for summary judgment, response, and reply must comply with DUCivR 7-1 in addition to the requirements in this rule.

(b) Motion.

If a party files more than 1 summary judgment motion at the same time, the court may strike the motions and require that the motions be consolidated into a single motion. A motion for summary judgment must be titled "Motion for Summary Judgment," be supported by an Appendix of Evidence, as described in 56-1(e), and include the following sections:

(1) Introduction and Relief Requested. A concise statement of each claim or defense for which summary judgment is sought and a clear statement of the relief requested.

(2) Background (Optional). An optional section to provide context for the case, dispute, and motion. If included, this section should be placed between the Introduction and Relief Requested and the Statement of Undisputed Material Facts. The Background need not be limited to undisputed facts and need not cite to evidentiary support.

(3) Statement of Undisputed Material Facts. A concise statement of the undisputed material facts that entitle the moving party to judgment as a matter of law. Only facts necessary to decide the motion should be included in this section. The moving party must cite with particularity the evidence in the Appendix that supports each factual assertion.

(4) Argument. An explanation for each claim or defense, establishing, under the applicable supporting authority, why the moving party is entitled to judgment as a matter of law. The argument section should include a statement of each claim or defense on which the party is

seeking summary judgment and supporting authorities. Any factual references must cite to the Appendix.

(c) Response.

A response to a motion for summary judgment may be accompanied by an Appendix of Evidence, if applicable, and must include the following sections.

(1) Introduction. A concise statement explaining why summary judgment should be denied.

(2) Background (Optional). An optional section to provide context for the case, dispute, and motion. If included, this section should be placed between the Introduction and the Response to Statement of Undisputed Material Facts. The Background need not be limited to undisputed facts and need not cite to evidentiary support.

(3) Response to Statement of Undisputed Material Facts. A party must restate only those specific facts the opposing party contends are genuinely disputed or immaterial, providing a concise statement explaining why the fact is disputed or immaterial, and cite to the evidence used to refute the fact. The responding party should not restate undisputed facts. If a fact is inadmissible, the responding party must object, as provided in DUCivR 7-1(b), rather than move to strike the inadmissible fact. Factual citations must reference the appropriate Appendix.

(4) Statement of Additional Material Facts (if applicable). If additional material facts are relevant to show that there is a genuine dispute of material fact, the party must state each additional fact and cite with particularity to the Appendix that contains the supporting evidence. Do not include duplicate copies of evidence already in the record. Instead, the party must cite to evidence in a previously filed Appendix.

(5) Argument. An explanation for each claim or defense, establishing, under the applicable supporting authority, why summary judgment should be denied. Any factual citations must cite to the appropriate Appendix.

(d) Reply.

The moving party may file a reply. In the reply, a party may cite to evidence that was not previously cited only to rebut a claim that a material fact is in dispute. Otherwise, a reply may not contain additional evidence, and, if it does, the court may disregard it.

(e) Appendix of Evidence.

(1) All evidence cited in a motion, response, or reply must be compiled in an appendix. Do not include duplicate copies of evidence already in the record. Instead, the party must cite to evidence in a previously filed Appendix.

(2) The Appendix must include:

(A) a captioned, cover-page index that—

(i) lists each exhibit by number;

(ii) includes a description or title of the exhibit; and

(iii) identifies the source of the exhibit;

(B) complete copies of all exhibits, including deposition transcripts. For lengthy deposition transcripts, the party may submit the relevant pages of the deposition and the 4 pages before and 4 pages after the sections cited. Minuscript transcripts are permitted, unless otherwise ordered by the court.

(f) Failure to Respond.

If a party fails to timely respond, the court may grant the motion without further notice if the moving party has established that it is entitled to judgment as a matter of law.

DUCivR 67-1 DEPOSIT OR WITHDRAWAL OF FUNDS IN COURT REGISTRY

(a) Deposit of Funds in Court Registry.

(1) Unless a statute provides otherwise (e.g., where state law requires the filing of a written undertaking or cost bond in an action against the State or its officers), a party must obtain a court order to deposit money in the court's registry.

(2) The signed order must include:

(A) the statute or rule authorizing the deposit of funds in the court registry, including;

(i) whether the funds must be invested under Fed. R. Civ. P. 67 or otherwise; and

(ii) if the funds must be invested, whether they qualify as disputed ownership funds either under Fed. R. Civ. P. 22 or 28 U.S.C. § 1335 (interpleader funds);

(B) the United States dollar amount of the deposit; and

(C) when applicable, a copy of the settlement agreement for a designated or qualified settlement fund under 26 U.S.C. § 468B(d)(2).

(3) The party must deliver a copy of the order on the Clerk of Court and the court's Finance Department by email to UTDecf_Forders@utd.uscourts.gov.

(4) The clerk will deposit the funds with the Treasurer of the United States in the name and to the credit of this court under 18 U.S.C. § 2041 through depositories designated by the Treasury to accept the deposit on its behalf.

(b) Invested Registry Funds.

(1) Funds deposited under Fed. R. Civ. P. 67, and all other funds that must be invested, will be deposited in the Court Registry Investment System (CRIS). The Administrative Office (AO) of the United States Courts will administer the funds.

(2) Funds deposited under Fed. R. Civ. P. 22 and 28 U.S.C. § 1335 meet the IRS definition of a disputed ownership fund (DOF) and require tax administration. These funds will be deposited in the DOF within CRIS. The AO is responsible for all DOF tax administration requirements.

(c) Fees.

Registry fees will be assessed and deducted consistent with the miscellaneous fee schedule established by the Judicial Conference of the United States and under 28 U.S.C. § 1914.

(d) Withdrawal of Funds from Court Registry.

(1) A party seeking to withdraw funds must file a motion consistent with DUCivR 7-1(a)(4)(D) and include a proposed order. The proposed order must also be emailed in an editable format to the assigned judge's chambers.

(2) The proposed order must include the following:

(A) the principal sum initially deposited;

(B) the identity of each payee to receive disbursement; and

(C) full mailing instructions for each disbursement, including complete street address and zip code.

(3) For funds that earned interest while deposited in CRIS, the party sending the proposed order must also email Internal Revenue Service Form W-9 or

W-8BEN (foreign) for each payee to UTDecf_Forders@utd.uscourts.gov. A party must not file the IRS forms with the proposed order.

(4) The party must deliver a copy of the order and, when applicable, the completed IRS forms on the Clerk of Court and the court's Finance Department by email to UTDecf_Forders@utd.uscourts.gov.

(5) For funds that accrued interest of $10.00 or more, the court must include in its final order the amount of interest payable on the principal.

(6) Disbursements from the registry will be made by check from U.S. Treasury as the Clerk's Office allows or by electronic fund transfer (EFT). Individual registry disbursements totaling $500,000 or more must be issued via EFT.

~~**DUCivR 71.1-1 DEPOSITS IN THE COURT REGISTRY**~~

~~Unless otherwise prohibited by statute, any party seeking to make a Fed. R. Civ. P. 71.1(j) deposit in a property condemnation proceeding may do so without a court order by depositing the funds with the court, subject to the approval of the Clerk of Court. Unless otherwise stipulated by the parties, such funds will be deposited by the Clerk of Court into the U.S. Treasury, and any interest earned while the funds are so deposited will accrue to the United States. The parties may request, on written stipulation, that the Clerk of Court invest the funds in an interest-bearing account or instrument. Under DUCivR 67-1(d), the stipulation must specify the nature of the investment, and the parties must serve a copy of the stipulation personally upon the Clerk of Court or the Chief Deputy Clerk.~~

DUCivR 72-3 OBJECTION TO AND MOTION TO STAY A MAGISTRATE JUDGE ORDER

(a) Objection.

An objection to a magistrate judge's order or report and recommendation filed under Fed. R. Civ. P. 72(a) or (b) may not exceed 15 pages or 4,650 words.

(b) Response, Ruling on the Objection, and Proposed Order.

(1) Response. Unless the district judge orders otherwise, a response need not be filed and a hearing will not be held on an objection. If the district court orders a response and sets a briefing schedule, the response may not exceed 15 pages or 4,650 words.

(2) Ruling. The district judge may overrule the objection by written order at any time but may not sustain it without giving the opposing party an opportunity to file a response.

(3) Proposed Order. The non-objecting party must email a proposed order in an editable format to the district judge's chambers if the district judge does not overrule the objection within 14 days after the objection is filed.

(c) Motion to Stay a Magistrate Judge Order.

If a party files a motion to stay the magistrate judge's order, the magistrate judge who issued the order will rule on the motion.

DUCivR 72-4 CONSENT TO THE JURISDICTION OF THE MAGISTRATE JUDGE

(a) Civil Consent Jurisdiction of Magistrate Judges.

Under 28 U.S.C. § 636(c), a magistrate judge is designated to exercise jurisdiction over a civil jury or nonjury case after the relevant parties consent to the assignment. After obtaining consent, the magistrate judge is authorized to conduct all proceedings and enter judgment in the matter.

(b) Assignment of Civil Case to a Magistrate Judge at Case Opening.

(1) Except as otherwise restricted under DUCivR 72-4(b)(2), the Clerk's Office will randomly assign a civil matter to a magistrate judge if the matter:

(A) is brought by an unrepresented party who is not incarcerated;

(B) seeks judicial review of decisions of the Commissioner of the Social Security Administration (Social Security Appeal); or

(C) is an eligible civil case randomly assigned under DUCivR 83-2(a).

(2) The Clerk's Office will not assign a civil matter to a magistrate judge if the case:

(A) includes a request for immediate injunctive or similar extraordinary relief when a standalone motion for the relief accompanies the complaint or is included in the complaint;

(B) includes a claim for relief under 28 U.S.C. §§ 2241, 2254, or 2255;

(C) is an in rem or civil forfeiture action involving personal or real property;

(D) is an appeal from the bankruptcy court to the district court;

(E) includes a claim for relief brought by a relator under the False Claims Act, 31 U.S.C. §§ 3729, et seq.;

(F) includes a claim or defense related to the adjudication of, the infringement of, or rights to, a patent;

(G) is one in which all district judges have a conflict; or

(H) is one that an assigned district judge has previously invested considerable time.

(c) Notification of Availability of a Magistrate Judge.

(1) Notification. In every eligible civil case, the Clerk's Office will give notice to each relevant party that a magistrate judge may exercise jurisdiction by sending a copy of the Consent to the Jurisdiction of Magistrate Judge form (Consent Form).

(2) Sending the Consent Form. For cases identified in DUCivR 72-4(b)(1), the Clerk's Office must send the Consent Form to the plaintiff when the complaint is filed and to every other relevant party when the party appears or otherwise responds. When a new party is added to a civil case after consent to a magistrate judge has been obtained, the Clerk's Office will send the Consent Form to the newly added party.

(3) Returning the Consent Form.

(A) Deadline. A party has 21 days from the date the Clerk's Office sends the Consent Form to that party to return it to the Clerk's Office.

(B) Procedure. A party must not electronically file the Consent Form in the case. The Consent Form must be confidentially returned to the Clerk of Court, either by emailing the form in PDF format to consents@utd.uscourts.gov or by mailing it to the address provided in the form.

(4) Filing the Form After Consent is Obtained. If each relevant party consents to the jurisdiction of a magistrate judge, the consent clerk will file the Consent Form.

(d) Case Assignment After the Relevant Parties Consent or Decline to Consent.

(1) Consent Obtained.

(A) Case Assigned to a Magistrate Judge. In a case initially assigned to a magistrate judge in which the relevant parties consent, the Clerk's Office will assign the case to the magistrate judge as the presiding judge.

(B) Case Assigned to a District Judge. In a case initially assigned to a district judge, but eligible to have a magistrate judge preside after consent, in which the relevant parties consent, the Clerk's Office will assign the case to:

(i) the referred magistrate judge; or

(ii) a randomly selected magistrate judge if one has not been referred.

(2) Consent not Obtained.

(A) Case Assigned to a Magistrate Judge. In a case initially assigned to a magistrate judge under DUCivR 72-4(b)(1)(A) or (B) in which consent is not obtained, the Clerk's Office will randomly assign the case to a district judge and, unless a district judge directs otherwise, enter an automatic referral under 28 U.S.C. § 636(b)(1)(B) to the magistrate judge who was initially assigned. In all other cases initially assigned to a magistrate judge in which consent is not obtained, the Clerk's Office will randomly assign the case to a district judge and, unless the district judge directs otherwise, enter an automatic referral under 28 U.S.C. § 636(b)(1)(A) to the magistrate judge who was initially assigned.

(B) Case Assigned to a District Judge. In a case initially assigned to a district judge, in which consent is not obtained, the case remains assigned to the district judge. Any existing referral to a magistrate judge is unaffected.

(e) Confidentiality.

A party may decline to consent without negative consequences. If any party declines to consent or fails to timely return the Consent Form, the identity of that party will not be communicated to any judge.

(f) Authority of the Magistrate Judge Pending Consent.

Until all relevant parties consent, a magistrate judge's assignment as presiding judge is a referral from the Chief Judge under 28 U.S.C. § 636(b)(1)(B).

DUCivR 81-2 REMOVED ACTIONS

(a) Notice.

(1) Notice of Removal. To remove an action from state court, the removing party must file a Notice of Removal that complies with 28 U.S.C. § 1446(a). The Notice of Removal must include:

(A) a short and plain statement of the grounds for removal signed under Fed. R. Civ. P. 11;

(B) the additional content required in DUCivR 81-2(a)(2), if the court's jurisdiction for removal is based on diversity of citizenship;

(C) a certification that a copy of all processes, pleadings, and orders served on the removing party are filed in the federal case as required by this rule and 28 U.S.C. § 1446(a), and as permitted by 28 U.S.C. § 1447; and

(D) the attachments required in DUCivR 81-2(b).

(2) Additional Content Required in Notice of Removal in Diversity Cases.

(A) If the court's jurisdiction is based on diversity of citizenship, irrespective of whether service of process has been effectuated on all parties, the Notice of Removal must include:

(i) in the case of each individual named as a party, that party's residence and domicile and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332;

(ii) in the case of each party that is a partnership, limited liability partnership, limited liability company, or other unincorporated association, like information as required in section 81-2(a)(2)(A)(i) for all its partners or members, as well as the state or other jurisdiction of its formation;

(iii) in the case of each party that is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332;

(iv) in the case of an assigned claim, corresponding information for each original owner of the claim and for each assignee;

(B) the date on which each party was served; and

(C) the removing party must state in the Notice of Removal if any of the information above is unknown. Within 21 days after removal, the removing party must file an amended notice containing the omitted information.

(b) Attachment of State Court Record.

The court will not upload the state court record to the docket. At the time of removal, the removing party must file the state court record as separate attachments to the Notice of Removal, including:

(1) a copy of the operative complaint;

(2) a current copy of the state court docket sheet;

(3) a copy of the operative scheduling order or notice of event due dates, if available; and

(4) a single attachment containing all pleadings, motions, orders, and other relevant filings, organized in chronological order by the state court filing date, and if applicable, consistent with DUCivR 5-2 and 5-3.

(c) Pending State Court Motions.

(1) Disposition of Pending State Court Motions. All pending motions and other requests directed to the state court are automatically denied without prejudice on removal.

(2) Obligation to Refile. If a party seeks a decision on a motion that was automatically denied under DUCivR 81-2(c)(1), the party must refile the motion, citing to relevant federal law and state if expedited consideration is requested. DUCivR 7-1 governs the motion.

(d) Scheduling Order After Removal.

(1) Unless stipulated by the parties and ordered by the court, all deadlines contained in the state court scheduling order or notice of event due dates are automatically vacated on removal.

(2) The parties must conduct an Attorney Planning Meeting under Fed. R. Civ. P. 26(f) within 14 days after the time to file a motion to remand has expired or the motion has been denied, whichever occurs last.

(3) The parties must file the appropriate motion within 21 days after the time to file a motion to remand has expired or the motion has been denied, whichever occurs last, as follows:

(A) If the parties reach an agreement on all issues in the Attorney Planning Meeting Report, they must file a Stipulated Motion for Scheduling Order and attach the jointly signed Attorney Planning Meeting Report. They must also email a stipulated Proposed Scheduling Order in editable format to the assigned judge in the case, or if an order referring the case to a magistrate judge has been entered, to the referred magistrate judge.

(B) If the parties do not agree on all issues in the Attorney Planning Meeting Report, they must file a Motion for Scheduling Conference and attach the Attorney Planning Meeting Report. They must also email their respective Proposed Scheduling Orders in editable format to the assigned judge in the case, or if an order referring the

case to a magistrate judge has been entered, to the referred magistrate judge.

DUCivR 83-1.2 ATTORNEYS - ANNUAL REGISTRATION

(a) General Requirement.

By July 1 each year, an attorney seeking to maintain active status must pay the annual registration fee, in an amount determined by the court, and register using the court's CM/ECF system. An attorney who maintains active status must:

(1) comply with the Local Rules of Practice, ECF Procedures Manual, Utah Rules of Professional Conduct, and Utah Standards of Professionalism and Civility;

(2) register to efile and receive electronic notifications of case activity; and

(3) agree to accept a reasonable number of pro bono assignments from the court, except when employed by a government agency that precludes accepting pro bono assignments.

(b) Categories of Membership.

(1) Active Attorney. An attorney who is an active member and in good standing of the Utah State Bar and actively practices in this district.

(2) Federal Attorney. An attorney who is employed by, or on special assignment for, the United States, its agencies, or a Federal Public Defender's Office and is an active member and in good standing of any state bar or the District of Columbia and actively practices in this district.

(3) Inactive Attorney. An attorney who is retired or no longer practices in this district but wants to maintain membership in inactive status. An inactive attorney may reactivate membership at any time by paying the current registration fee.

(c) Procedure to Change Status to Inactive.

By July 1 in the year requesting to go inactive, an attorney seeking to become an inactive member of this court's bar must request inactive status using the court's CM/ECF system.

(d) Failure to Register.

(1) An attorney who does not register online by July 1 of each year will have their membership status changed to "registration lapsed" and will be unable to electronically file documents as of July 2.

(2) To reactivate membership in this court's bar, an attorney must pay a reinstatement fee in an amount determined by the court.

(e) Attorney Contact Information.

An attorney who is a member of this court's bar, including an inactive attorney, must maintain valid and current contact information—including a mailing address, email address, and telephone number—in PACER.

DUCivR 83-1.3 ATTORNEYS – APPEARANCE AND CONTACT INFORMATION

(a) Appearance.

(1) An attorney appears on behalf of a party by appearing in court; filing a notice of appearance; or signing a pleading, motion, or other paper, including a waiver of service.

(2) To appear in a case, an attorney must be admitted to practice in this district under DUCivR 83-1.1.

(b) Limited Appearance.

(1) Scope. An attorney, consistent with the Utah Rules of Professional Conduct, may enter an appearance limited to:

(A) filing a pleading or other paper;

(B) acting as counsel for a specific motion or discovery procedure;

(C) acting as counsel for a specific hearing, including a trial, pretrial conference, or an alternative dispute resolution proceeding; or

(D) any other purpose with leave of the court.

(2) Notice. The attorney must file a Notice of Limited Appearance that:

(A) is signed by the attorney and party, except if the party is incarcerated and the attorney has accepted a pro bono appointment at the court's request;

(B) describes the purpose and scope of the appearance; and

(C) states that the party remains responsible for all matters not specifically described in the notice.

(3) Clarification. Any party may move to clarify the description of the purpose and scope of the limited appearance.

(4) Party's Responsibility. A party on whose behalf an attorney files a notice of limited appearance will receive notice of all filings with the court and will remain responsible for all matters not specifically described in the notice.

(5) Withdrawal. An attorney who has entered a notice of limited appearance must follow the procedures to withdraw in DUCivR 83-1.4.

(c) Self-Representation.

(1) Individuals may represent themselves.

(2) A corporation, association, partnership, or other artificial entity must be represented by an attorney who is admitted under DUCivR 83-1.1.

(3) A federally recognized Indian tribe may seek exemption from section (c)(2) by filing a motion consistent with DUCivR 7-1(a)(4)(D).

(d) Appearance by a Party.

If a party has been represented by an attorney, that party cannot appear or act thereafter on its own behalf in the action, unless court orders otherwise. The court may hear a party in open court regardless of whether the party is represented.

(e) Change of Contact Information.

(1) Active and inactive attorneys must maintain valid and current contact information in PACER, including mailing address, email address, and telephone number.

(2) An unrepresented party must notify the Clerk's Office immediately of any change in address, email address, or telephone number using the form available on the court's website.

DUCivR 83-1.4 ATTORNEYS – SUBSTITUTION AND WITHDRAWAL

(a) Substitution.

An attorney admitted to practice under DUCivR 83-1.1 may replace an attorney in a pending case without leave of court by filing a Notice of Substitution. The notice must:

(1) verify that the attorney entering the case is aware of and will comply with all pending deadlines;

(2) identify the party who the attorney is representing;

(3) be signed by the newly appearing attorney; and

(4) be served on all parties.

(b) Withdrawal.

(1) Leave of Court Not Required. An attorney may withdraw without leave of court if the party continues to be represented by another attorney who has entered an appearance. To withdraw, the attorney must file a Notice of Withdrawal of Counsel that states:

(A) the party continues to be represented by an attorney who has appeared under DUCivR 83-1.3; and

(B) the continuing attorney is aware of and will comply with all pending deadlines, hearings, and trial dates.

(2) Leave of Court Required. Except as allowed in section (b)(1), an attorney may not withdraw in a pending action without leave of the court. The attorney seeking to withdraw must file a motion under DUCivR 7-1(a)(4)(D) that includes:

(A) the reason for withdrawal or a statement that disclosing the reason for withdrawal would violate the rules of professional conduct;

(B) the party's last-known contact information including mailing address, email address, and telephone number or an explanation why the information is unavailable;

(C) a statement of whether the party does or does not consent to the withdrawal;

(D) the status of the case including any pending motions, the dates and times of any scheduled hearings, and requirements under any existing court orders or rules;

(E) a certification signed by the party indicating they are eligible to proceed with the trial as scheduled without an attorney, if a trial date has been scheduled and an attorney is unavailable to appear;

(F) a certification that the motion was filed and served on all parties or, if applicable, an explanation why a party cannot be notified about the motion; and

(G) a proposed order for the court, available on the website, attached as an exhibit, that notifies the party who will be without an attorney:

(i) that within 21 days, they must retain an attorney or proceed without an attorney and file a Notice of Appearance;

(ii) that if the party is a corporation, association, partnership, or other artificial entity, it must be represented by an attorney who is admitted under DUCivR 83-1.1 and that attorney must file a Notice of Appearance; and

(iii) that a party who fails to retain an attorney or file a Notice of Appearance may be subject to sanctions including entry of a default judgment or an order of dismissal.

(3) Withdrawal of Limited Appearance.

(A) An attorney who has entered a limited appearance under DUCivR 83-1.3 must file a Notice of Withdrawal after the purpose of the limited appearance has been fulfilled.

(B) An attorney seeking to withdraw before the conclusion of the purpose of the limited appearance must proceed under section (b)(2).

(C) Failure to file a Notice of Withdrawal will constitute the attorney's consent to continue appearing on the party's behalf as if a general appearance had been filed.

(c) Procedure After Entry of an Order of Withdrawal.

(1) Stay. The action is stayed for 21 days after the court grants the motion for withdrawal, unless the court permits the unrepresented party to waive the time requirement or the court orders otherwise.

(2) Appearance. Within 21 days after the court grants the motion or within the time the court has ordered:

(A) an attorney must file an appearance on behalf of an individual whose attorney has withdrawn or, if the individual intends to proceed without an attorney, the individual must file a Notice of Appearance; and

(B) an attorney must file an appearance on behalf of any corporation, association, partnership, or other artificial entity whose attorney has withdrawn.

(3) Scheduling Conference. After expiration of the stay or as the court has ordered, a party may request a scheduling conference or submit a proposed amended scheduling order.

(d) Sanction.

An unrepresented party who fails to appear within 21 days after entry of the order, or within the time the court requires, may be sanctioned under to Fed. R. Civ. P. 16(f)(1), including entry of a default judgment or an order of dismissal.

DUCivR 83-1.7 ATTORNEY DISCIPLINE

(a) Standards of Professional Conduct and Jurisdiction.

An attorney who is or has been a member of the court's bar or admitted pro hac vice is subject to the Local Rules of Practice, the Utah Rules of Professional Conduct, and the court's disciplinary jurisdiction.

(b) Initiation of a Disciplinary Action.

A disciplinary action may be initiated against an attorney who has been:

(1) disciplined by the Utah State Bar, the Tenth Circuit Court of Appeals, or a court or bar association of another jurisdiction;

(2) the subject of an attorney misconduct complaint that is signed under penalty of perjury (a court-provided complaint form is preferred but not required);

(3) convicted of a crime, including—

(i) a felony; or

(ii) a misdemeanor that reflects adversely on the attorney's character and fitness; or

(3) referred for discipline by a judicial officer of the court.

(c) Notice of Discipline or Conviction.

An attorney who has been disciplined by another court or bar association or convicted of a crime other than a minor traffic offense must immediately notify, in writing, the Clerk of Court. The notice must include a copy of the discipline order or conviction. The Clerk of Court may also receive notice of discipline by another court or bar association. The Clerk of Court will maintain these documents in a confidential file in CM/ECF.

(d) Commencement of a Disciplinary Action.

(1) <u>Reciprocal Discipline.</u>

(A) After receiving notice of discipline under section (c), the Clerk must serve on the attorney:

(i) a copy of the notice if the attorney did not provide the notice; and

(ii) an order, to become effective 28 days after the date of service, imposing reciprocal discipline in this court.

(B) A motion for relief from the clerk's order may be filed within 14 days of the date of service of the clerk's order. Failure to file a motion for relief is deemed a waiver. The motion must succinctly identify the facts, relevant authority, and argument supporting the relief from the order of reciprocal discipline. The effect of the clerk's order is stayed until the disciplinary panel, identified in section (f), orders otherwise. The panel may schedule an evidentiary hearing upon a showing of good cause. If an evidentiary hearing is held, the panel may enter interim orders, pending the hearing, as justice may require. If a hearing is not scheduled, the panel may affirm the clerk's order or take other action.

(2) <u>Attorney Misconduct Complaint or Criminal Conviction.</u>

(A) After receiving an attorney misconduct complaint or notice of a criminal conviction, the clerk will transmit a copy to the panel with a recommendation whether to issue an order to respond.

(B) The panel may issue an order to respond requiring the attorney to explain why the court should not restrict the attorney's ability to practice.

(C) The clerk may serve the order to respond on the attorney by email at an identified email address. If the email is returned as undeliverable, the Clerk must serve the order to respond by

certified mail, return receipt requested, on the attorney at an identified mailing address.

(D) A response must be filed within 21 days after service of the order to respond.

(E) After receipt of the response or the expiration of 21 days, the panel must review the documents and may:

(i) dismiss the complaint;

(ii) refer the action to a more appropriate jurisdiction;

(iii) impose no discipline;

(iv) impose interim or final discipline;

(v) refer the action to the committee identified in section (f) for review and recommendations; or

(vi) set the matter for an evidentiary hearing before a trier of fact.

(3) Judicial Referral.

A judicial officer may make a referral in writing to the panel or any other appropriate authority regarding an attorney's misconduct. The procedure for addressing a judicial referral is the same as in section (d)(2).

(e) Discipline.

Discipline may include:

(1) a public or private reprimand;

(2) conditions for continuing to practice law in this jurisdiction;

(3) probation;

(4) suspension from the right to practice in this court;

(5) disbarment; or

(6) other discipline as deemed appropriate.

(f) Disciplinary Authorities, Procedures, and Record Requests.

(1) Authorities.

(A) Disciplinary Panel. The Chief Judge must appoint a panel of 3 judicial officers to constitute the Panel and designate 1 to serve as the chair. The Panel has jurisdiction over all matters relating to the discipline of attorneys, including disbarment and suspension. The Chief Judge may designate additional judicial officers to serve as alternates when a member is unable to serve. If a member is unable to serve, the remaining members have authority to proceed without the participation of the unavailable member. If the unavailable member is the chair, the remaining members will select a substitute chair.

(B) Committee. The panel may appoint a committee of attorneys to advise and assist it. At the panel's direction, the Committee may investigate complaints or motions for reinstatement, prepare a report and recommendation, or serve as a trier of fact.

(C) Investigator. The panel may appoint an investigator to interview witnesses, gather evidence, and prepare reports or summaries.

(D) Hearing Officer. The panel may appoint a neutral hearing officer to conduct an evidentiary hearing. The hearing officer must be a judicial officer or member of the court's bar.

(E) Examiner. The panel may appoint a member of the committee or another attorney to present evidence in support of discipline.

(F) Clerk of Court. The Clerk of Court will process a disciplinary matter as stated in this rule.

(2) Disciplinary Authority Immunity.

Disciplinary authorities are immune from claims arising out of disciplinary actions.

(3) Hearing.

The trier of fact, which may be the panel that may include a member of the committee, may permit discovery, receive testimony, and consider other evidence as deemed relevant or material. The Federal Rules of Evidence do not apply.

(4) Records.

(A) Public. An order of discipline is a public record and will be reflected in the court's public attorney directory, unless ordered otherwise.

(B) Confidential. All other disciplinary records are confidential.

(C) Record Requests. A person may file a request to obtain copies of disciplinary records with the Clerk of Court. The panel may authorize the clerk to provide copies of the records. If the panel denies the request, the person may file an objection within 14 days. The Chief Judge will address the objection.

(g) Reinstatement.

(1) An attorney who has been disciplined in this court may file a motion for reinstatement in the original disciplinary action. Reinstatement in this court is not automatic after reinstatement in another jurisdiction.

(2) The motion must succinctly:

(A) identify disciplinary and reinstatement actions taken in any jurisdiction; and

(B) explain why reinstatement is appropriate in this court and will not be detrimental to the integrity of the bar of this court, the interests of justice, or the public.

DUCivR 83-1.5.2 RECIPROCAL DISCIPLINE

(a) Notice to the Court.

Any member of the bar of this court who has been disciplined by another jurisdiction must notify the clerk of that discipline by sending a copy of the disciplinary order to the clerk. The clerk may also receive notice of disciplinary action from the disciplining jurisdiction. The clerk will assign the matter a disciplinary case number, review the order, review the attorney's membership status with the court, and transmit the matter to the Panel Chair for review and action pursuant to section 83-1.5.2(b).

Pursuant to the provisions of DUCivR 83-1.1(b)(1) the Chair of the Disciplinary Panel will enter an automatic order of disbarment or suspension upon receipt of notice of an order disbarring or suspending an attorney from the Utah State Bar. The attorney may challenge the discipline by filing a motion and demonstrating good cause as to why the suspension or disbarment should not be imposed in this court.

(b) Procedure.

In cases in which the discipline is imposed by another jurisdiction, the Panel Chair will issue an order to show cause why reciprocal discipline should not be imposed by this court. The clerk must serve the order to show cause on the attorney by certified mail, return receipt requested, to the attorney at the last known address as found in the court's records. The attorney will have 20 days to respond.

At the conclusion of the response period for the order to show cause, the Panel will review any response received from the attorney. The Panel may then

(1) impose different or no discipline;

(2) impose reciprocal discipline;

(3) refer the matter to the Committee for review and recommendations; or

~~(4) set the matter for hearing before a neutral hearing examiner, a judicial officer designated by the Chief Judge upon recommendation by the Panel, or before the Panel itself.~~

~~Similar discipline will be imposed unless the attorney clearly demonstrates or the Panel finds that the other jurisdiction's procedure constituted a deprivation of due process, the evidence establishing the misconduct warrants different discipline, or the imposition of discipline would result in a grave injustice.~~

DUCivR 83-1.5.3 CRIMINAL CONVICTION DISCIPLINE

(a) Notice to the Court.

Any member of the bar of this court must notify the clerk of any conviction of a serious crime as defined by DUCivR 83-1.5.1(b)(2). The clerk may also receive notice of conviction from other sources. The clerk will assign the matter a disciplinary case number, review the conviction, review the attorney's membership status, and transmit the matter to the Panel Chair for review and action pursuant to section 83-1.5.3(b) of this rule.

(b) Procedure.

The Panel Chair will issue an order to show cause why discipline should not be imposed by this court and a notice that the attorney will be subject to interim suspension under DUCivR 83-1.5.1(h). The clerk must serve the order to show cause and notice of suspension on the attorney by certified mail, return receipt requested, to the attorney at the last known address as found in the court's records. The attorney will have 20 days to respond to the order to show cause. At the conclusion of the response period for the order to show cause, the Panel must review any response received from the attorney. The Panel may then

(1) impose no discipline;

(2) impose discipline;

(3) refer the matter to the Committee for review and recommendations; or

(4) set the matter for hearing before the Panel, a neutral hearing examiner, or a judicial officer designated by the Chief Judge upon recommendation by the Panel.

(c) Sanctions.

The Panel may impose sanctions which include but are not limited to

(1) disbarment;

(2) suspension;

~~(3) imposition of conditions for continuing to practice law in this jurisdiction;~~

~~(4) mandatory continuing legal education;~~

~~(5) public reprimand;~~

~~(6) private reprimand; or~~

~~(7) other discipline as deemed appropriate.~~

~~DUCivR 83-1.5.4 REFERRAL BY A JUDICIAL OFFICER~~

~~(a) Referral.~~

~~A judicial officer may make a referral in writing to the Panel recommending that an attorney be subject to discipline. The referral must be forwarded to the clerk who will assign a disciplinary case number and refer the matter to the Panel chair for review and action pursuant to section 83-1.5.4(b) of this rule.~~

~~(b) Procedure.~~

~~The Panel Chair must review the referral with other Panel members. With the concurrence of the Panel members, the Panel Chair must issue an order to show cause why discipline should not be imposed by this court. The clerk will serve the judicial referral and order to show cause on the attorney by certified mail, return receipt requested, to the attorney at the last known address as found in the court's records. The attorney will have 20 days to respond. At the conclusion of the response period for the order to show cause, the Panel will review any response received from the attorney. The Panel may then~~

~~(1) dismiss the referral;~~

~~(2) impose discipline;~~

~~(3) refer the matter to the Committee for review and recommendations; or~~

~~(4) set the matter for hearing before the Panel, a neutral hearing examiner, or a judicial officer designated by the Chief Judge upon recommendation by the Panel.~~

~~(c) Sanctions.~~

~~The Panel may impose sanctions which include but are not limited to~~

~~(1) disbarment;~~

~~(2) suspension;~~

~~(3) imposition of conditions for continuing to practice law in this jurisdiction;~~

~~(4) mandatory continuing legal education;~~

~~(5) public reprimand;~~

~~(6) private reprimand; or~~

~~(7) other discipline as deemed appropriate.~~

~~DUCivR 83-1.5.5 ATTORNEY MISCONDUCT COMPLAINT~~

~~(a) Complaint.~~

~~Any person with a complaint based upon conduct directly related to practice in this court against an attorney who is either a member of the bar of this court or has been admitted to practice Pro Hac Vice, must sign and submit the complaint in writing and under oath. The complaint must be in the form prescribed by the court and available from the clerk. The clerk will review the complaint, review the attorney's membership status, and transmit the matter to the Panel Chair for review and action pursuant to section 83-1.5.5(b) of this rule.~~

~~(b) Procedure.~~

~~The Panel will review the complaint and determine whether the complaint should be served or should be dismissed as frivolous or for asserting a claim which is not disciplinary in nature. If the complaint is dismissed, the complainant will be informed by mail. The Panel must issue an order to show cause for other complaints. The clerk will serve the complaint and order to show cause on the attorney by certified mail, return receipt requested, to the attorney at the last known address as found in the court's records. The attorney will have 20 days to respond. At the conclusion of the response period for the order to show cause, the Panel must review any response received from the attorney. The Panel may then:~~

~~(1) dismiss the complaint;~~

~~(2) impose discipline;~~

~~(3) refer the matter to the Committee for review and recommendations; or~~

~~(4) set the matter for hearing before the Panel, neutral hearing examiner, or a judge designated by the Chief Judge upon recommendation by the Panel.~~

~~(c) Sanctions.~~

~~The Panel may impose sanctions which include but are not limited to~~

~~(1) disbarment;~~

~~(2) suspension;~~

~~(3) imposition of conditions for continuing to practice law in this jurisdiction;~~

~~(4) mandatory continuing legal education;~~

~~(5) public reprimand;~~

~~(6) private reprimand; or~~

~~(7) other discipline as deemed appropriate.~~

~~DUCivR 83-1.5.6 COMMITTEE ON THE CONDUCT OF ATTORNEYS~~

~~(a) Procedure.~~

~~The Committee Chair will review the original complaint or referral and the response of the attorney. The Chair may then refer the matter to one or more Committee members to investigate and prepare a recommendation to the Committee as a whole.~~

~~(b) Investigation.~~

~~The Committee may request further information from the clerk concerning court records. In addition, the Committee or one or more members of the Committee may contact the complaining party and/or the attorney for further information and can interview persons with information regarding the alleged misconduct.~~

~~(c) Report and Recommendation.~~

~~The Committee must review the recommendation of the investigating member(s) and prepare a report and recommendation to the Panel which may contain recommendations for possible sanctions or for dismissal. The report and recommendation will contain the factual basis for the misconduct allegation and the response of the attorney and other information which has been considered by the Committee. A majority of Committee members must sign the report and recommendation. A member or members of the Committee in the minority may file a dissenting report. The Committee Chair will transmit the report and recommendation and any dissenting reports to the clerk who will serve the attorney and the complaining party and will also transmit a copy of the report and recommendation and any dissenting report to the Panel. The attorney may file objections to the report and recommendation within 10 days of the date of service.~~

~~**(d) Recommendation for Evidentiary Hearing.**~~

~~If the Committee finds that the facts underlying the complaint or referral are in dispute, or that there are questions of law about the application of the ethical standards to the conduct alleged, the Committee may include a recommendation that the matter be referred by the Panel for an evidentiary hearing.~~

~~**DUCivR 83-1.5.7 EVIDENTIARY HEARING**~~

~~**(a) Appointment of Hearing Examiner.**~~

~~If the Panel determines that the matter will be best resolved by appointment of a neutral hearing examiner to conduct an evidentiary hearing, the Panel will select a member of the court's bar to conduct the hearing.~~

~~**(b) Appointment of a Judicial Officer.**~~

~~If the Panel determines that the matter will be best resolved by the appointment of a judicial officer to conduct a hearing, the Panel will consult with the Chief Judge who will appoint a judicial officer to conduct the hearing.~~

~~**(c) Appointment of Prosecutor.**~~

~~The panel may appoint a member of the Committee or another attorney to prosecute the complaint at the hearing.~~

~~**(d) Panel Hearing.**~~

~~The Panel may, in an appropriate case, conduct the hearing sitting as a three-judge panel. If the Panel conducts the hearing, the Panel will issue a final order at the conclusion of the hearing.~~

~~**(e) Hearing Process.**~~

~~All hearings will be recorded verbatim by electronic or non-electronic means. The examiner or judicial officer may issue subpoenas for witnesses, production of documents, or other tangible things. Testimony will be taken under oath. Disciplinary proceedings are administrative rather than judicial in nature. Accordingly, the Federal Rules of Evidence will not be applicable in the evidentiary hearing unless otherwise ordered by the hearing examiner or appointed judicial officer. Evidentiary rules that are commonly accepted in administrative hearings will apply. The burden of establishing the charges of misconduct will rest with the prosecutor, who must prove the misconduct by a preponderance of the evidence.~~

~~(f) Report and Recommendation.~~

~~After the hearing has been concluded, the examiner or judicial officer must prepare a report including findings of fact and conclusions of law with a recommendation regarding the imposition of sanctions to the clerk who will serve it on the attorney and the complainant and transmit it to the Panel. The attorney may file objections to the report and recommendation within 10 days of the date of service. The Panel will enter the final order.~~

~~(g) Fees and Costs.~~

~~The Panel may authorize payment of attorney's fees and expenses to an investigator or prosecutor or to an appointed hearing examiner. The Panel may tax the costs of disciplinary proceedings under these rules to the attorney subject to discipline or the attorney petitioning for reinstatement. All costs and reimbursements will be deposited in the Court's Bar Fund. Other expenses of disciplinary proceeds may be paid by the clerk from the Court's Bar Fund when approved by the Panel or Chief Judge.~~

~~DUCivR 83-1.5.8 REINSTATEMENT~~

~~(a) Reinstatement from Reciprocal Discipline Matters.~~

~~Reinstatement in this court is not automatic upon reinstatement in the court which initially imposed the discipline. An attorney who has been disciplined under DUCivR 83-1.5.2 may petition the court for reinstatement after having been reinstated by the initial disciplining jurisdiction.~~

~~(b) Reinstatement from Other Disciplinary Orders.~~

~~An attorney who has been suspended by this court for a period of less than three months must be reinstated upon notification to the clerk that the suspension period is complete. An attorney who has been suspended for a period longer than three months must file a petition for reinstatement and may not practice until the petition has been reviewed and approved by the Panel. An attorney who has been disbarred may not petition for reinstatement until five years after the effective date of the disbarment.~~

~~(c) Contents of the Petition.~~

~~An attorney seeking reinstatement must demonstrate to the Panel that the conditions for reinstatement have been fully satisfied and that the resumption of the attorney's practice will not be detrimental to the integrity of the bar of this court, the interests of justice, or the public.~~

~~(d) Procedure.~~

~~The Panel will review petitions for reinstatement. If the Panel needs further information, it may refer the petition to the Committee for further investigation. The Committee will proceed as provided in DUCivR 83-1.5.6.~~

DUCivR 83-1.~~6~~5 ATTORNEYS - STUDENT PRACTICE RULE

(a) Entry of Appearance on Written Consent of Client and Supervising Attorney.

An eligible law student may enter an appearance in any civil or criminal case before this court provided that the client on whose behalf the student is appearing and the supervising attorney have filed a written consent with the clerk.

(b) Law Student Eligibility.

An eligible law student must:

(1) Be enrolled and in good standing in a law school accredited by the American Bar Association, or be a recent graduate of such a school awaiting either (i) the first sitting of the bar examination, or (ii) the result of such examination;

(2) Have completed legal studies amounting to at least four semesters, or the equivalent if the course work schedule is on some basis other than semesters;

(3) Be certified in writing by an official of the law school designated by the dean as having the good character, competent legal ability, and necessary qualifications to provide the legal representation permitted by this rule;

(4) Have a working knowledge of the Federal Rules of Civil and Criminal Procedure and Evidence, the Rules of Professional Conduct, and the District Court Rules of Practice; and

(5) Neither ask for nor receive any kind of compensation or remuneration from any client on whose behalf the student renders services; however, the student may be paid a set salary or hourly wage by an employing lawyer, law firm, government office, or other entity providing legal services to the extent that the employer does not charge or otherwise

seek reimbursement from the client for the services rendered by the student.

(c) Responsibilities of Supervising Attorney.

A supervising attorney must:

(1) Be a member in good standing of the bar of this court;

(2) Obtain and file with the clerk the prior written consent of the client for the services to be performed by the student in the form provided on the court's website;

(3) File with the clerk a consent agreement to supervise the student;

(4) File with the clerk the law school certification as required by section 83-1.6(b)(3);

(5) Assume personal professional responsibility for the quality of the student's work and be available for consultation with represented clients;

(6) Guide and assist the student in all activities undertaken by the student and permitted by this rule to the extent required for the proper practical training of the student and the protection of the client;

(7) Sign all pleadings or other documents filed with the court; the student may also co-sign such documents;

(8) Be present with the student at all court appearances, depositions, and at other proceedings in which testimony is taken;

(9) Be prepared to promptly supplement any of the student's oral or written work as necessary to ensure proper representation of the client.

(d) Scope of Representation.

Unless otherwise directed by a judge or magistrate judge, an eligible law student, supervised in accordance with this rule, may:

(1) Appear as assistant counsel in civil and criminal proceedings on behalf of any client, including federal, state, or local government bodies provided

that the written consent of the client and the supervising attorney and a copy of the dean's certification previously have been filed with the clerk. The consent form necessary for a student to appear on behalf of the United States must be executed by the United States Attorney or First Assistant United States Attorney. The supervising attorney must be present with the student for all court appearances.

(2) Appear as assistant counsel when depositions are taken on behalf of any client in civil and criminal cases when written consent of the client and the supervising attorney and the dean's certification previously have been filed with the clerk.

(3) Co-sign motions, applications, answers, briefs, and other documents in civil and criminal cases after their review, approval and signature by the supervising attorney.

(e) Law School Certification.

Certification of a student by the law school official must be (i) in the form provided on the court's website, (ii) filed with the clerk, and (iii) unless sooner withdrawn, remain in effect for 12 months unless otherwise ordered by a judge or magistrate judge. Certification will automatically terminate if the student (i) does not take the first scheduled bar examination following graduation, (ii) fails to achieve a passing grade in the bar examination, or (iii) is otherwise admitted to the bar of this court. Certification of a student may be withdrawn for good cause by the designated law school official.

DUCivR 83-1.~~7~~6 CONDUCT OF AN UNREPRESENTED PARTY

(a) A party proceeding without an attorney (unrepresented party or pro se party) is obligated to comply with:

(1) the Federal Rules of Civil Procedure;

(2) these Local Rules of Practice;

(3) the Utah Standards of Professionalism and Civility; and

(4) other laws and rules relevant to the action.

(b) An unrepresented party must immediately notify the Clerk's Office in writing of any name, mailing address, or email address changes.

DUCivR 83-5 CUSTODY, FILING, AND DISPOSAL OF HEARING OR TRIAL EXHIBITS

(a) Custody of Exhibits.

(1) Exhibits Returned to the Offering Party.

(A) Unless the court orders otherwise, the courtroom deputy will return exhibits in their custody at the conclusion of a hearing or trial to the offering party.

(B) The courtroom deputy will prepare a receipt that identifies the returned exhibits when the offering party takes custody. The offering party must sign and return the receipt to the courtroom deputy and take possession of the exhibits. The courtroom deputy will docket the signed receipt.

(2) Offering Party's Obligation During Appeal. Unless the court orders otherwise, the offering party must keep any exhibits, whether admitted or offered-and-not-admitted, and must deliver them to the appellate court, if required. This obligation remains in effect until any appeal is resolved or the time for appeal has expired.

(3) Access to Exhibits During the Appeal. For preparation of the record on appeal, a party must make available all original exhibits, or copies, to any other party on request or court order.

(4) Exhibits Ordered to Remain in Custody of the Clerk. When the court has ordered the Clerk of Court to retain custody of an exhibit, the Clerk's Office must retain custody until any appeal is resolved or the time for appeal has expired.

(b) Retention of Exhibits.

(1) Original Exhibits.

The offering party must retain the original exhibit.

(2) Delivery of Exhibits for Retention.

(A) Within 14 days after the docketing of the court's witness and exhibit list, each party must deliver a digital storage device containing its respective exhibits, admitted and offered-but-not-admitted, to the Clerk's Office. The Clerk's Office will docket a notice of receipt. If a notice of receipt is not docketed, within 21 days after the docketing of the court's witness and exhibit list, the opposing party may deliver the other party's exhibits to the Clerk's Office.

(B) Exhibits that are designated sealed on the court's witness and exhibit list must be delivered on a separate and marked digital storage device.

(C) A photograph of a bulky or sensitive exhibit may be included on the storage device. Examples of bulky or sensitive exhibits include:

(i) controlled substances, poisonous or dangerous chemicals, or intoxicating liquors;

(ii) firearms, ammunition, or explosive devices;

(iii) pornographic materials;

(iv) jewelry;

(v) money or articles of high monetary value or counterfeit money;

(vi) demonstrative exhibits; and

(vii) documents or physical exhibits of unusual bulk or weight.

(c) Disposal of Exhibits in the Custody of the Clerk of Court.

(1) The Clerk's Office will notify the offering party when exhibits retained by the Clerk of Court may be collected.

(2) The offering party must collect the exhibits within 14 days of the notice. The same process in section (a)(1)(B) must be followed.

(3) Uncollected exhibits will be disposed of consistent with court policy.

DUCrimR 5-2 UNITED STATES PROBATION OFFICE REPORTS AND DOCUMENTS

(a) Report.

When the United States requests the detention of a defendant, the magistrate judge will request a report (e.g., a pretrial services report or supervised release report) under 18 U.S.C. § 3154 from the probation office. The report must address rebuttable presumptions of detention under 18 U.S.C. § 3142(e)(2) and potential penalties for the alleged violation.

(b) Filing.

Before the defendant's first court appearance, the probation officer must, when possible, file the report in the court's CM/ECF system consistent with the level of access specified in DUCrimR 49-2.

(c) Documents.

(1) When the court receives documents relevant to the issue of detention before a hearing and does not consider the documents, the courtroom deputy will forward a copy to the party or party's attorney that sent them and not file a copy in the case. If the court considers the documents in advance of the hearing or at the hearing, the courtroom deputy will provide copies to the parties and file copies in CM/ECF within 3 days after the hearing as a supplement to the report.

(2) If a person brings documents relevant to the issue of detention to a hearing and the court considers the documents, the courtroom deputy will file copies in CM/ECF within 3 days after the hearing as a supplement to the report.

(3) These documents must be filed in CM/ECF using the same level of access specified for the report in DUCrimR 49-2.

(d) Confidentiality, Use, and Disposal of Reports and Documents.

(1) The reports are confidential, subject to the limitations and exceptions of 18 U.S.C. § 3153(c).

(2) A copy of the report must be made available to court, defense counsel, and the government as soon as possible but no later than at the time of the hearing.

(3) Defense counsel may discuss and review the report with the defendant.

(4) Defense counsel and the government must not disclose the report to other parties or nonparties absent a court order, rule, or policy.

(5) An unrepresented defendant must return the copy of the report they received to the probation officer within 7 days after the hearing where the report or document was considered. An unrepresented party must not disclose or disseminate copies of the report.

(6) When information in a report or document is disclosed under DUCrimR 49-2 or court order, the recipient must keep the information confidential and use the information only for administering justice.

(e) Requests for Additional Disclosure.

(1) The court may authorize the additional disclosure of a report, separate from that which is authorized by this rule and DUCivR 49-2, after receiving a written motion and upon a showing a good cause and after considering:

(A) any promise of confidentiality to the source of the information;

(B) any harm that such disclosure might cause to any person;

(C) the objective of confidentiality, as stated in the confidentiality regulations; and

(D) the purpose of the disclosure.

(2) The motion requesting disclosure of a report should be made to the district or magistrate judge assigned to the case.

DUCrimR 32-1 PRESENTENCE INVESTIGATION REPORTS AND DOCUMENTS

(a) Objection to the Presentence Report.

(1) Within 14-days after disclosure to the parties of the initial presentence report, a party must communicate any objections to the probation officer and opposing party.

(2) The objection:

(A) must clearly identify the issues;

(B) must be in writing; and

(C) the written objection must not be filed with the court.

(3) Within 7 days after notice of an objection, the parties and probation must make reasonable efforts to resolve the objections.

(b) Filing the Presentence Report and Sentencing-Related Documents

(1) No fewer than 7 days before sentencing, probation must file with court the presentence report, including an addendum that contains any unresolved objections and probation's comments on those objections.

(2) Within 7 days before sentencing, a party may file a sentencing memorandum or Position of Party with Respect to Sentencing Factors.

(3) Unless otherwise ordered, documents pertaining to the defendant must be provided to probation no later than 10 days before the sentencing hearing.

(4) When the court receives documents relevant to the issue of sentencing before a hearing and does not consider the documents, the courtroom deputy will forward a copy to the party or party's attorney that sent them and not file a copy in the case. If the court considers the documents in advance of the hearing or at the hearing, the courtroom deputy will

provide copies to the parties and file copies in CM/ECF within 3 days after the hearing as a supplement to the report.

(5) If a person brings documents relevant to the issue of sentencing to the sentencing hearing and the court considers the documents, the courtroom deputy will file copies in CM/ECF within 3 days after the hearing as a supplement to the report.

(6) These documents must be filed in CM/ECF using the same level of access for the report as specified under DUCrimR 49-2.

(c) Restrictions on Disclosure of Sentencing Recommendations.

A copy of the presentence report will exclude the probation officer's confidential recommendation.

(d) Confidentiality and Dissemination.

Except as otherwise provided by Fed. R. Crim. P. 32(b)(6), presentence reports and confidential records maintained by the United States Probation Office will not be released except by order of the court.

(1) Disclosure to Correctional and Treatment Agencies. Probation reports, including the presentence report, may be forwarded routinely to the United States Sentencing Commission, the Federal Bureau of Prisons, federal contract facilities, the United States Parole Commission, courts of appeals and respective parties, as well as other United States Probation Offices, in accordance with federal probation system policies and procedures. The probation office may prepare a summary of background material in a case for other correctional or treatment agencies and may review the appropriate file with professional staff members from those agencies upon receipt of a Consent to Release Information form signed by the defendant.

(2) Disclosure in 28 U.S.C. § 2255 Matters. Such reports may be reviewed by the court and authorized court personnel in consideration of matters under 28 U.S.C. § 2255.

DUCrimR 41-1 SEALING OF FED. R. CRIM. P. 41 CASES AND DOCUMENTS

(a) Motions to Seal.

(1) Fed. R. Crim. P. 41 documents must be presented to a magistrate judge. These documents and the associated magistrate judge case will be public at the time of filing unless an order to seal has been entered. Any motion to seal must specify:

(A) the documents to be sealed, including the return;

(B) the grounds in support of the seal; and

(C) the term of seal, which will be no more than 1 year unless the court orders otherwise.

(2) A motion to seal is not required if the only information to be redacted is that which is specified in Fed. R. Crim. P. 49.1(a). The person making the redacted filing may file an unredacted copy simultaneously with the filing of the Fed. R. Crim. P. 41 documents. The redacted copy will be added to the docket and the case and redacted documents will become available to the public. The unredacted copy of the Fed. R. Crim. P. 41 document will have an access level as specified under DUCrimR 49-2.

(b) Motion to Extend the Seal.

A motion to extend the seal and proposed order must be presented to a magistrate judge at least 10 days before the expiration of the seal.

(c) Redacted Copy.

At least 10 days before the seal expires, the government must provide to the Clerk's Office a redacted copy of the Fed. R. Crim. P. 41 document as required by Fed. R. Crim. P. 49.1. The redacted copy will be added to the docket and the case and redacted documents will become available to the public at the time the seal

expires. The unredacted copy of the Fed. R. Crim. P. 41 document will have an access level as specified under DUCrimR 49-2.

DUCrimR 44-1 RIGHT TO AND ASSIGNMENT OF COUNSEL

(a) Applicability.

This rule applies to any person:

(1) who is charged with a felony, misdemeanor (other than a petty offense as defined in 18 U.S.C. § 1(3) unless the defendant faces the likelihood of loss of liberty), juvenile delinquency (see 18 U.S.C. § 5034), or a violation of probation;

(2) who is under arrest, when such representation is required by law;

(3) who is seeking collateral relief, as provided in the Criminal Justice Act (CJA);

(4) who is in custody as a material witness as defined in the CJA and 18 U.S.C. §§ 3144 and 3142(f));

(5) who is entitled to appointment of counsel in parole proceedings under 18 U.S.C. Chapter 311;

(6) whose mental condition is the subject of a hearing under 18 U.S.C. Chapter 313; or

(7) for whom the sixth amendment to the Constitution requires the appointment of counsel, or for whom, in a case in which such person faces loss of liberty, any federal law requires the appointment of counsel.

(b) Services Essential to a Proper Defense.

The assigned district judge or magistrate judge may authorize an appointed attorney to incur reasonable expenses for the necessary services of an investigator, for a psychiatric examination of the defendant, or for other services essential to a proper defense. The cost of such additional services must not exceed the authorized statutory maximum. A request to incur such additional expense may be made ex parte to the assigned district judge or magistrate judge

by motion or petition, together with an appropriate CJA form. In addition, an order must be issued and signed by the district or magistrate judge before any additional expenses are incurred. The assigned judge also may order that a subpoena be issued on behalf of an indigent defendant under DUCrimR 17-1.

(c) Post-Trial Duties of Appointed Attorneys.

The duties of an appointed attorney after the trial include the following:

(1) the attorney must inform the defendant of the right to appeal;

(2) if, after consultation with the attorney, the defendant desires to appeal, the attorney must file a notice of appeal, designate the appropriate portions of the record, make all arrangements necessary to order a transcript of needed testimony, and complete all other requirements necessary to perfect the appeal, including making and filing a docketing statement; and,

(3) if the attorney who represented the defendant at trial wishes to continue to represent the defendant in an appeal, the attorney must notify the clerk of the United States Court of Appeals for the Tenth Circuit and take proper steps to obtain appointment from the court of appeals as counsel for the defendant on appeal.

(d) Payment of Services.

An attorney appointed to represent an indigent defendant under the CJA, 18 U.S.C. § 3006A, is responsible for submitting, promptly after the attorney's duties have been terminated, properly completed vouchers and required support documentation on appropriate CJA forms for services rendered by the attorney or others. In cases involving extended services, the court, upon application, may recommend payment in excess of the statutory maximum. All vouchers seeking payments in excess of the statutory maximum must be accompanied by certified time sheets or other evidence setting forth in detail the time spent on the case.

~~Appointments of attorneys for indigent defendants must be in accordance with the CJA Plan for the District of Utah.~~

DUCrimR 57-3 TRANSFER OR ASSOCIATION OF CRIMINAL CASES

(a) Transfer of Cases Involving the Same Defendant.

(1) Motion to Transfer. When a defendant has criminal charges pending in 2 or more separate cases, a party may file a motion to transfer:

(A) the higher-numbered case to the judge assigned to the lowest-numbered case, if none of the cases involve an allegation of violating conditions of supervised release or probation; or

(B) the lower-numbered case to the judge assigned to the higher-numbered case, if violations of supervised release or conditions of probation allegations are pending against a defendant.

(2) Filing the Motion. The motion to transfer must be filed in the case with the judge who will receive transferred case, and a notice of the motion must be filed in all other case in which transfer is sought.

(3) Ruling on the Motion. The judge who will receive the transferred case or cases must rule on the motion to transfer after conferring with the assigned judges in the other cases about the appropriateness of the transfer.

(4) Sua Sponte Transfer of Cases. The court may sua sponte transfer cases.

(b) Joining Separate Criminal Cases.

(1) Motion and Notice. A motion to associate separate cases for trial under Fed. R. Crim. P. 13 may be filed in any appropriate case. A notice of the motion must be filed in every other proposed associated case. The motion and notice must include the name and number of all proposed associated cases.

(2) Order. The party filing the motion must email a proposed order in an editable format to the assigned judge of the case with the pending motion.

LOCAL PATENT RULES

1. SCOPE OF RULES

LPR 1.1 APPLICATION

(a) Applicable Cases.

These Local Patent Rules (LPRs) apply to all cases filed in or transferred to this district in which a party makes a claim of infringement, non-infringement, ineligibility, invalidity, or unenforceability of a utility patent.

(b) Conflicts with DUCivR.

These LPRs supplement the District of Utah Local Rules of Civil Practice (DUCivRs). If there is a conflict between the DUCivRs and these LPRs, then these LPRs govern.

(c) Modification.

On a party's motion or on its own, the court may modify the obligations and deadlines in these LPRs when doing so will advance the just, speedy, and inexpensive determination of the case.

(d) Appendix.

An illustrative chronology of LPR deadlines and events is contained in the Appendix to these LPRs. The Appendix does not constitute a rule or modify any of these LPRs.

LPR 1.2 ATTORNEY PLANNING MEETING AND SCHEDULING ORDER

(a) Attorney Planning Meeting Timing and Content.

No later than 35 days after the filing of the first answer, the parties must hold an Attorney Planning Meeting and discuss those matters found in the form patent scheduling order on the court's website.

(b) Scheduling Order.

(1) Unless the court orders otherwise, the parties must present to the court a proposed scheduling order no later than 7 days after the Attorney Planning Meeting.

(2) No later than 14 days after entry of the claim construction ruling, the parties must present to the court a proposed scheduling order to govern the remaining pretrial obligations.

(3) On a party's motion or on its own, the court may enter a separate scheduling order for all non-patent causes of action.

LPR 1.3 FACT DISCOVERY

(a) Timing.

The parties may commence fact discovery on the date for the Attorney Planning Meeting. The parties must complete fact discovery 28 days after the deadline to exchange claim terms and phrases under LPR 4.2.

(b) Reopening.

A party may move to reopen fact discovery no later than 14 days after entry of the claim construction ruling. The motion must explain why further discovery is needed and identify its scope.

(c) Advice of Counsel.

(1) No later than 7 days after entry of the claim construction ruling, a party must disclose its intent to rely on advice of counsel and the following information:

(A) all written opinions of counsel and a summary of oral opinions (including the date, attorney, and recipient) on which the party intends to rely;

(B) all information provided to counsel in connection with the advice;

(C) all written attorney work product developed in preparing the advice; and

(D) the date and identity of the sender and recipient of all written and oral communications with counsel concerning the subject matter of the advice.

(2) The substance of a claim of reliance on advice of counsel offered in defense to a charge of willful infringement, and other information within the scope of a waiver of the attorney–client privilege based on disclosure of the advice, is not subject to discovery until 7 days after entry of the claim construction ruling.

(3) After advice of counsel information becomes discoverable under LPR 1.3(b), a party claiming willful infringement may take the deposition of any attorney or other person who prepared, rendered, received, or relied on the advice.

(4) Nothing in this rule affects whether any information or materials other than those listed in LPR 1.3(c) are subject to discovery or within the scope of any waiver of the attorney–client privilege.

LPR 1.4 STANDARD PROTECTIVE ORDER

The Standard Protective Order identified in DUCivR 26-2 applies in patent cases. A party may move to modify the Standard Protective Order for good cause. The filing of a motion does not affect the requirement for, or timing of, any disclosures under these LPRs.

LPR 1.5 CERTIFICATION OF DISCLOSURES

Disclosures certified under these LPRs are subject to Fed. R. Civ. P. 11, 26(g), and 37.

LPR 1.6 ADMISSIBILITY OF CONTENTIONS

The contentions provided for in LPR 2.3 and 2.4 are not admissible as evidence on the merits absent a showing that disclosures were made in bad faith.

LPR 1.7 TIMING-BASED DISCOVERY OBJECTIONS

A party may not object to a discovery request or decline to disclose information required under Fed. R. Civ. P. 26(a)(1) on the grounds that the request or disclosure is premature, except where a discovery request seeks:

(1) a party's claim construction position before the disclosures in LPR 4.2;

(2) a patent claimant's comparison of the asserted claims and the accused apparatus, device, process, method, act, or other instrumentality before the disclosures in LPR 2.3;

(3) an accused infringer's comparison of the asserted claims and the prior art before the disclosures in LPR 2.4–2.5;

(4) an accused infringer's non-infringement contentions before the disclosures in LPR 2.4; or

(5) information concerning opinions of counsel before the disclosures in LPR 1.3(c).

LPR 1.8 MOTION TO STAY PENDING REEXAMINATION OR OTHER POST-GRANT PROCEEDINGS

In cases involving a patent that is the subject of pending reexamination or other post-grant proceedings in the U.S. Patent and Trademark Office (USPTO), the parties must confer before a motion to stay is filed with the court. When deciding a motion, the court may consider whether a stay would:

(1) unduly prejudice or present a clear tactical disadvantage to the nonmoving party;

(2) simplify the pending issues in the case;

(3) delay proceedings after discovery is complete or a trial date has been set; and

(4) reduce the burden of litigation.

2. PATENT INITIAL DISCLOSURES AND CONTENTIONS

LPR 2.1 ACCUSED INSTRUMENTALITY DISCLOSURES

No later than 7 days after the defendant files its answer, a party claiming infringement must disclose a list identifying each known apparatus, product, device, process, method, act, or other instrumentality of the opposing party which allegedly infringes one or more asserted patent claims (Accused Instrumentality).

LPR 2.2 INITIAL DISCLOSURES

(a) Plaintiff's Initial Disclosures.

If a counterclaim for infringement of another patent is filed, the plaintiff must provide its initial disclosures under Fed. R. Civ. P. 26(a)(1) (Initial Disclosures) no later than 21 days after filing its answer to the counterclaim. Otherwise, the plaintiff's Initial Disclosures are due no later than 21 days after the defendant files its answer.

(b) Defendant's Initial Disclosures.

If a counterclaim for infringement of another patent is filed, the defendant's Initial Disclosures are due no later than 28 days after the plaintiff files its answer to the counterclaim. Otherwise, the defendant's Initial Disclosures are due no later than 28 days after the defendant files an answer.

(c) Documents Available for Inspection and Copying.

(1) Party Asserting a Claim for Infringement. A party asserting a claim for infringement must, for each asserted patent, make available with its Initial

Disclosures the following non-privileged information in the party's possession, custody, or control:

(A) all documents concerning any disclosure, sale or transfer, or offer to sell or transfer, any item embodying, practicing, or resulting from the practice of the claimed invention or portion of the invention before the date of application (production of a document under this rule is not an admission that the document evidences or is prior art under 35 U.S.C. § 102);

(B) all documents concerning the conception, reduction to practice, design, and development of each claimed invention that were created on or before the date of application or a priority date otherwise identified, whichever is earlier;

(C) the USPTO file history for each patent on which a claim for priority is based;

(D) all documents concerning ownership of the patent rights by the party asserting patent infringement;

(E) all licenses of the patent rights asserted; and

(F) the date, if known, from which the party alleges any damages began or, if unknown, an explanation of how the date should be determined.

(2) Party Opposing a Claim for Infringement. A party opposing a claim of infringement must make available with its Initial Disclosures the following non-privileged information in the party's possession, custody, or control:

(A) documents or things sufficient to show the operation and construction of all aspects or elements of each Accused Instrumentality that is identified with specificity in the pleading or

Accused Instrumentality Disclosures of the party asserting patent infringement;

(B) a copy of each item of prior art of which the party is aware and on which the party intends to rely that allegedly invalidates any asserted patent claims or, if a copy is unavailable, a description sufficient to identify the prior art and its relevant details;

(C) the Accused Instrumentality; and

(D) an estimate for the relevant time frame of the quantity of each Accused Instrumentality sold and its gross sales revenue.

(3) Availability. A party may serve control-numbered copies of the documents and things identified in LPR 2.2(c) or make them available for inspection and copying.

LPR 2.3 INITIAL INFRINGEMENT CONTENTIONS

(a) Timing.

No later than 35 days after the defendant's Initial Disclosures, a party claiming patent infringement must serve on all parties Initial Infringement Contentions containing:

(1) an identification of each claim of each asserted patent that is allegedly infringed and, for each claim, the applicable statutory subsection of 35 U.S.C. § 271;

(2) for each asserted claim, an identification of each Accused Instrumentality of which the party claiming infringement is aware, described by name, if known, or by any product, device, or apparatus which allegedly infringes one or more asserted patent claims;

(3) a chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that the party contends is governed by 35 U.S.C. § 112(f), a description of

the claimed function of that element and the identity of the structures, acts, or materials in the Accused Instrumentality that performs the claimed function;

(4) a statement of whether each element of each asserted claim is alleged to be present literally or under the doctrine of equivalents in the Accused Instrumentality and, if present under the doctrine of equivalents, an explanation of each function, way, and result that is alleged to be equivalent and why any differences are insubstantial;

(5) for each claim that is alleged to have been indirectly infringed, an identification of any direct infringement and a description of the acts of the alleged indirect infringer that contribute to or induce the direct infringement;

(6) for each alleged direct infringement based on joint acts of multiple parties, a description of the role of each such parties in the direct infringement;

(7) for any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled;

(8) the basis for any allegation of willful infringement; and

(9) to preserve the right to rely on the assertion that its own or its licensee's apparatus, product, device, process, method, act, or other instrumentality embodies or practices the claimed invention, an identification, separately for each asserted patent, of each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim, including whether there has been marking pursuant to statute.

(b) Number of Claims and Substitution of Claims.

(1) A party may claim no more than 10 infringement claims per asserted patent without leave of court.

(2) If a party claiming patent infringement learns of an Accused Instrumentality that was not previously disclosed or known, the party may supplement its infringement claims within 14 days of that discovery.

(3) If supplementation increases the number of infringement claims to more than 10 per asserted patent, then the party must withdraw an equal number of asserted claims.

LPR 2.4 INITIAL NON-INFRINGEMENT, INELIGIBILITY, INVALIDITY, AND UNENFORCEABILITY CONTENTIONS

(a) Timing.

No later than 14 days after service of the Initial Infringement Contentions, each party opposing a claim of patent infringement or asserting ineligibility, invalidity, or unenforceability of a patent claim must serve on all parties its Initial Non-Infringement, Ineligibility, Invalidity, and Unenforceability Contentions.

(b) Non-Infringement Contentions.

Non-Infringement Contentions must contain a chart that is responsive to the chart required under LPR 2.3(a)(3) and that describes, for each identified element in each asserted claim, whether the element is present literally or under the doctrine of equivalents in each Accused Instrumentality and, if it is not present, the reason for the denial and the relevant distinctions.

(c) Ineligibility Contentions.

Ineligibility Contentions must describe why the patent fails to fall within the subject matter of 35 U.S.C. § 101 or is otherwise patent ineligible, including the identity of prior art that allegedly shows how a claim element is well-understood, routine, or conventional.

(d) Invalidity Contentions.

(1) Invalidity Contentions must:

(A) identify—

(i) each item of prior art that allegedly invalidates, alone or in combination, each asserted claim;

(ii) for prior art under 35 U.S.C. § 102(a)(1) (effective Mar. 16, 2013) or 35 U.S.C. §§ 102(a)–(b) & (g) (2012), the item offered for sale or publicly used or known, the date the offer or use took place or the information became known, and the person or entity that made the use or that made and received the offer, or the person or entity that made the information known or to whom it was made known;

(iii) for a challenge to inventorship under 35 U.S.C. § 101, the name of the persons from whom and the circumstances under which the invention or any part of it was derived;

(B) contain a statement—

(i) of whether each item of prior art allegedly anticipates each asserted claim or renders it obvious;

(ii) explaining the combination and the reasons to combine the items, if a combination of items of prior art allegedly makes a claim obvious;

(iii) of any grounds of invalidity based on indefiniteness under 35 U.S.C. § 112(b) or lack of enablement or lack of written description under 35 U.S.C. § 112(a); and

(C) include a chart—

(i) identifying where, in each alleged item of prior art, each element of each asserted claim is found; and

(ii) for each element a party contends is governed by 35 U.S.C. § 112(f), describing the claimed function of that element and the identity of the structures, acts, or materials in each item of prior art that performs the claimed function.

(2) A party asserting invalidity must limit prior art references to 12 per asserted patent without leave of court.

(e) Unenforceability Contentions.

Unenforceability contentions must identify the acts allegedly supporting and all bases for the assertion of unenforceability.

LPR 2.5 DOCUMENT PRODUCTION ACCOMPANYING INITIAL NON-INFRINGEMENT, INELIGIBILITY, INVALIDITY, AND UNENFORCEABILITY CONTENTIONS

When serving its Initial Contentions, the party opposing a claim of patent infringement or asserting invalidity must supplement its Initial Disclosures by producing or making available for inspection and copying:

(1) any additional documentation showing the operation of any aspects or elements of an Accused Instrumentality identified by the patent claimant in its LPR 2.3(a)(3) chart; and

(2) any additional items of prior art identified in LPR 2.4, including, for foreign prior art, any translation in the party's possession, custody, or control that does not appear in the file history of the asserted patent.

LPR 2.6 DISCLOSURE REQUIREMENT IN PATENT CASES INITIATED BY COMPLAINT FOR DECLARATORY JUDGMENT

In a patent declaratory judgment action in which no party asserts a claim of infringement, the party seeking the declaratory judgment:

(1) need not comply with LPR 2.1. and 2.3; and

(2) must, for each declaration for relief being sought, comply with LPR 2.4 and 2.5 no later than 49 days after the defendant's Initial Disclosures are served.

3. FINAL CONTENTIONS

LPR 3.1 TIMING

(a) Final Infringement Contentions.

No later than 21 weeks after the deadline to serve Initial Infringement Contentions, a party asserting patent infringement must serve on all parties Final Infringement Contentions containing the information required in LPR 2.3(a)(1)–(8).

(b) Final Ineligibility, Invalidity, and Unenforceability Contentions.

Within 14 days after Final Infringement Contentions are due, each party asserting ineligibility, invalidity, or unenforceability of a patent claim must serve on all other parties Final Ineligibility, Invalidity, and Unenforceability Contentions containing the information required in LPR 2.4(c)–(e).

(c) Final Non-Infringement Contentions.

No later than 28 days after Final Infringement Contentions are due, each party asserting non-infringement of a patent claim must serve on all other parties Final Non-Infringement Contentions containing the information required in LPR 2.4(b).

LPR 3.2 LIMITATIONS ON FINAL CONTENTIONS

(a) Final Infringement Contentions.

Final Infringement Contentions may rely on no more than 8 of the 10 asserted infringement claims per asserted patent identified in LPR 2.3(b).

(b) Final Invalidity Contentions.

Final Invalidity Contentions may rely on no more than 10 of the 12 prior art references per asserted patent identified in LPR 2.4(d)(2).

(c) Modification of Limits.

Upon a showing of good cause and no unfair prejudice to opposing parties, the court may modify the limits in LPR 3.2(a) and (b).

LPR 3.3 DOCUMENT PRODUCTION ACCOMPANYING FINAL INVALIDITY CONTENTIONS

(a) When serving its Final Contentions, a party asserting invalidity must produce or make available for inspection and copying a copy or sample of all prior art identified under LPR 3.1, unless the prior art was previously produced or appears in the file history of the patent at issue.

(b) Any prior art not in English must include a translation of the portion relied on, and the translated portion must be sufficient to place the particular matter in context.

(c) The producing party must separately identify by control-number the documents that correspond to each claim.

LPR 3.4 AMENDMENT OF FINAL CONTENTIONS

(a) Timing.

No later than 14 days after the discovery of the basis for the amendment, a party must move to amend its contentions.

(b) Leave of Court.

Upon a showing of good cause and no unfair prejudice to opposing parties, the court may permit a party to amend its Final Contentions. The duty to supplement discovery responses does not excuse the need to obtain leave of court to amend Final Contentions.

4. CLAIM CONSTRUCTION PROCEEDINGS

LPR 4.1 DELAY OF RULING ON A MOTION RELATING TO CLAIM CONSTRUCTION

If a party files a motion that raises claim construction issues before the claim construction proceedings provided for in LPR 4.4, the court may defer ruling on the motion until after entry of the claim construction ruling.

LPR 4.2 EXCHANGE OF PROPOSED CLAIM TERMS TO BE CONSTRUED

(a) Timing.

No later than 14 days after service of the Final Non-Infringement Contentions, each party must serve on all other parties a list identifying or providing:

(1) claim terms and phrases for the court to construe;

(2) proposed constructions;

(3) any claim element that is governed by 35 U.S.C. § 112(f) and a description of its function and the structures, acts, or materials corresponding to that element, identified by column and line number of the asserted patent.

(b) Meet and Confer.

No later than 7 days after the exchange of claim terms and phrases, the parties must meet and confer and agree on no more than 10 terms or phrases for the court to construe. If the parties are unable to agree on 10 terms, then 5 terms are allocated collectively to all plaintiffs and 5 terms are allocated collectively to all defendants.

(c) Limitations and Modification.

Upon a showing of good cause, the court may permit more than 10 terms or phrases to be presented for construction. The assertion of multiple non-related patents may constitute good cause.

LPR 4.3 CLAIM CONSTRUCTION BRIEFS

(a) Filing Time, Page Limits, and Chart.

(1) No later than 35 days after the exchange of terms and phrases in LPR 4.2, the parties must simultaneously file cross-briefs for claim construction, which must not exceed 25 pages without leave of court.

(2) No later than 28 days after the filing of cross-briefs for claim construction, the parties must simultaneously file response briefs, which must not exceed 25 pages without leave of court.

(3) No later than 7 days after the filing of the response briefs, the parties must file:

(A) a joint claim construction chart that identifies in separate columns—

(i) the complete language of each disputed claim term or phrase in the cross-briefs for claim construction;

(ii) a reference to where the disputed claim term appears in the asserted patent;

(iii) each party's proposed claim constructions; and

(iv) a placeholder for the court to enter its claim construction or a statement of whether the parties agree on the claim construction;

(B) a joint status report containing the parties' proposals for the nature and form of the claim construction hearing.

(4) The joint claim construction chart must be emailed in an editable format to the assigned judge's chambers.

(b) Briefs and Excess Pages.

(1) For each term or phrase to be presented to the court, each party must state in its cross-brief for claim construction whether a construction in a party's favor may be dispositive of an issue and why.

(2) A cross-brief for claim construction must identify any intrinsic evidence with citation to the joint appendix and separately identify any extrinsic evidence that a party contends supports its proposed claim construction.

(3) A response brief must include all objections to any extrinsic evidence identified in the cross-briefs.

(4) The presence of multiple alleged infringers with different products or processes may constitute good cause for allowing additional pages or separate briefing as to different alleged infringers.

(c) Joint and Separate Appendices.

(1) When cross-briefs for claim construction are filed, the parties must file and cite to a joint appendix containing the patents in dispute and the prosecution history for each patent.

(2) Any party may file a separate appendix to its claim construction brief with other supporting materials.

(3) Any appendix and prosecution history must:

(A) contain an index;

(B) be paginated and text searchable; and

(C) have each document bookmarked in a PDF file.

(d) Reply.

A party must not file a reply or surreply unless the court requests it.

(e) Witness Statement.

A party must make a witness available for a deposition if the witness has provided an affidavit or declaration in support of a claim construction and has not previously been deposed.

LPR 4.4 CLAIM CONSTRUCTION HEARING

Concurrent with the filing of the claim construction response briefs, the parties must file a joint motion for a claim construction hearing. The court will issue an order describing the schedule and procedures for a claim construction hearing. Unless the court orders otherwise, any exhibits, including demonstrative exhibits, to be used at a claim construction hearing must be exchanged no later than 7 days before the hearing.

LPR 4.5 TUTORIAL

(a) Timing.

No later than 14 days after the filing of the claim construction response briefs, a party may file a tutorial summarizing and explaining the technology at issue**.**

(b) Form.

(1) The tutorial may be in written or presentation form (e.g., PowerPoint) and must not exceed either 30 pages or 30 minutes.

(2) A party may request leave to provide a live tutorial.

(c) Limitations.

No argument is permitted in a tutorial. Tutorials are only for purposes of claim construction, and the parties may not rely on any statement made in a tutorial for any other part of the litigation.

5. EXPERT WITNESSES

LPR 5.1 TIMING OF DISCLOSURE OF EXPERTS

(a) No later than 28 days after entry of the claim construction ruling, each party must make its initial expert witness disclosures required under Fed. R. Civ. P. 26 on issues for which the party bears the burden of proof.

(b) No later than 28 days after the date for initial expert reports, each party must make its expert witness disclosures required under Fed. R. Civ. P. 26 on issues for which a party does not bear the burden of proof.

(c) If a party who bears the burden of proof wants to designate rebuttal expert witnesses, it must make its rebuttal expert witness disclosures required under Fed. R. Civ. P. 26 no later than 28 days after the date for reports on issues for which an opposing party does not bear the burden of proof.

LPR 5.2 EXPERT DEPOSITIONS

Expert witness depositions must be completed no later than 35 days after the deadline to exchange expert rebuttal reports.

LPR 5.3 PRESUMPTION AGAINST SUPPLEMENTATION OF REPORTS

(a) Except as provided in this rule, a party may not serve or rely on an untimely amendment or supplement to an expert report.

(b) A party may serve and rely on an untimely amendment or supplement to an expert report:

(1) upon a motion showing good cause why the amendment or supplement could not reasonably have been made earlier and that the opposing party is not unfairly prejudiced; or

(2) if a change in factual support or legal precedent necessitates the amendment or supplement under Fed. R. Civ. P. 26(e).

6. DISPOSITIVE MOTIONS

LPR 6.1 DISPOSITIVE MOTIONS

A dispositive motion must be filed no later than 28 days after the deadline for completing expert witness depositions.

7. FINAL PRETRIAL CONFERENCE

LPR 7.1 NUMBER OF CLAIMS AND PRIOR ART REFERENCES

(a) Final Pretrial Disclosures.

In its final pretrial disclosures:

(1) a party asserting infringement must limit the number of asserted claims to a manageable subset of previously identified asserted claims; and

(2) a party opposing infringement must limit the number of prior art references to be asserted in support of invalidity theories to a manageable subset of previously identified prior art references.

(b) Manageable Subset of Claims and Prior Art References.

A manageable subset is presumptively no more than:

(1) 3 claims per patent or a total of 10 claims if more than 1 patent is asserted; and

(2) 3 prior art references, either alone or in combination, per claim.

(c) Motion to Limit Number.

Except upon a showing of good cause, the following must not be filed until the resolution of dispositive motions or 90 days before trial, whichever is later:

(1) a motion to limit the number of asserted claims; and

(2) a motion to limit the number of asserted prior art references.

Appendix: Chronology of LPR Deadlines and Events

This chronology is illustrative and does not constitute a rule or modify any rules.

Rule	Deadline / Event	Time
INITIAL DISCLOSURES		
LPR 2.1	Accused Instrumentality Disclosures	7 days after defendant files its answer
LPR 2.2	Plaintiff's Initial Disclosures	21 days after (a) defendant files its answer or (b) plaintiff files an answer to a counterclaim
LPR 2.2	Defendant's Initial Disclosures	28 days after (a) defendant files its answer or (b) plaintiff files an answer to a counterclaim
SCHEDULING		
LPR 1.2	Attorney Planning Meeting	35 days after the filing of the first answer
LPR 1.3	Fact Discovery Begins	The date for Attorney Planning Meeting
LPR 1.2	Proposed Scheduling Order	7 days after Attorney Planning Meeting
INITIAL CONTENTIONS		
LPR 2.3	Initial Infringement Contentions	35 days after defendant's Initial Disclosures

Rule	Deadline / Event	Time
LPR 2.4	Initial Non-Infringement, Ineligibility, Invalidity, and Unenforceability Contentions	14 days after service of Initial Infringement Contentions
LPR 2.6	Initial Ineligibility, Invalidity, and Unenforceability Contentions in Patent Declaratory Judgment Action Where There Are No Claims for Infringement	49 days after defendant's Initial Disclosures
FINAL CONTENTIONS		
LPR 3.1	Final Infringement Contentions	21 weeks (147 days) after the deadline to serve Initial Infringement Contentions
LPR 3.1	Final Ineligibility, Invalidity, and Unenforceability Contentions	14 days after Final Infringement Contentions are due
LPR 3.1	Final Non-Infringement Contentions	28 days after Final Infringement Contentions are due
LPR 3.4	Amendment of Final Contentions	14 days after discovery of the basis for amendment

Rule	Deadline / Event	Time
CLAIM CONSTRUCTION		
LPR 4.2	Exchange Proposed Claim Terms and Phrases with Proposed Constructions	14 days after service of Final Non-Infringement Contentions
LPR 4.2	Meet and Confer on 10 Claim Terms and Phrases	7 days after the exchange of claim terms and phrases
LPR 1.3	Fact Discovery Ends	28 days after the date for exchange of claim terms and phrases in LPR 4.2
LPR 4.3	Cross-Briefs for Claim Construction	35 days after the exchange of claim terms and phrases in LPR 4.2
LPR 4.3	Response Claim Construction Briefs	28 days after the filing of cross-briefs for claim construction
LPR 4.4	Motion for Claim Construction Hearing	28 days after the filing of cross-briefs for claim construction
LPR 4.3	Joint Claim Construction Chart and Joint Status Report	7 days after the filing of the response claim construction briefs
LPR 4.5	Optional Tutorial	14 days after the filing of the response claim construction briefs

Rule	Deadline / Event	Time
LPR 4.3	Deposition of Witness Providing Affidavit/Declaration for Claim Construction	Before claim construction hearing
LPR 4.4	Exchange Claim Construction Hearing Exhibits	7 days before claim construction hearing
LPR 4.4	Claim Construction Hearing	TBD
	Claim Construction Ruling	TBD
EXPERTS		
LPR 5.1	Expert Reports of Parties Bearing the Burden of Proof	28 days after claim construction ruling
LPR 5.1	Expert Reports of Parties Not Bearing the Burden of Proof	28 days after expert reports of parties bearing the burden of proof
LPR 5.1	Rebuttal Expert Witness Reports	28 days after expert reports of parties not bearing the burden of proof
LPR 5.2	Expert Witness Depositions	35 days after the deadline for expert rebuttal reports

Rule	Deadline / Event	Time
DISPOSITIVE MOTIONS		
LPR 6.1	Dispositive Motions	28 days after the deadline for completing expert witness depositions

Counsel's Name and Utah State Bar Number *(or Party's Name if Self-Represented)*

Address

City, State, Zip

Phone

Email

Check your email. You will receive information and documents at this email address.

I am the [ ] Plaintiff or [ ] Defendant
[ ] Attorney for the [ ] Plaintiff or [ ] Defendant

This is a [ ] Limited Appearance

THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

Plaintiff, vs. Defendant.	**Attorney Planning Meeting Report** Case Number: *(including assigned judge initials and referred magistrate judge initials, if applicable)* District Judge Magistrate Judge

Under Fed. R. Civ. P 26(f), the Local Rules of Practice, and the Order to Propose Schedule, if applicable, the parties must confer and develop a proposed discovery plan addressing the areas that follow. The parties must email a copy of the proposed scheduling order in an editable format to the assigned magistrate judge's chambers. If a

magistrate judge is not associated with the case, please email the copy to the district judge's chambers.

1. PRELIMINARY MATTERS

a.		Claims and Defenses: *(briefly describe the nature and basis of claims and any affirmative defenses)*		
b.		Fed. R. Civ. P. 26(f)(1) Conference: *(date the conference was held)*		*00/00/00*
c.		Participants: *(include the name of the party and attorney, if applicable)*		
d.		Fed. R. Civ. P 26(a)(1) Initial Disclosures: *(the parties have exchanged initial disclosures or will exchange no later than the date provided)*		*00/00/00*
e.		Under Fed. R. Civ. P. 5(b)(2)(E), the parties agree to receive all items required to be served under Fed. R. Civ. P. 5(a) by the court's electronic-filing system or email transmission. Electronic service constitutes notice and service as required by those rules. The right to service by USPS mail is waived.	Yes ☐	No ☐

2. PROTECTIVE ORDER

a.		The parties anticipate the case will involve the disclosure of information, documents, or other materials that will be designated as confidential.	Yes ☐	No ☐
b.		If the case will involve the disclosure of information, documents, or other materials that will be designated as confidential, then good cause exists for the court to enter the court's Standard Protective Order (SPO) under DUCivR 26-2: *(briefly describe the need for a protective order)*		
c.		If a protective order is needed and the parties **are not** using the court's SPO, then the court's SPO, in effect under DUCivR 26-2, will govern until the court adopts a different protective order. The parties will need to file a motion under DUCivR 7-1(a)(4)(D) requesting the court to enter a proposed (stipulate) protective order. The parties' stipulated protective order should identify a process to resolve all claims of waiver of attorney-client privilege or work-product		

		protection, whether or not the information, documents, or other materials have been designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY, and this process must be included in the proposed protective order under Fed. R. Evid. 502(d). *(Please explain the process below.)*
d.		If the parties do not anticipate the case will involve the disclosure of information, documents, or the materials that will be designated as confidential, the parties still should identify, in the space below, a process to resolve all claims of waiver of attorney-client privilege or work-product protection, whether or not the information, documents, or other materials have been designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY, and this process must also be included in the proposed Scheduling Order: *(explain the process)*

3. DISCOVERY PLAN

a.		Discovery Plan: The parties agree to the following discovery plan. • If the parties disagree, clearly indicate the disagreement in the space below:	Yes ☐	No ☐
b.		Discovery Subjects: *(briefly describe the subject areas in which discovery will be needed)*		
c.		Discovery Phases: • Will discovery be conducted in phases? If so, please explain. • Will discovery be limited to or focused on particular issues? If so, please explain and identify whether discovery will be accelerated on any issue and the due dates.		
d.		Electronically Stored Information: The parties will handle discovery of electronically stored information as follows:		

4. FACT DISCOVERY

a.	Fact Discovery Limitations—		
	1.	Maximum number of depositions by Plaintiff:	*10 or #*
	2.	Maximum number of depositions by Defendant:	*10 or #*
	3.	Maximum number of hours for each deposition: (*unless extended by agreement of parties*)	*7 or #*
	4.	Maximum interrogatories by any party to any party:	*25 or #*

	5.	Maximum requests for admissions by any party to any party:	#
	6.	Maximum requests for production by any party to any party:	#
b.	Other Fact Discovery Deadlines—		
	1.	Deadline to serve written discovery:	*00/00/00*
	2.	Deadline for fact discovery to close:	*00/00/00*
	3.	Deadline for supplementation of disclosures and responses under Fed. R. Civ. P. 26(e): (*optional)*	*00/00/00*

5. AMENDING OF PLEADINGS AND JOINING OF PARTIES[1]

a.	Deadline to file a motion to amend pleadings—			
	1.	Plaintiffs:		*00/00/00*
	2.	Defendants:		*00/00/00*
b.	Deadline to file a motion to join additional parties—			
	1.	Plaintiffs:		*00/00/00*
	2.	Defendants:		*00/00/00*

6. EXPERT DISCOVERY

a.	Filing of Notice of Designation required by DUCivR 26-1(a)(2)—			
	1.	Parties bearing the burden of proof:		*00/00/00*
	2.	Parties not bearing the burden of proof:		*00/00/00*
b.	Service of Fed. R. Civ. P. 26(a)(2) Disclosures and Reports—			
	1.	Parties bearing the burden of proof:		*00/00/00*
	2.	Parties not bearing the burden of proof:		*00/00/00*
	3.	Rebuttal reports, if any:		*00/00/00*
c.	Deadline for expert discovery to close:			*00/00/00*

7. OTHER DEADLINES AND TRIAL-RELATED INFORMATION

a.		Deadline for filing dispositive or potentially dispositive motions: *(including a motion to exclude experts when expert testimony is required to prove the case)*		*00/00/00*
b.		Trial: *(select the type of trial)*	Bench ☐	Jury ☐
c.		Trial days:		*# days*

[1] Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

_____ Date: ___/___/___
Signature and typed name of Plaintiff's Attorney (*or Party's Name if self-represented)*[2]

_____ Date: ___/___/___
Signature and typed name of Defendant's Attorney (*or Party's Name if self-represented)*

[2] Instructions for attaching the Attorney Planning Meeting Report to a Stipulated Motion for Scheduling Order or Motion for a Scheduling Conference can be found on the court's Civil Scheduling webpage.

Counsel's Name and Utah State Bar Number *(or Party's Name if Self-Represented)*

Address

City, State, Zip

Phone

Email

Check your email. You will receive information and documents at this email address.

I am the [ ] Plaintiff or [ ] Defendant
[ ] Attorney for the [ ] Plaintiff or [ ] Defendant

This is a [ ] Limited Appearance

THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

_____ Plaintiff, vs. _____ Defendant.	**Attorney Planning Meeting Report – Patent Cases** _____ Case Number: *(including assigned judge initials and referred magistrate judge initials, if applicable)* _____ District Judge _____ Magistrate Judge

Under Fed. R. Civ. P 26(f), the Local Patent Rules (LPRs), and the Order to Propose Schedule, if applicable, the parties must confer and develop a proposed discovery plan addressing the areas that follow below. The parties must email a copy of the proposed scheduling order in an editable format to the assigned magistrate judge's

chambers. If a magistrate judge is not associated with the case, please email the copy to the district judge's chambers.

1. PRELIMINARY MATTERS

a.		Claims and Defenses: *(briefly describe the nature and basis of claims and any affirmative defenses)*		
b.		Fed. R. Civ. P. 26(f)(1) Conference: *(date the conference was held)*		*00/00/00*
c.		Participants: *(include the name of the party and attorney, if applicable)*		
d.		Under Fed. R. Civ. P. 5(b)(2)(E), the parties agree to receive all items required to be served under Fed. R. Civ. P. 5(a) by the court's electronic-filing system or email transmission. Electronic service constitutes notice and service as required by those rules. The right to service by USPS mail is waived.	Yes ☐	No ☐

2. PROTECTIVE ORDER

a.		The parties anticipate the case will involve the disclosure of information, documents, or other materials that will be designated as confidential.	Yes ☐	No ☐
b.		If the case will involve the disclosure of information, documents, or other materials that will be designated as confidential, then good cause exists for the court to enter the court's Standard Protective Order (SPO) under DUCivR 26-2: *(briefly describe the need for a protective order)*		
c.		If a protective order is needed and the parties **are not** using the court's SPO, then the court's SPO, in effect under DUCivR 26-2, will govern until the court adopts a different protective order. The parties will need to file a motion under DUCivR 7-1(a)(4)(D) requesting the court to enter a proposed (stipulated) protective order. The parties' stipulated protective order should identify a process to resolve all claims of waiver of attorney-client privilege or work-product protection, whether or not the information, documents, or other materials have been designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY, and this process must be included in the proposed protective order under Fed. R. Evid. 502(d). *(Please explain the process below.)*		

d.		If the parties do not anticipate the case will involve the disclosure of information, documents, or the materials that will be designated as confidential, the parties still should identify, in the space below, a process to resolve all claims of waiver of attorney-client privilege or work-product protection, whether or not the information, documents, or other materials have been designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY, and this process must also be included in the proposed Scheduling Order: *(explain the process)*

3. DISCOVERY PLAN

a.		Discovery Plan: The parties agree to the following discovery plan. • If the parties disagree, clearly indicate the disagreement in the space below:	Agree ☐	Disagree ☐
b.		Discovery Subjects: *(briefly describe the subject areas in which discovery will be needed)*		
c.		Discovery Phases: • Will discovery be conducted in phases? If so, please explain. • Will discovery be limited to or focused on particular issues? If so, please explain and identify whether discovery will be accelerated on any issue and the due dates.		
d.		Electronically Stored Information: The parties will handle discovery of electronically stored information as follows:		

4. PRELIMINARY MATTERS AND DISCLOSURES

a.		Deadline for Plaintiff's Accused Instrumentalities Disclosure: [LPR 2.1]	*00/00/00* [7 days after 1st answer—Day 7/Week 1]
b.		Deadline for Plaintiff's Rule 26(a)(1) Initial Disclosure: [LPR 2.2]	*00/00/00* [Day 21/Week 3]
c.		Deadline for Defendant's Rule 26(a)(1) Initial Disclosure: [LPR 2.2]	*00/00/00* [Day 28/Week 4]
d.		Fed. R. Civ. P. 26(f)(1) Conference and Discovery Begins: [LPR 1.2, 1.3]	*00/00/00* [Day 35/Week 5]
e.		Attorney Planning Meeting Report and Proposed Scheduling Order filed: [LPR 1.2]	*00/00/00* [Day 42/Week 6]

f.		Deadline for Plaintiff to serve Initial Infringement Contentions: [LPR 2.3]	*00/00/00* [Day 63/Week 9]
g.		Deadline for Defendant to serve Initial Non-Infringement, Ineligibility, Invalidity, and Unenforceability Contentions: [LPR 2.4, 2.6]	*00/00/00* [Day 77/Week 11]
h.		If no infringement claims, deadline for Plaintiff to serve Initial Non-Infringement, Ineligibility, Invalidity, and Unenforceability Contentions: [LPR 2.4, 2.6]	*00/00/00* [Day 77/Week 11]
i.		Deadline to file motion to amend pleadings	*00/00/00* [Day 112/Week 16]
j.		Deadline to file motion to join parties	*00/00/00* [Day 112/Week 16]
k.		Deadline for Final Infringement Contentions: [LPR 3.1]	*00/00/00* [Day 210/Week 30]
l.		Deadline for final Ineligibility, Invalidity, and Unenforceability Contentions: [LPR 3.1]	*00/00/00* [Day224/Week 32]
m.		Deadline for Final Non-Infringement: [LPR 3.1]	[Day 238/Week 34]
n.		Deadline to serve written discovery before claim construction:[Fed. R. Civ. P. 34]	*00/00/00* [Day 250]
o.		Deadline for fact discovery to close before claim construction: [LPR 1.3(a)]	*00/00/00* [Day 280/Week 40]

5. FACT DISCOVERY

a.		Maximum number of depositions by Plaintiff:	*10 or #*
b.		Maximum number of depositions by Defendant:	*10 or #*
c.		Maximum number of hours for each deposition: (*unless extended by agreement of parties*)	*7 or #*
d.		Maximum interrogatories by any party to any party:	*25 or #*
e.		Maximum requests for admissions by any party to any party:	#
f.		Maximum requests for production by any party to any party:	#

6. CLAIM CONSTRUCTION DEADLINES

a.		Deadline for parties to exchange proposed claim terms and claim constructions for construction: [LPR 4.2]	*00/00/00* [Day 252/Week 36]

b.		Deadline for parties to reach an agreement to submit no more than 10 terms for construction: [LPR 4.2]	*00/00/00* [Day 259/Week 37]
c.		Deadline for parties to file and serve Cross-Briefs for Claim Construction and Joint Appendix: [LPR 4.3]	*00/00/00* [Day 287/ Week 41]
d.		Deadline for parties to file Simultaneous Responsive Claim Construction Briefs: [LPR 4.3]	*00/00/00* [Day 315/Week 45]
e.		Deadline for parties to file Joint Claim Construction Chart & Joint Status Report Due: [LPR 4.3]	*00/00/00* [Day 322/ Week 46]
f.		Deadline for parties to file a Tutorial: [LPR 4.5]	*00/00/00* [Day 329/ Week 47]
g.		Deadline for parties to exchange exhibits: [LPR 4.4]	TBD [Day 7 Before CCH]
h.		Claim Construction Hearing:[1] [LPR 4.4]	TBD

7. TRIAL-RELATED INFORMATION

a.		Trial: *(select the type of trial)*	Bench ☐	Jury ☐
b.		Trial days:		*# days*

_____ Date: ___/___/___
Signature and typed name of Plaintiff's Attorney (*or Party's Name if self-represented)*[2]

_____ Date: ___/___/___
Signature and typed name of Defendant's Attorney (*or Party's Name if self-represented)*

[1] Parties should file a joint motion to set the date for the Claim Construction Hearing per LPR 4.4.
[2] Instructions for attaching the Attorney Planning Meeting Report to a Stipulated Motion for Scheduling Order or Motion for a Scheduling Conference can be found on the court's Civil Scheduling webpage.

PROPOSED SCHEDULING ORDER INSTRUCTIONS

- Please remove this page from the copy that is filed with the court.

- Please email a copy of the proposed scheduling order in an editable format to the assigned magistrate judge's chambers. If a magistrate judge is not associated with the case, please email the copy to the district judge's chambers.

- WARNING – Do not use this proposed scheduling order for a patent, ERISA, or administrative review under DUCivR 7-4 cases.

THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

_____ Plaintiff, vs. _____ Defendant. .	**Proposed Scheduling Order** _____ Case Number: *(including assigned judge initials and referred magistrate judge initials, if applicable)* _____ District Judge _____ Magistrate Judge

Under Fed. R. Civ. P. 16(b), the Local Rules of Practice, and the Order to Propose Schedule, if applicable, an Attorney Planning Meeting has been held and the Attorney Planning Meeting Report has been completed. The following deadlines may not be modified without a court order consistent with Fed. R. Civ. P. 16(b)(4) and DUCivR 83-6.

ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED

UNLESS EXPRESSLY STATED OTHERWISE

1. PRELIMINARY MATTERS

a.		Fed. R. Civ. P. 26(f)(1) Conference: *(date the conference was held)*	*00/00/00*
b.		Participants: *(include the name of the party and attorney, if applicable)*	
c.		Fed. R. Civ. P 26(a)(1) Initial Disclosures: *(the parties have exchanged initial disclosures or will exchange no later than the date provided)*	*00/00/00*

d.		Under Fed. R. Civ. P. 5(b)(2)(E), the parties agree to receive all items required to be served under Fed. R. Civ. P. 5(a) by the court's electronic-filing system or email transmission. Electronic service constitutes notice and service as required by those rules. The right to service by USPS mail is waived.	Yes ☐	No ☐

2. PROTECTIVE ORDER

a.		The parties anticipate the case will involve the disclosure of information, documents, or other materials that will be designated as confidential.	Yes ☐	No ☐
b.		If the case will involve the disclosure of information, documents, or other materials that will be designated as confidential, then good cause exists for the court to enter the court's Standard Protective Order (SPO) under DUCivR 26-2: *(briefly describe the need for a protective order)*		
c.		If a protective order is needed and the parties **are not** using the court's SPO, then the court's SPO, in effect under DUCivR 26-2, will govern until the court adopts a different protective order. The parties will need to file a motion under DUCivR 7-1(a)(4)(D) requesting the court to enter a proposed (stipulated) protective order. The parties' stipulated protective order should identify a process to resolve all claims of waiver of attorney-client privilege or work-product protection, whether or not the information, documents, or other materials have been designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY, and this process must be included in the proposed protective order under Fed. R. Evid. 502(d). *(Please explain the process below.)*		
d.		If the parties do not anticipate the case will involve the disclosure of information, documents, or the materials that will be designated as confidential, the parties still should identify, in the space below, a process to resolve all claims of waiver of attorney-client privilege or work-product protection, whether or not the information, documents, or other materials have been designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY, and this process must also be included in the proposed Scheduling Order: *(explain the process)*		

3. DISCOVERY PLAN

a.		Discovery Plan: The parties agree to the following discovery plan.	Yes ☐	No ☒

		• If the parties disagree, clearly indicate the disagreement in the space below:		
b.		Discovery Subjects: *(briefly describe the subject areas in which discovery will be needed)*		
c.		Discovery Phases: • Will discovery be conducted in phases? If so, please explain. • Will discovery be limited to or focused on particular issues? If so, please explain and identify whether discovery will be accelerated on any issue and the due dates.		
d.		Electronically Stored Information: The parties will handle discovery of electronically stored information as follows:		

4. FACT DISCOVERY

a.	Fact Discovery Limitations—		
	1.	Maximum number of depositions by Plaintiff:	*10 or #*
	2.	Maximum number of depositions by Defendant:	*10 or #*
	3.	Maximum number of hours for each deposition: (*unless extended by agreement of parties*)	*7 or #*
	4.	Maximum interrogatories by any party to any party:	*25 or #*
	5.	Maximum requests for admissions by any party to any party:	#
	6.	Maximum requests for production by any party to any party:	#
b.	Other Fact Discovery Deadlines—		
	1.	Deadline to serve written discovery:	*00/00/00*
	2.	Deadline for fact discovery to close:	*00/00/00*
	3.	Deadline for supplementation of disclosures and responses under Fed. R. Civ. P. 26(e): (*optional)*	*00/00/00*

5. AMENDING OF PLEADINGS AND JOINING OF PARTIES[1]

a.	Deadline to file a motion to amend pleadings—			
	1.	Plaintiff:		*00/00/00*
	2.	Defendant:		*00/00/00*

[1] Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

b.	Deadline to file a motion to join additional parties—			
	1.	Plaintiff:		*00/00/00*
	2.	Defendant:		*00/00/00*

6. EXPERT DISCOVERY

a.	Filing of Notice of Designation required by DUCivR 26-1(a)(2)—			
	1.	Parties bearing the burden of proof:		*00/00/00*
	2.	Parties not bearing the burden of proof:		*00/00/00*
b.	Service of Fed. R. Civ. P. 26(a)(2) Disclosures and Reports—			
	1.	Parties bearing the burden of proof:		*00/00/00*
	2.	Parties not bearing the burden of proof:		*00/00/00*
	3.	Rebuttal reports, if any:		*00/00/00*
c.		Deadline for expert discovery to close:		*00/00/00*

5. OTHER DEADLINES AND TRIAL-RELATED INFORMATION[2]

a.	Deadline for filing dispositive or potentially dispositive motions: *(including a motion to exclude experts when expert testimony is required to prove the case)*		*00/00/00*
b.	Deadline for filing a request for a scheduling conference for the purpose of setting a trial date if no dispositive motion are filed:		*00/00/00*

SO ORDERED this _____ day of _____, 202X.

BY THE COURT:

_____
[Judge's Name]
[Type of Judge]

[2] The court will enter the dates that are shaded.

THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

_____ Plaintiff, vs. _____ Defendant.	**Proposed Scheduling Order - Patent Case Pre-Claim Construction** _____ Case Number: *(including assigned judge initials and referred magistrate judge initials, if applicable)* _____ District Judge _____ Magistrate Judge

Under Fed. R. Civ. P. 16(b) and the Order to Propose Schedule, if applicable, an Attorney Planning Meeting Report has been filed. The following deadlines may not be modified without a court order consistent with Fed. R. Civ. P. 16(b)(4) and DUCivR 83-6. Plaintiff is directed to file a proposed Post-Claim Construction Scheduling Order with the remaining case deadlines within 14 days of the court entering a ruling on claim construction. The court will then set trial deadlines in the Post-Claim Construction Scheduling Order or through a case management conference.

ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED

UNLESS EXPRESSLY STATED TO THE CONTRARY

1. PRELIMINARY MATTERS AND DISCLOSURES

a.		Deadline for plaintiff's Accused Instrumentalities Disclosure: [LPR 2.1]		*00/00/00*

				[7 days after 1st answer—Day 7/Week 1]
b.		Deadline for plaintiff's Rule 26(a)(1) Initial Disclosure: [LPR 2.2]		*00/00/00* [Day 21/Week 3]
c.		Deadline for defendant's Rule 26(a)(1) Initial Disclosure: [LPR 2.2]		*00/00/00* [Day 28/Week 4]
d.		Fed. R. Civ. P. 26(f)(1) Conference and Discovery Begins: [LPR 1.2, 1.3]		*00/00/00* [Day 35/Week 5]
e.		Attorney Planning Meeting Report and Proposed Scheduling Order filed: [LPR 1.2]		*00/00/00* [Day 42/Week 6]
f.		Deadline for plaintiff to serve Initial Infringement Contentions: [LPR 2.3]		*00/00/00* [Day 63/Week 9]
g.		Deadline for defendant to serve Initial Non-Infringement, Ineligibility, Invalidity, and Unenforceability Contentions: [LPR 2.4, 2.6]		*00/00/00* [Day 77/Week 11]
h.		If no infringement claims, deadline for plaintiff to serve Initial Non-Infringement, Ineligibility, Invalidity, and Unenforceability Contentions: [LPR 2.4, 2.6]		*00/00/00* [Day 77/Week 11]
i.		Deadline to file motion to amend pleadings		*00/00/00* [Day 112/Week 16]
j.		Deadline to file motion to join parties		*00/00/00* [Day 112/Week 16]
k.		Deadline for Final Infringement Contentions: [LPR 3.1]		*00/00/00* [Day 210/Week 30]
l.		Deadline for final Ineligibility, Invalidity, and Unenforceability Contentions: [LPR 3.1]		*00/00/00* [Day224/Week 32]
m.		Deadline for Final Non-Infringement: [LPR 3.1]		[Day 238/Week 34]
n.		Deadline to serve written discovery before claim construction:[Fed. R. Civ. P. 34]		*00/00/00* [Day 250]
o.		Deadline for fact discovery to close before claim construction: [LPR 1.3(a)]		*00/00/00* [Day 280/Week 40]

2. PROTECTIVE ORDER

a.		The parties anticipate the case will involve the disclosure of information, documents, or other materials that will be designated as confidential.	Yes ☐	No ☐
b.		If the case will involve the disclosure of information, documents, or other materials that will be designated as confidential, then good cause exists for the court to enter the court's Standard Protective Order (SPO) under DUCivR		

		26-2: *(briefly describe the need for a protective order)*
c.		If a protective order is needed and the parties **are not** using the court's SPO, then the court's SPO, in effect under DUCivR 26-2, will govern until the court adopts a different protective order. The parties will need to file a motion under DUCivR 7-1(a)(4)(D) requesting the court to enter a proposed (stipulated) protective order. The parties' stipulated protective order should identify a process to resolve all claims of waiver of attorney-client privilege or work-product protection, whether or not the information, documents, or other materials have been designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY, and this process must be included in the proposed protective order under Fed. R. Evid. 502(d). *(Please explain the process below.)*
d.		If the parties do not anticipate the case will involve the disclosure of information, documents, or the materials that will be designated as confidential, the parties still should identify, in the space below, a process to resolve all claims of waiver of attorney-client privilege or work-product protection, whether or not the information, documents, or other materials have been designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY, and this process must also be included in the proposed Scheduling Order: *(explain the process)*

3. FACT DISCOVERY

a.		Maximum number of depositions by Plaintiff:	*10 or #*
b.		Maximum number of depositions by Defendant:	*10 or #*
c.		Maximum number of hours for each deposition: (*unless extended by agreement of parties*)	*7 or #*
d.		Maximum interrogatories by any party to any party:	*25 or #*
e.		Maximum requests for admissions by any party to any party:	#
f.		Maximum requests for production by any party to any party:	#

4. CLAIM CONSTRUCTION DEADLINES

a.		Deadline for parties to exchange proposed claim terms and claim constructions for construction: [LPR 4.2]	*00/00/00* [Day 252/Week 36]
b.		Deadline for parties to reach an agreement to submit no more than 10 terms for construction: [LPR 4.2]	*00/00/00* [Day 259/Week 37]
c.		Deadline for parties to file and serve Cross-Briefs for Claim Construction and Joint Appendix: [LPR 4.3]	*00/00/00* [Day 287/ Week 41]

d.		Deadline for parties to file Simultaneous Responsive Claim Construction Briefs: [LPR 4.3]	*00/00/00* [Day 315/Week 45]
e.		Deadline for parties to file Joint Claim Construction Chart & Joint Status Report Due: [LPR 4.3]	*00/00/00* [Day 322/ Week 46]
f.		Deadline for parties to file a Tutorial: [LPR 4.5]	[Day 329/ Week 47]
g.		Deadline for parties to exchange exhibits: [LPR 4.4]	TBD [Day 7 Before CCH
h.		Claim Construction Hearing:[1] [LPR 4.4]	TBD

SO ORDERED this _____ day of _____, 202X.

BY THE COURT:

_____
[Judge's Name]
[Type of Judge]

[1] Parties should file a joint motion to set the date for the Claim Construction Hearing per LPR 4.4.

THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

_____ Plaintiff, vs. _____ Defendant.	**Proposed Scheduling Order - Patent Case Post-Claim Construction** _____ Case Number: *(including assigned judge initials and referred magistrate judge initials, if applicable)* _____ District Judge _____ Magistrate Judge

Under the Pre-Claim Construction Scheduling Order, a proposed Post-Claim Construction Scheduling Order has been filed. The following deadlines may not be modified without a court order consistent with Fed. R. Civ. P. 16(b)(4) and DUCivR 83-6.

ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED

UNLESS EXPRESSLY STATED TO THE CONTRARY

1. FACT DISCOVERY

1.	Deadline to disclose intent to reply on opinions of counsel and materials in support:	*00/00/00* [PCC Day 7/Week 1]
2.	Deadline to file motion for additional discovery: [LPR 1.3(a)]	*00/00/00* [PCC Day 14/Week 2]

2. EXPERT DISCOVERY

a.	Filing of Notice of Designation required by DUCivR 26-1(a)(2)—			
	1.	Parties bearing the burden of proof:		*00/00/00*
	2.	Parties not bearing the burden of proof:		*00/00/00*

b.	Service of Fed. R. Civ. P. 26(a)(2) Disclosures and Reports—		
	1.	Parties bearing the burden of proof: [LPR 5.1]	*00/00/00* [PCC Day 28/ Week 4]
	2.	Parties not bearing the burden of proof: [LPR 5.1]	*00/00/00* [PCC Day 56/ Week 8]
	3.	Rebuttal reports, if any: [LPR 5.1]	*00/00/00* [PCC Day 84/ Week 12]
c.	Deadline for expert discovery to close: [LPR 5.2]		*00/00/00* [PCC Day 119/Week 17]

3. DISPOSITIVE AND EXPERT MOTIONS[1]

a.		Deadline for filing dispositive or potentially dispositive motions: [LPR 6.1]	*00/00/00* [PCC Day 147/Week 21]
b.		Deadline for filing partial or complete motions to exclude expert testimony:	*00/00/00* [PCC Day 147/Week 21]
c.		Deadline for filing a request for a scheduling conference for the purpose of setting a trial date if no dispositive motion are filed:	*00/00/00*

SO ORDERED this _____ day of _____, 202X.

BY THE COURT:

_____
[Judge's Name]
[Type of Judge]

[1] The court will enter the dates that are shaded.

THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

_____ Plaintiff, vs. _____ Defendant.	**Proposed Scheduling Order in an Administrative Case Under DUCivR 7-4** _____ Case Number: *(including assigned judge initials and referred magistrate judge initials, if applicable)* _____ District Judge _____ Magistrate Judge

1. Agency Decision(s) Challenged: [List the dates of the decision(s) challenged and a brief summary of those decisions]

2. Plaintiff's Grounds for Challenging Agency Decision: [*Briefly* state the grounds for challenging each agency decision]

3. Agency's Reasons in Support of Agency Decision: [*Briefly* state the bases on which the agency will defend its decision(s)]

4. Dates of Filing of Relevant Documents:

Motion to Amend Complaint: ___/___/___

Amended Agency Statement: ___/___/___

Administrative Record: ___/___/___

5. Objections to contents of administrative record shall be filed by: ___/___/___

6. Responses to objections to administrative record shall be filed by: ___/___/___

7. Non-dispositive pre-merits motions by: ___/___/___

8. Plaintiff shall file an “Opening Brief” by: ___/___/___

9. The agency shall file an “Opposition Brief” or “Commissioner’s Response Brief” by: ___/___/___

10. Plaintiff may file a “Reply Brief” no later than: ___/___/___

11. Oral argument on the parties’ briefs is scheduled for: ___/___/___

12. Amendments to this scheduling order shall only be approved for good cause shown.

SO ORDERED this _____ day of _____, 202X.

BY THE COURT:

_____
[Judge’s Name]
[Type of Judge]

APPROVED:

_____
Attorney for Plaintiff

_____
Attorney for Defendant

THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

_____ Plaintiff, vs. _____ Defendant.	**Proposed Scheduling Order in an ERISA Case** _____ Case Number: *(including assigned judge initials and referred magistrate judge initials, if applicable)* _____ District Judge _____ Magistrate Judge

Under Fed. R. Civ. P. 16(b), the Local Rules of Practice, and the Order to Propose Schedule, if applicable, an Attorney Planning Meeting has been held and the Attorney Planning Meeting Report has been completed. The following deadlines may not be modified without a court order consistent with Fed. R. Civ. P. 16(b)(4) and DUCivR 83-6.

ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED

UNLESS EXPRESSLY STATED TO THE CONTRARY

1. PRELIMINARY MATTERS

a.		Fed. R. Civ. P. 26(f)(1) Conference: *(date the conference was held)*		*00/00/00*
b.		The parties agree that ERISA governs this case and the court has subject matter jurisdiction under 28 U.S.C. § 1331 and 29 U.S.C. §§ 1132(e)(1) & 1132(f):	Yes ☐	No ☐
c.		Fed. R. Civ. P 26(a)(1) Initial Disclosures and pre-		*00/00/00*

		litigation appeal record: *(the parties have exchanged initial disclosures and the prelitigation appeal record or will exchange no later than the date provided)*		
d.		Under Fed. R. Civ. P. 5(b)(2)(E), the parties agree to receive all items required to be served under Fed. R. Civ. P. 5(a) by the court's electronic-filing system or email transmission. Electronic service constitutes notice and service as required by those rules. The right to service by USPS mail is waived.	Yes ☐	No ☐

2. DISCOVERY LIMITATIONS[1]

a.		Discovery is not needed in this case:	Yes ☐	No ☐
b.		The parties agree that they will serve discovery requests consistent with the principles the Tenth Circuit has established in *Murphy v. Deloitte & Touche Grp. Ins. Plan*, 619 F.3d 1151, 1162 (10th Cir. 2010) (arbitrary and capricious standard of review); *Jewell v. Life Ins. Co. of N. Am.*, 508 F.3d 1303, 1309 (10th Cir. 2010), cert. denied, 553 U.S. 1079 (2008) (de novo standard of review):	Yes ☐	No ☐
c.		Deadline for the parties to file a motion under DUCivR 7-1(a)(4)(D) within 45 days of the production of initial disclosures (which shall include the entire administrative record) requesting that the court determine the completeness of the administrative record or permissibility of discovery relating to either a conflict of interest or to the amount at issue, if there is a dispute as to these issues:		*00/00/00*
d.		The parties will handle discovery of electronically stored information as follows:		

3. AMENDING OF PLEADINGS AND JOINING OF PARTIES[2]

a.	Deadline to file a motion to amend pleadings—			
	1.	Plaintiff:		*00/00/00*

[1] The parties should be prepared to have the case ready for decision no later than approximately 1 year after filing of the action.

[2] Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

	2.	Defendant:		*00/00/00*
b.	Deadline to file a motion to join additional parties—			
	1.	Plaintiff:		*00/00/00*
	2.	Defendant:		*00/00/00*

4. OTHER DEADLINES AND TRIAL-RELATED INFORMATION[3]

a.	Deadline for the parties to file cross-motions for summary judgment (regardless of whether any discovery is or is not allowed) consistent with DUCivR 7-1(a)(4)(B):		*00/00/00*
b.	Deadline for filing a request for a scheduling conference for the purpose of setting a trial date if no dispositive motion are filed:		*00/00/00*

SO ORDERED this _____ day of _____, 202X.

BY THE COURT:

_____
[Judge's Name]
[Type of Judge]

[3] The court will enter the dates that are shaded.

THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

_____ Plaintiff, vs. _____ Defendant.	**STANDARD PROTECTIVE ORDER (DUCivR 26-2)** _____ Case Number: *(including assigned judge initials and referred magistrate judge initials, if applicable)* _____ District Judge _____ Magistrate Judge

Under Fed. R. Civ. P. 26(c) and DUCivR 26-2, and consistent with the parties' representations in the Attorney Planning Meeting Report, the court finds, to expedite the exchange of discovery material and preserve the confidentiality of information, good cause exists for entry of the Standard Protective Order (SPO) governing the confidentiality of information. The SPO applies to all designated information, documents, and other materials produced in this matter consistent with the disclosure or discovery duties created by the Federal Rules of Civil Procedure and the Local Rules of Practice. The SPO applies to parties and nonparties from whom discovery may be sought, when the information needs protection.

(A) DEFINITION AND DESIGNATION OF CONFIDENTIAL OR ATTORNEYS' EYES ONLY

Designation of information under this SPO must be made by marking or labeling the information, documents, or other materials CONFIDENTIAL or ATTORNEYS' EYES ONLY, in a manner that will not interfere with its legibility.

(1) CONFIDENTIAL. A person or entity who produces information, documents, or other materials may designate them as CONFIDENTIAL when they in

good faith believe the information, documents, or materials contains trade secrets or nonpublic proprietary confidential technical, scientific, financial, business, health, or medical information, including confidential health information under the Health Insurance Portability and Accountability Act of 1996 and its enabling regulations.

(2) ATTORNEYS' EYES ONLY. A person or entity who produces information, documents, or other materials may designate them as ATTORNEYS' EYES ONLY when they in good faith believe the information, documents, or other materials contain:

(a) sensitive technical information including current research and development, manufacturing information, and patent prosecution information;

(b) sensitive business information including highly sensitive financial or marketing information and the identity of suppliers, distributors, and customers (potential and actual);

(c) competitive technical information including technical analyses or comparisons of competitor's products;

(d) competitive business information including nonpublic financial or marketing analyses or comparisons of competitor's products and strategic product planning; or

(e) any other CONFIDENTIAL information the producing party reasonably and in good faith believes would likely cause harm if disclosed to anyone other than those listed in section (B)(1)(a)-(h).

(3) A person or entity may designate deposition testimony or deposition exhibits as CONFIDENTIAL or ATTORNEYS' EYES ONLY when the deposition is taken by requesting the court reporter so designate in the transcript or within 30 days of receipt of the deposition transcript by the party making the designation.

(4) In multiparty cases, a person or entity may also designate information, documents, or other materials as CONFIDENTIAL – NOT TO BE DISCLOSED TO OTHER PLAINTIFFS or CONFIDENTIAL – NOT TO BE DISCLOSED TO OTHER DEFENDANTS.

(5) A nonparty producing information (including testimony), documents, or other materials, or as required by a subpoena, may designate the information (including

testimony), documents, or other materials as CONFIDENTIAL or ATTORNEYS' EYES ONLY.

(B) DISCLOSURE AND USE OF INFORMATION, DOCUMENTS, OR OTHER MATERIALS DESIGNATED AS CONFIDENTIAL OR ATTORNEYS' EYES ONLY

(1) CONFIDENTIAL. The parties and counsel for the parties must not disclose or permit the disclosure of any information, documents, or other materials designated as CONFIDENTIAL by any other party or nonparty under this SPO, except that disclosures may be made to the following:

(a) counsel for a party, who are acting in a legal capacity and are actively engaged in this matter;

(b) court personnel;

(c) court-appointed special masters;[1]

(d) court reporters, recorders, and videographers engaged for depositions;

(e) court-appointed or jointly-selected mediator or arbitrator;

(f) technical advisor, including an outside expert, consultant, or investigator, who is not a party to the action, not presently employed by the receiving party or a company affiliated through common ownership, but has been retained to provide technical or other expert services (e.g., expert testimony or assist in litigation or trial preparation), but no disclosure shall be made until a signed Acknowledgment and Agreement to be Bound (Attachment A) has been provided to the receiving party;

(g) deposition and trial witnesses in connection with their testimony in the lawsuit;

(h) independent providers of document reproduction, electronic discovery, or other litigation services retained or employed specifically in connection with this litigation;

1 A court-appointed special master who is currently serving as a magistrate judge qualifies as court personnel under section (B)(1)(b).

(i) the insurer of a party to the litigation and their employees to the extent reasonably necessary to assist the party's counsel to afford the insurer an opportunity to investigate and evaluate the claim for purposes of determining coverage and for settlement purposes;

(j) a party's representatives, officers, and employees as necessary to assist counsel with this litigation; and

(k) if those listed in sections B(1)(a)-(j) engage their partners, associates, employees, staff, or personnel to render reasonably necessary professional services, then these individuals must advised of and subject to the provisions of this SPO and must hold the information, documents, or other materials in confidence.

(2) ATTORNEYS' EYES ONLY INFORMATION. The parties and counsel for the parties may permit the disclosure of any information, documents, or other materials designated as ATTORNEYS' EYES ONLY by any other party or nonparty under this SPO to those identified in section (B)(1)(a)-(h).

(3) Information, documents, or other materials designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY under this SPO must not be used for any purpose whatsoever other than preparing for and conducting the litigation in which the information, documents, or other materials were disclosed (including appeals). The parties must not disclose information, documents, or other materials designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY to putative class members not named as plaintiffs in putative class litigation unless and until one or more classes have been certified. Nothing in this SPO prohibits a receiving party that is a government agency from following its routine uses and sharing the information, documents, or other materials with other government agencies or self-regulatory organizations as allowed by law.

(C) INADVERTENT FAILURE TO DESIGNATE AND INADVERTENT DISCLOSURE

(1) Inadvertent Failure to Designate. If a party inadvertently discloses information, documents, or other materials containing CONFIDENTIAL or ATTORNEYS' EYES ONLY information without marking or labeling it as such, the information,

documents, or other materials do not lose their protected status by production. The producing party must take all steps reasonably required to assure its continued confidentiality, including: (a) providing written notice to the receiving party within 10 days of the discovery of the inadvertent production; (b) identifying the information, document, or other materials in question; and (c) simultaneously providing appropriately designated substitute copies. After receiving notice and the production of substitute copies, the receiving party must destroy or return undesignated information, documents, or other materials.

(2) Inadvertent Disclosure of Information Covered by Attorney-Client Privilege or Work Product Protection in Information, Documents, or Other Materials Designated CONFIDENTIAL or ATTORNEYS' EYES ONLY. Whether inadvertent or otherwise, the disclosure of any information, documents, or other materials that are subject to an objection based on attorney-client privilege or work-product protection will not be deemed to waive a party's claim to its attorney-client privilege or work-product protection and will not estop that party or the privilege holder from designating the information or documents as attorney-client privileged or subject to work-product protection at a later date. This SPO shall be interpreted to provide the maximum protection allowed under Fed. R. Evid. 502(d).

If a person or entity inadvertently discloses information, documents, or other materials that it believes is subject to a claim of attorney-client privilege or work-product protection, the producing party may give prompt written notice to the receiving party that the information, documents, or other materials is subject to a claim of attorney-client privilege or work-product protection and may request that it be returned to the producing party. Upon notice, regardless of whether the receiving party agrees with the claim of privilege or work-product protection, the receiving party must: (a) return the information at issue; (b) not use or disclose the materials until the matter is resolved; and (c) take reasonable steps to retrieve the information if the receiving party further disclosed it.

If the receiving party disputes that the information at issue is subject to attorney-client privilege or work-product protection, the receiving party or entity must make reasonable efforts to resolve the dispute without court assistance consistent with DUCivR 37-1(a). If the dispute cannot be resolved, the receiving party may move the

court, under seal, within 45 days of the prompt written communication sent to the opposing party. The motion must follow the requirements of DUCivR 7-1(a)(4)(D). The producing party must preserve the information at issue until the claim is resolved.

(D) MAINTENANCE OF DESIGNATION

(1) Except as provided in section (B), counsel for the parties must keep all information, documents, or other materials designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY that are received under this SPO secure within their exclusive possession and must place the information, documents, or other materials in a secure area.

(2) All documents, including attorney notes, abstracts, and copies, that contain another's CONFIDENTIAL or ATTORNEYS' EYES ONLY information must be handled as if they were so designated.

(3) If any discovery responses, deposition transcripts, memoranda, or any other papers filed with the court include CONFIDENTIAL or ATTORNEYS' EYES ONLY information, they must be so designated and filed consistent with DUCivR 5-3.

(4) If a filing contains information, documents, or other materials that were designated CONFIDENTIAL or ATTORNEYS' EYES ONLY by a nonparty, the party making the filing must provide prompt written notice of the filing to the nonparty.

(5) If information, documents, or other materials are reviewed by a receiving party before production, any knowledge learned during the review will be treated by the receiving party as ATTORNEYS' EYES ONLY until the information has been produced, at which time any affixed designation controls. Absent the express permission of the producing party, or as otherwise permitted by an order or rule of the court, no photograph or any other means of duplication, including electronic means, is permitted before the information is produced with the appropriate designation. Any such duplicate will be treated by the receiving party as having the same designation as the original. There will be no waiver of confidentiality by the inspection of confidential information, documents, or other materials before they are copied and designated.

(6) If a question is asked at a deposition and a party claims the answer requires the disclosure of CONFIDENTIAL or ATTORNEYS' EYES ONLY information, the following must occur:

(a) every person present must be advised of the SPO by the party asserting confidentiality;

(b) all persons who are not allowed to receive the information under this SPO, other than the witness, must leave the deposition while the information designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY is disclosed; and

(c) the witness must answer the question completely.

(7) If a receiving party is served a subpoena or court order, issued in a separate action, that seeks CONFIDENTIAL or ATTORNEYS' EYES ONLY designated information, documents, or other materials, the receiving party must give prompt written notice to counsel for the producing party to allow a meaningful opportunity to challenge the subpoena or court order before the deadline to comply. No compulsory disclosure to nonparties of CONFIDENTIAL or ATTORNEYS' EYES ONLY designated information, documents, or other materials under this SPO is deemed a waiver of any claim of confidentiality, except when there is a judicial determination finding otherwise.

(E) CHALLENGES TO A DESIGNATION.

(1) A party may challenge the producing party's designation of CONFIDENTIAL or ATTORNEYS' EYES ONLY at any time.

(2) To challenge the designation of CONFIDENTIAL or ATTORNEYS' EYES ONLY, the receiving party must make reasonable efforts, without court assistance, to resolve the dispute. At a minimum, those efforts must include:

(a) a prompt written communication sent to the producing party identifying the information, documents, or other materials at issue and specifying why they believe the designation is improper; and

(b) a request that the producing party meet and confer, including suggested dates and times.

(3) If the parties are unable to resolve the dispute after engaging in reasonable efforts in section (E)(2)(a)-(b), the receiving party may file a motion consistent with DUCivR 7-1(a)(4)(D). The motion must include a certification that states:

(a) the parties made reasonable efforts to reach agreement on the disputed matters;

(b) the date, time, and method of the reasonable efforts; and

(c) the names of all participating parties or attorneys.

(4) The producing party bears the burden of proving that the designation is proper. The producing party's failure to engage in reasonable efforts to resolve the dispute or respond to an appropriately filed motion may result in the designation as requested by the receiving party.

(F) CONCLUSION OF LITIGATION

At the conclusion of the litigation, a party may request that all information, documents, or other materials that were not filed with the court and not received into evidence and were designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY under this SPO, but must be returned to the originating party or, if the parties so stipulate, destroyed, unless otherwise provided by law.

Notwithstanding the requirements of this paragraph, a party may retain a complete set of all documents filed with the court, subject to all other restrictions of this SPO.

The provisions of this paragraph shall not be binding on the United States, any insurance company, or any other party to the extent that such provisions conflict with applicable Federal or State law. The Department of Justice, any insurance company, or any other party must notify the producing party in writing of any such conflict it identifies in connection with a particular matter so that such matter can be resolved either by the parties or by the court.

(G) CONTINUING JURISDICTION OF COURT TO ENFORCE THE SPO

After the termination of this action, the court will continue to have jurisdiction to enforce this SPO.

SO ORDERED AND ENTERED BY THE COURT UNDER DUCivR 26-2 AND EFFECTIVE AS OF THE COMMENCE OF THE ACTION.

ATTACHMENT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

The undersigned hereby acknowledges that they have read the court's Standard Protective Order attached hereto and dated _____ in the case captioned _____, understand the terms and agree to be bound by its terms. The undersigned submits to the jurisdiction of the United States District Court for the District of Utah in matters relating to this Standard Protective Order and understands that the terms of the Standard Protective Order obligate them to use information, documents, or other materials designated as CONFIDENTIAL in accordance with the Standard Protective Order solely for the purposes of the above-captioned action, and not to disclose information, documents, or other materials designated as CONFIDENTIAL to any other person, firm, or concern, except in accordance with the provisions of the Standard Protective Order.

The undersigned acknowledges that violation of the Standard Protective Order may result in penalties for contempt of court.

Name: _____

Job Title: _____

Employer: _____

Business Address: _____

_____

Date: _____ _____

Signature