

THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH



AUGUST 16, 2024

**NOTICE TO MEMBERS OF THE BAR AND PUBLIC**

Proposed changes to the Local Rules of Practice

**Public Comment Opportunity Expires on September 6, 2024**

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 may 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 a copy of any form that will need to be updated to correspond with a proposed rule change. These can be found at the Court's Form webpage [USDC Forms USDC Forms | District of Utah | United States District Court \(uscourts.gov\)](https://uscourts.gov/forms). While the court welcomes comments on the forms, the court will revise its forms on the Forms webpage, from time to time, without seeking public comment.

If the Judges adopt the Advisory Committee's proposed amendments and changes, other rules not listed below will be renumbered or updated to insert or remove cross references as needed in the final versions of the rules, which will be published online on December 1, 2024.

**CIVIL RULES**

<b>DUCivR 1-1</b>	<b>Availability and Amendments (Amend)</b> General stylistic clean up to improve clarity and readability. The proposed amendments move the content of DUCivR 81-1 and DUCivR 86-1 here as the recommendation is to eliminate those rules. The title of the rule will be changed to reflect the proposed amendments.
<b>DUCivR 3-2</b>	<b>Proceeding Without Prepayment or Payment of Filing Fees (Amend)</b> The proposed amendments clarify the magistrate judge may: 1) rely

	on the information in the form motion to determine indigency or on income level at the poverty line; and 2) request additional information before deeming a party indigent.
<b>DUCivR 6-2</b>	<b>First Extension of Time to Answer (New)</b> This rule will replace DUCivR 77-2. The new rule clarifies the judge and not the Clerk of Court will grant the extension of time.
<b>DUCivR 16-1</b>	<b>Pretrial Procedure (Amend)</b> The proposed amendments eliminate duplicative requirements that are already found in Fed. R. Civ. P. 16 regarding the scheduling order and attendance at a pretrial conference. Additionally, the proposed amendments clearly identify when discovery commences in an action that does not require a scheduling order.
<b>DUCivR 16-2</b>	<b>Alternative Dispute Resolution (Amend)</b> The proposed amendments clarify the court offers only judicial settlement conferences as the court-involved alternative dispute resolution option and confirm discovery is not automatically stayed to accommodate judicial settlement conferences.
<b>DUCivR 16-3</b>	<b>Settlement Conferences (Eliminate)</b> The recommendation is to eliminate this rule because it is inconsistent with the court's current procedures for conducting judicial settlement conferences. Judges conducting settlement conferences issue orders notifying the parties of the requirements to prepare for the conference.
<b>DUCivR 42-1</b>	<b>Consolidation of Civil Cases (Amend)</b> General stylistic clean up to improve clarity and readability.
<b>DUCivR 43-1</b>	<b>Courtroom Practices and Protocol (Eliminate)</b> The recommendation is to eliminate this rule because it does not augment judges' ability to establish parameters for questioning or excluding witnesses and other courtroom management procedures.
<b>DUCivR 47-1</b>	<b>Impanelment and Selection of Jurors (Eliminate)</b> The recommendation is to eliminate this rule as it is unnecessary because judges issue final pretrial orders that address voir dire examinations.
<b>DUCivR 47-2</b>	<b>Communication with Jurors (Amend)</b> The recommendation is to eliminate this rule as it is unnecessary because judges issue final pretrial orders or provide oral instructions that address communication with jurors.
<b>DUCivR 51-1</b>	<b>Instructions to the Jury (Eliminate)</b> The recommendation is to eliminate this rule as it is unnecessary and redundant. Fed. R. Civ. P. 51 adequately addresses instructions to the

	jury.
<b>DUCivR 54-1</b>	<b>Judgments: Preparation of Orders, Judgments, Findings of Facts and Conclusions of Law (Eliminate)</b> The recommendation is to eliminate this rule because it is in disuse.
<b>DUCivR 58-1</b>	<b>Judgment: Final Judgment Based Upon a Written Instrument (Eliminate)</b> The recommendation is to eliminate this rule because it is in disuse and was implemented before electronic filing was available.
<b>DUCivR 72-1</b>	<b>Magistrate Judge Authority (Amend)</b> General stylistic clean up to improve clarity and readability. The proposed amendments consolidate DUCivR 72-2 into this rule. The title of the rule will be changed to reflect the proposed amendments.
<b>DUCivR 72-2</b>	<b>Magistrate Judge Functions and Duties in Civil Matters (Eliminate)</b> This rule will be unnecessary if the proposed amendments to DUCivR 72-1 are adopted.
<b>DUCivR 77-1</b>	<b>Office of Record; Court Library; Hours and Days of Business (Eliminate)</b> The recommendation is to eliminate this rule because this information is available on the court's website.
<b>DUCivR 77-2</b>	<b>Motions Grantable by the Clerk of Court (Eliminate)</b> The recommendation is to eliminate this rule because it will be unnecessary if DUCivR 6-2 is adopted.
<b>DUCivR 81-1</b>	<b>Scope and Applicability of Rules (Eliminate)</b> The recommendation is to eliminate this rule because it will be unnecessary if the amendments to DUCivR 1-1 are adopted.
<b>DUCivR 83-1.1</b>	<b>Attorneys – Admission to Practice (Amend)</b> The proposed amendments eliminate the Utah residency requirement for local counsel who is sponsoring a Pro Hac Vice's applicant to practice before the court and clarify when local counsel is required to be present in court with Pro Hac Vice counsel.
<b>DUCivR 83-1.5</b>	<b>Attorneys – Student Practice Rule (Amend)</b> The proposed amendments align this court's student practice requirements with the Utah State Court requirements, identify the responsibilities of a supervising attorney, and require a signed "Consent to Participate in Court Proceedings" form be filed in the case in which the student is participating.
<b>DUCivR 83-2</b>	<b>Assignment and Transfer of Civil Cases (Amend)</b> General stylistic clean up to improve clarity and readability. The proposed amendments clarify the random case assignment

	process, specify a reduced caseload is available to the Chief Judge, and identify when cases are directly assigned instead of randomly assigned to a judge.
<b>DUCivR 86-1</b>	<b>EFFECTIVE DATE OF RULES</b> The recommendation is to eliminate this rule because the information will be relocated to DUCivR 1-1.

#### **CRIMINAL RULES**

<b>DUCrimR 12-2</b>	<b>Motion Seeking Relief Similar to Another Party's Motion (New)</b> This new rule establishes the requirements for one party to join another party's motion. The proposed new rule stops the practice of one party joining another party's motion without sufficient information about how the joining party's reasons, arguments, or authorities apply to the filing party's motion.
<b>DUCrimR 44-2</b>	<b>Constraints on Joint Representation (Eliminate)</b> The recommendation is to eliminate this his rule because it is unnecessary as the requirements are set forth in Fed. R. Crim. P. 44.
<b>DUCrimR 57-3</b>	<b>Association and Filing of Criminal Cases (Amend)</b> General stylistic clean up to improve clarity and readability. The proposed amendments clarify the process to request reassignment of a post-conviction case when the defendant has new charges pending. The title of the rule will be changed to reflect the proposed amendments.
<b>DUCrimR 57-4</b>	<b>Criminal Case Processing (Eliminate)</b> The recommendation is to eliminate this rule because it is redundant to the requirements set forth in the Speedy Trial Act.
<b>DUCrimR 57-7</b>	<b>Public Communications Concerning Criminal Matters (Eliminate)</b> The recommendation is to eliminate this rule because the requirements are set forth either in Rule 3.6 of the Utah Rules of Professional Conduct and Department of Justice policy. Under DUCivR 83-1.1(d)(1) and DUCrimR 57-12, attorneys admitted to practice in the District of Utah must comply with the Utah Rules of Professional Conduct.
<b>DUCrimR 57-9</b>	<b>Motions for Post-Conviction Relief (Eliminate)</b> The recommendation is to eliminate this rule because the requirements are set forth in 28 U.S.C. § 2255 and the rules governing Section 2255 proceedings.
<b>DUCrimR 57-10</b>	<b>Relief from State Detainer (Eliminate)</b> The recommendation is to eliminate this rule because it is in disuse.

<b>DUCrimR 57-16</b>	<b>Review of Magistrate Judge Orders (Amend)</b> General stylistic clean up to improve clarity and readability. The proposed amendments clarify that a response is not required to a motion seeking review of the detention order, establish the requirements for a hearing, and the judge who will review a motion to stay. The title of the rule will be changed to reflect the proposed amendments.
<b>DUCrimR 58-1</b>	<b>Petty and Misdemeanor Offenses (Existing Rule Number with New Content - Amend)</b> The Advisory Committee received a request from a court employee requesting a new rule be advanced to explain the Collateral Forfeiture Schedule, how a citation for a petty or misdemeanor offense may be resolved, the requirement of a mandatory appearance before a judge, and the effect of payment of the collateral forfeiture.
<b>DUCrimR 58-2</b>	<b>Appeal of a Magistrate Judge's Order in Misdemeanors and Petty Offenses (New Rule Number with Existing Content - New)</b> This rule was previously numbered as DUCrimR 58-1. General stylistic clean up to improve clarity and readability. The title of the rule will be changed to reflect the proposed amendments.
<b>DUCrimR 59-1</b>	<b>Objection to and Motion to Stay a Magistrate Judge Order (Existing Rule Number with New Content - Amend)</b> This new rule establishes the process for objecting to magistrate judges orders and requesting a stay of those orders. The existing rule—effective date of the local rules—will relocate to DUCrimR 1-1.

## FORMS

**Student Practice Form** – This form has been revised and renamed to correspond to the proposed amendments to DUCivR 83-1.5.

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](mailto:Utd_public_comments@utd.uscourts.gov). The deadline for submitting suggestions or proposals to be considered during the revision cycle is May 1 each year. Additionally, the Advisory Committee encourages judges, law clerks, and practitioners to continuously share their experiences using the court's local rules of practice by sending an email to the address listed above.

## **DUCivR 1-1 APPLICABILITY, AVAILABILITY, AND EFFECTIVE DATE**

### **(a) Applicability.**

These rules govern all civil proceedings in this district. Changes to these rules apply to all proceedings pending at the time they take effect except when, in the court's opinion, the application is not feasible or would work injustice.

### **(b) Availability.**

A paper copy of the local rules of practice is available from the Clerk's Office for a reasonable fee, as set by the Clerk of Court, and an electronic copy is available on the court's website.

### **(c) Notice and Public Comment.**

The court provides an opportunity for public comment on proposed substantive changes to these rules and notice of any adopted changes.

### **(d) Effective Date.**

These rules are effective December 1, 2024.

## DUCivR 3-2 PROCEEDING WITHOUT PREPAYMENT OR PAYMENT OF FILING FEES

### (a) Motion to Proceed In Forma Pauperis.

(1) A Non-Incarcerated Party. A non-incarcerated party may request that the court waive or reduce the filing fee and the cost of service of process. The party must complete and file a Motion to Proceed In Forma Pauperis at the same time as filing the action (e.g., complaint for a civil case, petition for a writ of habeas corpus, or petition for agency review). A form motion is available from the Clerk's Office and on the court's website.

(A) *In Forma Pauperis Qualifications*. The court may find a party indigent based on the information provided on the form motion or if a party's monthly income is equal to or below 200% of the United States poverty guideline as issued each year in the Federal Register by the Department of Health and Human Services for the 48 Contiguous States and the District of Columbia.

(B) *Review of the Motion*. A magistrate judge will review the motion to determine whether the party qualifies as indigent and may review whether the complaint meets the conditions of section 3-2(b) below. The magistrate judge may request additional facts or documentary evidence necessary to make this determination. A party who seeks leave to proceed without prepayment of filing fees must use the procedures, forms, and instructions available on the court's website or from the office of the clerk and in these rules.

(C) *Conditions for Filing the Action*. The clerk will file the action under the following conditions:

(i) as of the date of the order if the order waives the filing fee;

- (ii) upon payment of the required fee if the order reduces the filing fee; or
  - (iii) upon payment of the full filing fee if the order denies the motion.
- (D) *Payment.* A party will have 30 days from the date of the order to submit the required fee. Failure to timely pay the filing fee will result in closure of the case without filing the action. When a party attempts to pay the filing fee after the case has been closed, the clerk will accept the payment, open a new case, and file the action as of the date of the payment.
- (2) An Incarcerated Party. Under 28 U.S.C. § 1915, an incarcerated party may request authorization to proceed in a civil action without prepayment of the filing fee by filing a Motion to Proceed Without Prepayment of Fees. A form motion is available from the Clerk's Office and on the court's website.
  - (A) *Account Statement and Consent.* In addition to the motion, a party must submit:
    - (i) a certified copy of the incarcerated party's trust fund account statement (or institutional equivalent) from each institution in which the incarcerated party was confined in the 6 months before the motion is filed. The account statement must be submitted with the motion; and
    - (ii) written consent authorizing the appropriate prison official to collect fees and submit payments to the clerk if the motion is granted. If the motion is granted, the court will send a written consent form to the incarcerated party to sign and return to the court.



- (B) *Initial Partial Filing Fee.* If the motion is granted, the court will assess and, when funds exist, collect an initial partial filing fee of 20% of the greater of:
  - (i) the average monthly deposits to the account during the six-month period preceding the filing of the action; or
  - (ii) the average monthly balance in the account for the six-month period preceding the filing of the action.
- (C) *Monthly Payments.* After the initial partial filing fee is paid, the incarcerated party must make monthly payments of 20% of the preceding month's income credited to the account but only if the account balance exceeds \$10.
- (D) *Collecting Payments.* The agency having custody of the incarcerated party must forward any payment required under this rule in the proper amount to the clerk until the filing fees are paid.
- (E) *Conditions for Filing the Action.* The clerk will file the action as of the date of the order granting the motion. If the motion is denied, the clerk will notify the incarcerated party of the decision and will file the action only upon receipt of the required fee.

**(b) Screening the Case.**

- (1) At any time, including when reviewing the motion, a magistrate judge may recommend dismissal of the action or a district judge may order dismissal of the action if:
  - (A) the allegation of indigence is untrue;
  - (B) the court lacks jurisdiction;
  - (C) the claims are frivolous or malicious;
  - (D) it fails to state a claim on which relief can be granted; or
  - (E) it seeks monetary relief against a defendant who is immune.

**(c) Service of Process.**

- (1) The clerk will not issue a summons to an unrepresented party until directed to do so by the court.
- (2) After the motion is granted, or after the case has been screened and a decision has been made to proceed with service, the court will order:
  - (A) *Regarding a non-incarcerated party's action:*
    - (i) the plaintiff to complete and return to the Clerk's Office a summons and a Service of Process form (both available from the Clerk's Office and on the court's website) for each defendant;
    - (ii) the clerk to issue the summons when the forms are returned; and
    - (iii) the United States Marshal to serve on each defendant the completed summons, the complaint, and a copy of the order; or
    - (iv) if the plaintiff fails to submit the forms as directed, the action may be dismissed.
  - (B) *Regarding an incarcerated party's action:*
    - (i) each defendant to waive service of process, under Rule 4 of the Federal Rules of Civil Procedure; or
    - (ii) the United States Marshal to serve on each defendant the completed summons, the complaint, and a copy of the order.

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(A) *In Forma Pauperis Qualifications.* The court may find a party indigent based on the information provided on the form motion or if a party's monthly income is equal to or below 200% of the United States poverty guideline as issued each year in the Federal Register by the Department of Health and Human Services for the 48 Contiguous States and the District of Columbia.

(B) *Review of the Motion.* A magistrate judge will review the motion to determine whether the party qualifies as indigent and may review whether the complaint meets the conditions of section 3-2(b) below. The magistrate judge may request additional facts or documentary evidence necessary to make this determination. A party who seeks leave to proceed without prepayment of filing fees must use the procedures, forms, and instructions available on the court's website or from the office of the clerk and in these rules.

(C) *Conditions for Filing the Action.* The clerk will file the action under the following conditions:

(i) as of the date of the order if the order waives the filing fee;

- (ii) upon payment of the required fee if the order reduces the filing fee; or
  - (iii) upon payment of the full filing fee if the order denies the motion.
- (D) *Payment.* A party will have 30 days from the date of the order to submit the required fee. Failure to timely pay the filing fee will result in closure of the case without filing the action. When a party attempts to pay the filing fee after the case has been closed, the clerk will accept the payment, open a new case, and file the action as of the date of the payment.
- (2) An Incarcerated Party. Under 28 U.S.C. § 1915, an incarcerated party may request authorization to proceed in a civil action without prepayment of the filing fee by filing a Motion to Proceed Without Prepayment of Fees. A form motion is available from the Clerk's Office and on the court's website.
  - (A) *Account Statement and Consent.* In addition to the motion, a party must submit:
    - (i) a certified copy of the incarcerated party's trust fund account statement (or institutional equivalent) from each institution in which the incarcerated party was confined in the 6 months before the motion is filed. The account statement must be submitted with the motion; and
    - (ii) written consent authorizing the appropriate prison official to collect fees and submit payments to the clerk if the motion is granted. If the motion is granted, the court will send a written consent form to the incarcerated party to sign and return to the court.

- (B) *Initial Partial Filing Fee.* If the motion is granted, the court will assess and, when funds exist, collect an initial partial filing fee of 20% of the greater of:
  - (i) the average monthly deposits to the account during the six-month period preceding the filing of the action; or
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- (C) *Monthly Payments.* After the initial partial filing fee is paid, the incarcerated party must make monthly payments of 20% of the preceding month's income credited to the account but only if the account balance exceeds \$10.
- (D) *Collecting Payments.* The agency having custody of the incarcerated party must forward any payment required under this rule in the proper amount to the clerk until the filing fees are paid.
- (E) *Conditions for Filing the Action.* The clerk will file the action as of the date of the order granting the motion. If the motion is denied, the clerk will notify the incarcerated party of the decision and will file the action only upon receipt of the required fee.

**(b) Screening the Case.**

- (1) At any time, including when reviewing the motion, a magistrate judge may recommend dismissal of the action or a district judge may order dismissal of the action if:
  - (A) the allegation of indigence is untrue;
  - (B) the court lacks jurisdiction;
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  - (D) it fails to state a claim on which relief can be granted; or
  - (E) it seeks monetary relief against a defendant who is immune.

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- (2) After the motion is granted, or after the case has been screened and a decision has been made to proceed with service, the court will order:
  - (A) *Regarding a non-incarcerated party's action:*
    - (i) the plaintiff to complete and return to the Clerk's Office a summons and a Service of Process form (both available from the Clerk's Office and on the court's website) for each defendant;
    - (ii) the clerk to issue the summons when the forms are returned; and
    - (iii) the United States Marshal to serve on each defendant the completed summons, the complaint, and a copy of the order; or
    - (iv) if the plaintiff fails to submit the forms as directed, the action may be dismissed.
  - (B) *Regarding an incarcerated party's action:*
    - (i) each defendant to waive service of process, under Rule 4 of the Federal Rules of Civil Procedure; or
    - (ii) the United States Marshal to serve on each defendant the completed summons, the complaint, and a copy of the order.

## **DUCivR 6-2 FIRST EXTENSION OF TIME TO ANSWER**

### **(a) Motion Granted Without a Response.**

The court may grant a motion seeking to extend the time to answer, reply, or otherwise plead to a complaint, crossclaim, or counterclaim, without a response from opposing parties, if the motion:

- (1) is the first request for the extension;
- (2) seeks an extension of 14 days or fewer; and
- (3) is filed before the time originally prescribed expires.

### **(b) Proposed Order.**

The moving party must provide a proposed order in compliance with DUCivR 7-1(e)(2).

**DUCivR 16-1      PRETRIAL PROCEDURE**

A scheduling order is not required in proceedings listed in Fed. R. Civ. P. 26(a)(1)(B). Discovery in those proceedings, if any, commences as the court orders or as authorized by law.



## **DUCivR 16-2      ALTERNATIVE DISPUTE RESOLUTION**

**(a)      Authority.**

Under 28 U.S.C. § 651, the District of Utah offers a judicial settlement conference as an alternative to an adjudication by the assigned judge in all civil cases and bankruptcy adversary proceedings.

**(b)      Referral of Cases for Purposes of Conducting a Settlement Conference.**

Under 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 16, the judge to whom the case has been assigned for trial may refer the case for a judicial settlement conference to be conducted by another judge.

**(c)      Stay.**

A party may move under DUCivR 7-1(a)(4)(D) to stay the case or discovery after an order has been entered authorizing a judicial settlement conference. A stipulation to stay the action or discovery is ineffective without a court order.

## ~~DUCivR 16-3 — SETTLEMENT CONFERENCES~~

### ~~(a) — Authority for Settlement Conferences.~~

~~The assigned judge may require, or any party may at any time request, the scheduling of a settlement conference.~~

### ~~(b) — Referral of Cases for Purposes of Conducting a Settlement Conference.~~

~~Under Fed. R. Civ. P. 16 and 28 U.S.C. § 636(b)(1), the district judge to whom the case has been assigned for trial may refer it, for the purpose of conducting a settlement conference, either to another district judge or to a magistrate judge.~~

### ~~(c) — Settlement Proceedings.~~

~~The settlement judge or magistrate judge may require the presence of the parties and their counsel, may meet privately from time to time with one party or counsel, and may continue the settlement conference from day to day as deemed necessary. The settlement judge may discuss any aspect of the case and make suggestions or recommendations for settlement. Counsel for each party to the settlement conference must ensure that a person or representative with settlement authority or otherwise authorized to make decisions regarding settlement is available in person for the full duration of the settlement conference. If the person present does not have full settlement authority, a person with full settlement authority must be directly available by telephone during the settlement conference.~~

### ~~(d) — Confidential Nature of Settlement Proceedings.~~

~~The settlement conference will be conducted in such a way as to permit an informal, confidential discussion among counsel, the parties, and the settlement judge. The settlement judge may require settlement memoranda to be submitted either with or without service upon the other parties and counsel participating in the settlement conference, but such memoranda must neither be made a part of the record nor filed with the Clerk of Court. The settlement judge may not~~

~~communicate to the trial judge to whom the case has been assigned the confidences of the conference, except to report whether the case has been settled. Such report must be made in writing, with copies to the parties and their counsel, within a reasonable time following the conference or within such time as the trial judge may direct. If the case does not settle, no oral or written communication made during the settlement conference may be used in the trial of the case or for any other purpose.~~

## **DUCivR 42-1      CONSOLIDATION OF CIVIL CASES**

### **(a)      Motion and Notice to Consolidate.**

A motion to consolidate cases must be filed in the lowest-numbered case. The movant must also file a notice of the motion in all other cases proposed for consolidation with the assistance of the Clerk's Office. The judge assigned to the lowest-numbered case will decide the motion. Unless the court orders otherwise, cases are consolidated into the lowest-numbered case.

### **(b)      Consolidation.**

The court may enter an order of consolidation on its own. An order entered by the court is effective 14 days after service unless an objection is filed within that time in the case where the order is entered. If a timely objection is filed, no consolidation will occur until the court has ruled on the objection.

## ~~DUCivR 43-1 — COURTROOM PRACTICES AND PROTOCOL~~

### ~~(a) — Conduct of Counsel.~~

- ~~(b) — Only 1 attorney for each party may examine or cross-examine a witness, and not more than 2 attorneys for each party may argue the merits of the action unless the court otherwise permits.~~
- ~~(c) — To maintain decorum in the courtroom, counsel will abide strictly by the following rules:~~
- ~~(d) — Counsel will stand, if able, when addressing the court and when examining and cross-examining witnesses.~~
- ~~(e) — Counsel will not address questions or remarks to opposing counsel without first obtaining permission from the court. Appropriate quiet and informal consultations among counsel off the record are permitted as long as they neither delay nor disrupt the proceedings.~~
- ~~(f) — The examination and cross-examination of witnesses will be limited to questions addressed to the witnesses. Counsel must refrain from making statements, comments, or remarks prior to asking a question or after a question has been answered.~~
- ~~(g) — In making an objection, counsel must state plainly and briefly the specific ground of objection and may not engage in argument unless requested or permitted by the court to do so.~~
- ~~(h) — Only 1 attorney for each party may make objections concerning the testimony of a witness when being questioned by an opposing party. The objections must be made by the attorney who has conducted or is to conduct the examination or cross-examination of the witness.~~

~~(i) — The examination and cross-examination of witnesses must be conducted from the counsel's table or the lectern, except when necessary to approach the witness or the courtroom clerk's desk for the purpose of presenting or examining exhibits.~~

~~(j) — **Exclusion of Witnesses.**~~

~~(k) — On its own motion or at the request of a party, the court may order witnesses excluded from the courtroom so they cannot hear the testimony of other witnesses. This section of this rule does not authorize exclusion of the following: (i) a party who is a natural person; (ii) an officer or employee of a party that is not a natural person and who is designated as that party's representative by its attorney; or (iii) a person whose presence is shown by a party to be essential to the presentation of the case.~~

~~Witnesses excluded pursuant to Fed. R. Evid. 615 need not be sworn in advance but may be ordered not to discuss their testimony with anyone except counsel during the progress of the case. Unless otherwise directed by the court for special reasons, witnesses who have testified may remain in the courtroom even though they may be recalled on rebuttal. Unless otherwise directed by the court upon motion of counsel, witnesses once examined and permitted to step down from the stand will be deemed excused. Counsel are encouraged to make requests for exclusion only when necessary to ensure due process.~~

~~(l) — **Arguments.**~~

~~(m) — The court will determine the length of time and the sequence of final arguments.~~

~~(n) — **Presence of Parties and Attorneys upon Receiving Verdict or Supplemental Instructions.**~~

~~(e) — All parties and attorneys are obligated to be present in court when the jury returns its verdict or requests further instructions. Parties and attorneys in the immediate vicinity of the court will be notified, but the return of the verdict or the giving of supplemental instructions will not be delayed because of their absence. If, when notification is attempted, the parties and attorneys are not immediately available in the vicinity of the court, they will be deemed to have waived their presence at the return of the verdict or the giving of supplemental instructions requested by the jury.~~

~~(p) —~~

## **~~DUCivR 47-1 — IMPANELMENT AND SELECTION OF JURORS~~**

### **~~(a) — Requests for Voir Dire Examination.~~**

~~Unless the court otherwise orders, any special request for voir dire examination of the jury panel regarding the prospective jurors' qualifications to sit must be submitted in writing to the court and served upon the opposing party or parties at least 2 full business days prior to the time the case is set for trial, unless the court's examination furnishes grounds for additional inquiry.~~

### **~~(b) — Voir Dire Examination and Exercise of Challenges.~~**

~~The court will examine the jury panel on voir dire and will permit suggestions from counsel for further examination. If any prospective juror is excused for cause, another prospective juror's name will be drawn when required in order to allow for all challenges. When the panel is accepted for cause, the courtroom clerk will present a list of the jurors in the order of their places in the box to counsel, who alternately will exercise or waive such challenges by appropriate indications on the list. Absent a stipulation of the parties to the contrary, the first 6-12 jurors (depending on the size of the jury) named on the list who remain unchallenged will constitute the jury.~~



## **DUCivR 47-2      COMMUNICATION WITH JURORS**

### **(a)      Before or During Trial.**

A party or attorney cannot communicate with or cause another to communicate with a juror or prospective juror before or during trial outside of court proceedings unless the court orders otherwise.

### **(b)      After Trial.**

After the trial, the court may set special conditions or restrictions for juror interviews and explain that jurors are under no obligation to discuss the deliberations or verdict with anyone.

### **(c)      Contact Information.**

The Clerk's Office will not release juror contact information unless the court orders otherwise.

## ~~DUCivR 51-1 — INSTRUCTIONS TO THE JURY~~

~~In the absence of a specific Trial Order that provides instructions and deadlines regarding proposed jury instructions, all proposed jury instructions must be filed electronically in conformity with the ECF Procedures Manual and emailed to chambers in an editable format (e.g., WordPerfect or MS Word) a minimum of 7 days prior to the day the case is set for trial. The court, in its discretion, may receive additional written requests during the course of the trial.~~

~~—— Each proposed instruction must be numbered, indicate the identity of the party presenting the instruction, and contain citations to authority. Individual instructions must address only 1 subject, and the principle of law embraced in any instruction may not be repeated in subsequent instructions.~~

**~~DUCivR 54-1 — JUDGMENTS: PREPARATION OF ORDERS, JUDGMENTS, FINDINGS OF FACTS AND CONCLUSIONS OF LAW~~**

**~~(a) — Orders in Open Court.~~**

~~Unless otherwise determined by the court, orders announced in open court in civil cases must be prepared in writing by the prevailing party, served within 5 days of the court's action on opposing counsel, and submitted to the court for signature pursuant to the provisions of section 54-1(b) of this rule.~~

**~~(b) — Orders and Judgments.~~**

~~Unless otherwise determined by the court, proposed orders and judgments prepared by an attorney must be served upon opposing counsel for review and approval as to form prior to being submitted to the court for review and signature. Approval will be deemed waived if no objections are filed within 7 days after service.~~

**~~(c) — Proposed Findings of Fact and Conclusions of Law.~~**

~~Except as otherwise directed by the court, in all non-jury cases to be tried, counsel for each party must prepare and file with the court, at least 2 full business days before the day the trial is scheduled to begin, proposed findings of fact and conclusions of law consistent with the theory of the submitting party and the facts expected to be proved. Proposed findings should be concise and direct, should recite ultimate rather than mere evidentiary facts, and should be suitable in form and substance for adoption by the court should it approve the contentions of the particular party. Proposed findings also will serve as a convenient recitation of contentions of the respective parties, helpful to the court as it hears and considers the evidence and arguments and relates such evidence, or lack of it, to the salient contentions of the parties.~~

**~~DUCivR 58-1 — JUDGMENT: FINAL JUDGMENT BASED UPON A WRITTEN INSTRUMENT~~**

~~Unless otherwise ordered by the court, a final judgment based upon a written instrument must be accompanied by the original or certified copy of the instrument which must be filed as an exhibit in the case at the time judgment is entered. The instrument must be marked appropriately as having been merged into the judgment, must show the docket number of the action, and may be returned to the party filing the same upon order of the court only as in the case of other exhibits as provided for in DUCivR 83-5.~~

## **DUCivR 72-1      MAGISTRATE JUDGE AUTHORITY AND FUNCTION IN CIVIL CASES**

### **(a)      General Authority.**

- (1)      A magistrate judge is authorized to perform the duties prescribed by federal statutes and regulations, the Federal Rules of Civil Procedure, and these local rules.
- (2)      Unless the court directs otherwise, a magistrate judge is authorized, with or without a referral, to:
  - (A)      grant applications to proceed without prepayment of fees;
  - (B)      authorize levy, entry, search, and seizure requested by authorized agents of the Internal Revenue Service under 26 U.S.C. § 6331 upon a determination of probable cause;
  - (C)      conduct supplemental proceedings in accordance with Fed. R. Civ. P. 69, including:
    - (i)      hold hearings to determine judgment debtor's property;
    - (ii)      issue writs;
    - (iii)      temporarily restrain a judgment debtor from selling, transferring, or disposing of the property or asset;
    - (iv)      hold hearings and make recommendations to the district judge on substantive issues including the liability of a party under a writ of garnishment or execution;
  - (D)      issue orders directing funds—
    - (i)      to be paid into the registry of the court;
    - (ii)      to be paid out of the registry on the parties' consent under 28 U.S.C. § 636(c) and DUCivR 72-4; and
  - (E)      perform all duties specified in the Federal Debt Collection Procedures Act, 28 U.S.C. §§ 3001–3308;

- (3) issue orders authorizing alternative service;
- (4) conduct initial scheduling conferences under Fed. R. Civ. P. 16, enter stipulated scheduling orders, and grant or deny stipulated motions to amend scheduling orders;
- (5) conduct all pretrial proceedings contemplated by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72 in cases assigned under DUCivR 72-4 and 83-2; and
- (6) issue subpoenas, writs of habeas corpus ad testificandum, and other orders necessary to secure the presence of parties, witnesses, or evidence for court proceedings.

**(b) Authority Under Fed. R. Civ. P. 72(a).**

On reference under 28 U.S.C. § 636(b)(1)(A) and Fed. R. Civ. P. 72(a), a magistrate judge is authorized to hear and determine any procedural motion, discovery motion, or other non-dispositive motion.

**(c) Authority Under Fed. R. Civ. P. 72(b).**

- (1) On reference under 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b), a magistrate judge is authorized to prepare and submit to the district judge a report containing proposed findings of fact and recommendations for disposition of motions:
  - (A) for injunctive relief including temporary restraining orders and preliminary and permanent injunctions;
  - (B) for judgment on the pleadings;
  - (C) for summary judgment;
  - (D) to dismiss;
  - (E) for default judgments; and
  - (F) for judicial review of an administrative agency decision, including an award or denial of a license, benefits under the Social Security Act, or a similar privilege.

(2) A magistrate judge may determine any preliminary matter and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority under DUCivR 72-2(c)(1).

**(d) Authority to Function as Special Master.**

Under 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53, the court may designate a magistrate judge to serve as a special master with the parties' consent.

## ~~DUCivR 72-2 MAGISTRATE JUDGE FUNCTIONS AND DUTIES IN CIVIL MATTERS~~

### ~~General Authority.~~

~~Unless otherwise directed by the court, a magistrate judge is authorized, with or without a referral, to:~~

- ~~(1) grant applications to proceed without prepayment of fees;~~
- ~~(2) authorize levy, entry, search, and seizure requested by authorized agents of the Internal Revenue Service under 26 U.S.C. § 6331 upon a determination of probable cause;~~
- ~~(3) conduct supplemental proceedings in accordance with Fed. R. Civ. P. 69, including:~~
  - ~~(A) hold hearings to determine judgment debtor's property;~~
  - ~~(B) issue writs;~~
  - ~~(C) temporarily restrain a judgment debtor from selling, transferring, or disposing of the property or asset;~~
  - ~~(D) hold hearings and make recommendations to the district judge on substantive issues including the liability of a party under a writ of garnishment or execution;~~
  - ~~(E) issue orders directing funds—~~
    - ~~(i) to be paid into the registry of the court;~~
    - ~~(ii) to be paid out of the registry on the parties' consent under 28 U.S.C. § 636(c) and DUCivR 72-4; and~~
  - ~~(F) perform all duties specified in the Federal Debt Collection Procedures Act, 28 U.S.C. §§ 3001-3308;~~
- ~~(4) issue orders authorizing alternative service;~~
- ~~(5) conduct initial scheduling conferences under Fed. R. Civ. P. 16, enter stipulated scheduling orders, and grant or deny stipulated motions to amend scheduling orders;~~



- ~~(6) — conduct all pretrial proceedings contemplated by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72 in cases assigned under DUCivR 72-4 and 83-2; and~~
- ~~(7) — issue subpoenas, writs of habeas corpus ad testificandum, and other orders necessary to secure the presence of parties, witnesses, or evidence for court proceedings.~~

~~Authority Under Fed. R. Civ. P. 72(a):~~

~~On an order of reference under 28 U.S.C. § 636(b)(1)(A) and Fed. R. Civ. P. 72(a), a magistrate judge is authorized to hear and determine any procedural motion, discovery motion, or other non-dispositive motion.~~

~~Authority Under Fed. R. Civ. P. 72(b):~~

~~(1) — On an order of reference under 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b), a magistrate judge is authorized to prepare and submit to the district judge a report containing proposed findings of fact and recommendations for disposition of motions:~~

~~(A) — for injunctive relief including temporary restraining orders and preliminary and permanent injunctions;~~

~~(B) — for judgment on the pleadings;~~

~~(C) — for summary judgment;~~

~~(D) — to dismiss;~~

~~(E) — for default judgments; and~~

~~(F) — for judicial review of an administrative agency decision, including an award or denial of a license, benefits under the Social Security Act, or a similar privilege.~~

~~(2) — A magistrate judge may determine any preliminary matter and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority under DUCivR 72-2(c)(1).~~

~~Authority to Function as Special Master.~~

~~Under 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53, the court may designate a magistrate judge to serve as a special master with the parties' consent.~~

**~~DUCivR 77-1 — OFFICE OF RECORD; COURT LIBRARY; HOURS AND DAYS OF BUSINESS~~**

**~~(a) — Office of Record.~~**

~~The court's office of record is located in the Orrin G. Hatch United States Courthouse at 351 South West Temple St., Salt Lake City, Utah 84101.~~

**~~(b) — Hours and Days of Business.~~**

~~Unless otherwise ordered by the court in unusual circumstances, the office of the clerk will be open to the public during posted business hours on all days except Saturdays, Sundays, and legal holidays as set forth below. Court hours and days of business are posted on the court's General Information page. The following are holidays on which the court will be closed:~~

- ~~• — New Year's Day, January 1~~
- ~~• — Birthday of Martin Luther King, Jr. (Third Monday in January)~~
- ~~• — Presidents' Day (Third Monday in February)~~
- ~~• — Memorial Day (Last Monday in May)~~
- ~~• — Juneteenth National Independence Day, June 19~~
- ~~• — Independence Day, July 4~~
- ~~• — Pioneer Day, July 24~~
- ~~• — Labor Day (First Monday in September)~~
- ~~• — Columbus Day (Second Monday in October)~~
- ~~• — Veterans Day, November 11~~
- ~~• — Thanksgiving Day (Fourth Thursday in November)~~
- ~~• — Christmas Day, December 25~~

**~~(c) — U.S. Courts Law Library.~~**

~~The United States Courts Law Library in the Orrin G. Hatch United States Courthouse contains non-circulating legal reference books, periodicals, and~~

~~related materials. Access to the library is available to the bar and the public when library staff are on duty during normal court business hours.~~

~~DUCivR 77-2 — MOTIONS GRANTABLE BY THE CLERK OF COURT~~

~~(a) — Motions Grantable by the Clerk of Court.~~

~~The Clerk of Court is authorized to grant the following motions without a response from any opposing party and without direction by the court:~~

- ~~(1) — motions extending once for 14 days the time within which to answer, reply, or otherwise plead to a complaint, crossclaim, or counterclaim if the time originally prescribed to plead has not expired; and~~
- ~~(2) — motions for entry of default and motions for default judgment as provided for in Fed. R. Civ. P. 55(a) and 55(b)(1).~~

~~A motion must be filed in the docket, along with a proposed order. In addition, a proposed order in editable format must be emailed to the Clerk's Office ([utdecf-clerk@utd.uscourts.gov](mailto:utdecf-clerk@utd.uscourts.gov)).~~

~~(b) — Clerk's Action Reviewable.~~

~~The actions of the Clerk of Court under this rule may be reviewed, suspended, altered, or rescinded by the court upon good cause shown.~~

## **~~DUCivR 81-1 SCOPE AND APPLICABILITY OF RULES~~**

### **~~(a) Scope of Rules.~~**

~~These rules apply in all civil proceedings conducted in the District of Utah.~~

### **~~(b) Relationship to Prior Rules; Actions Pending on Effective Date.~~**

~~These rules supersede all previous rules promulgated by the United States~~

~~District Court or any judge of this court. These rules govern all applicable~~

~~proceedings brought in the United States District Court. They also apply to all~~

~~proceedings pending at the time they take effect, except where, in the opinion of~~

~~the court, their application is not feasible or would work injustice, in which event~~

~~the former rules govern.~~

## **DUCivR 83-1.1      ATTORNEYS - ADMISSION TO PRACTICE**

### **(a)      Attorney Admission.**

- (1)      Eligibility. An attorney who is an active member in good standing of the Utah State Bar is eligible for admission to this court's bar.
- (2)      Application. An eligible attorney must complete an online application using Public Access to Court Electronic Records (PACER).
- (3)      Pro Bono Service Requirement. By applying to become a member of this court's bar, an attorney agrees to accept a reasonable number of pro bono appointments when requested by the court, except when the attorney is employed by a government agency that precludes accepting pro bono appointments.
- (4)      Admission Fee. Once the court reviews an application and verifies the attorney's membership status with the Utah State Bar, the court will send to the attorney an email containing a link to pay the admission fee. The admission fee must be paid within 30 days from the date of the email or the application will be denied, and the attorney must complete a new application.
- (5)      Active Membership Status. An attorney who is admitted to this court's bar must renew membership as set forth in DUCivR 83-1.2. After an attorney is admitted, the attorney is not required to pay the annual registration fee until at least 12 months have passed since admission.

### **(b)      Federal Attorney Admission.**

- (1)      Eligibility. An attorney employed by the United States, its agencies, or the Federal Public Defender's Office, who is an active member and in good standing in the bar of any state or the District of Columbia, may practice in this district in the attorney's official capacity.

- (2) Application. An eligible federal attorney must complete an online application using PACER.
- (3) Pro Bono Service Requirement. A federal attorney is exempt from the court's pro bono service requirement.
- (4) Fees. A federal attorney is exempt from paying the admission and annual registration fees.

**(c) Pro Hac Vice Admission.**

- (1) Eligibility. A PHV applicant is an active member in good standing in the bar of any state or the District of Columbia but not an active member of the Utah State Bar or a federal attorney. A PHV applicant may be admitted for the limited purpose of appearing in a case in this district after associating with local counsel.
  - (A) *Restrictions on Pro Hac Vice Admission*. Pro hac vice admission is not available to any attorney who:
    - (i) is a member of the Utah State Bar;
    - (ii) except as provided in section 83-1.1(c)(1)(B), maintains any law office in Utah; or
    - (iii) has already been admitted pro hac vice in 3 unrelated cases in the previous 5 years in this district, unless the court finds good cause for the attorney not seeking admission to the Utah State Bar.
  - (B) *Exemption from Restrictions*. A PHV Applicant who is an active member in good standing in the bar of any state or the District of Columbia and who maintains a law office in Utah may be admitted pro hac vice while awaiting admission to the Utah State Bar. Within 45 days after notice from the Utah State Bar of admission, denial of



admission, or, under a Utah State Bar admission rule, upon termination of eligibility to practice, the PHV Applicant must—

- (i) when admitted, apply for Attorney Admission under section 83-1.1(a) and pay the required admission fee; or
- (ii) when denied admission or upon termination of eligibility to practice, cease practicing law in this court under section 83-1.1(c)(1) and:
  - (a) send a notice of admission status to the Clerk's Office ([utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov)); and
  - (b) file a withdrawal of counsel or a substitution of counsel in every case in which the PHV Applicant has appeared.

(2) Local Counsel.

- (A) Local counsel is an active member in good standing of this court's bar.
- (B) Local counsel must:
  - (i) file a motion consenting to serve as local counsel and requesting admission of the PHV applicant;
  - (ii) attach to the motion a completed PHV application and proposed order, both of which are available on the court's website; and
  - (iii) pay the pro hac vice admission fee at the time of filing the motion.
- (C) Local counsel must be present when the attorney admitted pro hac vice appears in court, unless the court orders otherwise.

(3) Objection to PHV Admission. A party opposing pro hac vice admission must file an objection within 14 days of the filing of the motion, even if the

court has granted the motion. Local counsel or the PHV applicant need not file a response after an objection is filed unless ordered to do so by the court.

- (4) Revocation of PHV Admission. The court may revoke a PHV Attorney's admission for good cause shown, including but not limited to, violation of this court's rules or failure to comply with court orders.

**(d) Rules and Conduct.**

- (1) An attorney who practices in this court must comply with the Local Rules of Practice, [ECF Procedures Manual](#), [Utah Rules of Professional Conduct](#), and [Utah Standards of Professionalism and Civility](#). An attorney's conduct and professionalism are governed by these rules and the manual.
- (2) An attorney who practices in this court must register to efile and receive electronic notifications of case activity.
- (3) An attorney who practices in this court must maintain valid and current contact information, including mailing, email, and telephone, in PACER.

**DUCivR 83-1.5      ATTORNEYS - STUDENT PRACTICE RULE**

**(a)      Eligibility and Scope of Participation.**

- (1)      A law student who meets all the requirements of UCJA [Rule 14-807](#) is eligible to represent parties in this district.
- (2)      An eligible law student may appear in a civil or criminal case under a supervising attorney if:
  - (A)      a judge orally agrees in court that the student may participate in the proceedings and the supervising attorney subsequently files a completed Consent to Participate in Court Proceedings form, which is available on the court's website; or
  - (B)      a judge signs a filed Consent to Participate in Court Proceedings form.
- (3)      When a supervising attorney is present, an eligible law student may engage in permissible activities, negotiations, depositions, and proceedings identified in UCJA [Rule 14-807](#).

**(b)      Supervising Attorney.**

- (1)      A supervising attorney must be an active member in good standing of this court's bar and an attorney of record for a party on whose behalf a law student appears.
- (2)      The supervising attorney must:
  - (A)      obtain all required certifications under UCJA [Rule 14-807](#);
  - (B)      explain to the client the nature and extent of the law student's participation;
  - (C)      obtain the client's consent to a law student's participation (consent by the United States Attorney for the District of Utah or their designee constitutes consent by the United States);

- (D) file a completed Consent to Participate in Court Proceedings form; and
  - (E) always be present when a law student participates in any proceeding.
- (3) The supervising attorney is responsible for a law student's work and conduct.

## **DUCivR 83-2      ASSIGNMENT AND TRANSFER OF CIVIL CASES**

### **(a)      Case Assignment.**

- (1)      Except as provided in this rule or general order, an automated system randomly assigns civil cases to active district judges and full-time magistrate judges for the purpose of maintaining work parity among these judges. Active district court judges approve this system, and the clerk manages and maintains it under the direction of the Chief Judge to accomplish this purpose.
- (2)      The Chief Judge may assign or reassign a case for the efficient administration of justice.
- (3)      A majority of active district judges may adjust the Chief Judge's caseload as necessary for the performance of the duties of that office.
- (4)      The Chief Judge and a senior district judge must inform the clerk of the percentage of a full caseload and type of cases that the senior judge elects to be assigned.

### **(b)      Judicial Recusal or Disqualification.**

In the event of a judicial recusal or disqualification, another judge will be assigned to the case through the automated system described in DUCivR 83-2(a). If all judges recuse or are disqualified, the Chief Judge will request that the Chief Judge of the Tenth Circuit Court of Appeals assign the case to a judge from another district.

### **(c)      Emergency Circumstances.**

In an emergency, if the assigned judge is unavailable, the clerk may request any available judge to act for the assigned judge.

**(c) Special Assignment.**

- (1) Unrepresented Party. If an unrepresented plaintiff in a new case is already a plaintiff in a pending case or a case that was terminated within one year, the clerk will notify the judge assigned to the lowest-numbered case of the new case, and the judge may enter an order reassigning the new case.
- (2) Bankruptcy Case. If multiple cases arising out of a single bankruptcy case are filed in this court, the first case will be randomly assigned to a judge. All subsequent cases arising out of the same bankruptcy case will be assigned to the same judge.
- (3) Civil Forfeiture. If a civil forfeiture case is related to a pending criminal case, the civil forfeiture case will be assigned to the judge in the criminal case.
- (4) Removed Case. If a case that has been remanded is removed again, the case will be reassigned to the same judge.
- (5) Post-Conviction Relief. If a petitioner files multiple cases for post-conviction relief or other relief under 28 U.S.C. §§ 2241 or 2254, all subsequent cases will be assigned to the judge in the lowest-numbered case.
- (6) Section 2255 Motions. All motions under 28 U.S.C. § 2255 will be assigned to the sentencing judge.
- (7) Supplemental Proceedings. If a party files a motion for supplemental proceedings, the district judge may enter a referral under 28 U.S.C. § 636(b)(1)(A) to:
  - (A) the magistrate judge initially assigned; or
  - (B) a randomly assigned magistrate judge, if one was not previously assigned.

**(d) Transfer of Related Case.**

- (1) Motion. If cases involve a common question of law or fact and are pending before different judges, any party to a later-filed case may file a motion and proposed order to transfer the case to the judge with the lowest-numbered case.
- (2) Filing the Motion and Notice. The motion must be filed in the lowest-numbered case. The movant must also file a notice of the motion in all other cases proposed for transfer with the assistance of the Clerk's Office. The judges assigned to the cases will confer about the appropriateness of the request. The judge assigned to the lowest-numbered case will decide the motion.
- (3) Transfer.  
The court may enter an order of transfer on its own. An order entered is effective 14 days after service unless an objection is filed within that time. If a timely objection is filed, no transfer will occur until the judge assigned to the lowest-numbered case rules on the objection.

**(e) Unavailable Judge.**

If there is activity in a case assigned to a judge who no longer serves in the district, the case will be randomly reassigned.

~~DUCivR 86-1 — EFFECTIVE DATE OF RULES~~

~~— These rules are effective December 1, 2023.~~



**DUCrimR 12-2       MOTION SEEKING RELIEF SIMILAR TO ANOTHER PARTY’S MOTION**

- (a)** A party seeking relief similar to that requested in another party’s motion must file a separate motion that:
- (1) specifies the relief sought and supporting grounds;
  - (2) indicates approval, adoption, or incorporation by reference of any of the reasons stated, arguments advanced, or authorities cited in the other motion;
  - (3) explains how those reasons, arguments, or authorities apply to the party filing the separate motion; and
  - (4) identifies the title, docket number, and filing date of the other motion.
- (b)** A party may not file a “Notice of Joinder” or “Joinder” to another party’s motion.

**~~DUCrimR 44-2~~ CONSTRAINTS ON JOINT REPRESENTATION**

**~~(a)~~ Statement of Policy.**

~~(b) — An attorney, including attorneys who are associated in the practice of law, must avoid a conflict of interest in undertaking representation. In particular, an attorney must avoid a conflict of interest when representing joint defendants, targets of a grand jury investigation, or potential government witnesses in the same criminal matter, whether before or after any formal charges have been filed. Except as provided below, an attorney may not represent more than one defendant or target in the same criminal matter, nor may an attorney represent a defendant or target in a criminal matter if the attorney has represented or is representing individuals who are potential government witnesses in the same matter. An attorney may not represent joint defendants if the attorney, in making a calculation of any applicable sentencing guideline, may be required to contend for differing levels of culpability of the various persons represented.~~

~~(c) — **Motion, Hearing, and Order.** An attorney who intends to represent two or more persons in the same criminal matter with potential conflicts of interest must (i) conform to the provisions of Fed. R. Crim. P. 44(c), and (ii) file with the court a motion and proposed order permitting joint representation. The attorney must certify to the court that, after careful investigation of potential conflicts of interest, it is clear that no actual conflict exists or is foreseeable. The attorney also must file with any motion for such an order a written certification by each person to be represented, giving informed consent to such joint representation and waiving the right to separate representation and, when applicable, waiving the attorney/client privilege. A response to the motion must be filed by the government within 10 days. At the subsequent hearing, each defendant, target, or potential government witness subject to or affected by joint representation must be in attendance. The court will deny joint representation where a conflict exists, even if consented to by a defendant, target, or potential government witness, if such representation would be contrary to the interest of justice in the case. The government, upon becoming aware of a potential conflict of interest in the representation of a criminal defendant, must promptly notify defendant's counsel of the potential conflict. If defendant's counsel does not respond and, if necessary, resolve the conflict after such notification, the government must file a motion to inform the court.~~

### **DUCrimR 57-3 REASSIGNING A POST-CONVICTION VIOLATION CASE**

**(a) Motion to Reassign.**

When a defendant has both post-conviction violations and other pending criminal charges, a party may file a motion to reassign the lower-numbered case to the judge in the highest-numbered case with pending criminal charges.

**(b) Filing the Motion.**

The motion to reassign must be filed in the highest-numbered case with pending criminal charges.

**(c) Notice.**

The filing party must file a notice of the motion in all cases that could be reassigned under this rule.

**(d) Reassignment.**

A judge without a motion may reassign a post-conviction violation case.

**(e) Order.**

The filing party must email a proposed order in an editable format to chambers of the judge in the highest-numbered case with pending criminal charges.

## ~~DUCrimR 57-4 CRIMINAL CASE PROCESSING~~

### ~~(a) General Authority.~~

~~Criminal cases will be processed in accordance with the requirements of the Speedy Trial Act of 1974, 18 U.S.C. §§ 3161-3174, as amended, and the court's Revised Speedy Trial Plan.~~

### ~~(b) Arrest Date Information.~~

~~At the first court appearance of any person arrested for a federal offense not yet charged in an indictment or information, counsel for the United States will note for the record the date of the arrest. Such date will be recorded on the case docket and utilized by the clerk for initiating the Speedy Trial Act provisions with regard to time limitations and procedural intervals under 18 U.S.C. § 3161(b). The clerk also will initiate such tracking provisions in matters involving persons served with a criminal summons, utilizing the service date of the summons.~~

## ~~DUCrimR 57-7 — PUBLIC COMMUNICATIONS CONCERNING CRIMINAL MATTERS~~

### ~~(a) Statement of Policy.~~

~~A government or defense attorney or member of the same firm or office as the government or defense attorney may not disseminate by means of public communication, or means which could reasonably be anticipated to become public, any information, statement, or other matter which will have a substantial likelihood of preventing a fair trial or directly impeding the due administration of justice. Court supporting personnel, including marshals, deputy clerks, court reporters, probation officers, and their staffs or office personnel (whether employees or independent contractors) may not disclose to any person, without court authorization, any opinion or information relating to a pending investigation or prosecution that is not part of the public record, including information concerning grand jury proceedings or hearings and argument held outside the presence of the public.~~

### ~~(b) Permissible Communications by Attorneys.~~

~~A government or defense attorney may:~~

- ~~(1) — quote without comment from the public record;~~
- ~~(2) — inform the public of the general scope of an investigation or prosecution (including the name of the victim if not prohibited by law);~~
- ~~(3) — warn the public of danger;~~
- ~~(4) — solicit the help of the public in apprehending a suspect or fugitive or in procuring evidence;~~
- ~~(5) — identify an accused by name, age, residence, occupation, and family status;~~
- ~~(6) — announce the circumstances of arrest (including time, place, resistance, pursuit, use of weapons, arresting officer, length of investigation) and the seizure of physical evidence (including description of objects seized); and~~

~~(7) — note the accused's denial of the charges and the accused's intent to seek an acquittal.~~

**~~(c) Impermissible Communications by Attorneys.~~**

~~(1) — A government attorney must make no reference to an accused's prior criminal record, except to the extent that it may be relevant to an explanation of the charges, confessions, or results of tests, or disclose any proposed evidence which the attorney knows or should know would not be admissible at trial, or render an opinion prior to or during trial as to the attorney's personal belief of the accused's guilt or innocence.~~

~~(2) — A defense attorney must not (i) render any personal belief or opinion prior to or during trial as to accused's guilt or innocence, (ii) make any statement attributing the commission of the crime charged to a specific person other than the defendant, or (iii) disclose evidence that the attorney knows or should know would not be admissible at trial, which evidence could materially affect the fairness of the proceedings.~~

**~~(d) Sanctions for Rule Violation.~~**

~~Any attorney who violates the provisions of sections 57-7 (a) or (c) will be subject to such sanctions as the court deems just and proper. Such discipline may be entered by the court sua sponte or upon motion of a party.~~

## ~~DUCrimR 57-9 MOTIONS FOR POST-CONVICTION RELIEF~~

### ~~(a) Form of Motion.~~

~~All motions for post-conviction relief under 28 U.S.C. § 2255 by a person in federal custody must be in writing and in substantially the standard form prescribed by the Rules Governing Section 2255 Proceedings for the United States District Courts, as set forth following 28 U.S.C. § 2255.~~

### ~~(b) Duties of the Clerk.~~

~~The Clerk of Court will make blank forms available upon request and without charge. Upon receiving any motion which does not substantially comply with the prescribed form, the clerk will file the motion but notify the applicant of the requirements of this rule and provide to the applicant the correct form with instructions to complete and return it to the court.~~

### ~~(c) Service Upon the Government.~~

~~All motions filed under this rule must state with particularity the reasons for the post-conviction relief. A copy of the motion must be served upon the United States Attorney's Office. The district judge or magistrate judge will review the petition under Rule 4, Rules Governing Section 2255 Proceedings. If the motion warrants a response, an order will be made requiring the United States Attorney to respond to the motion and a time for reply will be set. The order may direct the United States Attorney to present appropriate documentation or information on the motion.~~

### ~~(d) Assignment of Motion to Appropriate District Judge.~~

~~The Clerk of Court, upon receipt of any motion filed under this rule, will notify the district judge who originally sentenced the applicant or, if that judge is unavailable, the clerk will so notify the judge otherwise assigned to the case.~~



**~~(e) Discretionary Assignment of Motion to Magistrate Judge.~~**

~~The court may refer the motion to a magistrate judge for investigation, recommendation, or final determination.~~

**~~(f) Discretionary Hearing.~~**

~~Unless otherwise ordered by the court upon motion by the applicant, no oral submission or hearing will be held upon the motion.~~

**~~(g) Authority for Proceedings.~~**

~~The proceedings on a motion under 28 U.S.C. § 2255 will be processed in conformity with statute and the Rules Governing Section 2255. The motion must state all bases for relief. Successive petitions may be denied under Rule 9, Rules Governing Section 2255 Proceedings.~~

**~~DUCrimR 57-10 — RELIEF FROM STATE DETAINER~~**

~~No petition lodged or filed by a prisoner under the provisions of the Interstate Agreement on Detainers (18 U.S.C., Appendix III) for relief of any sort from the effect of a state detainer will be entertained unless (i) the petitioner, at least 180 days prior to the date of lodging or filing a petition, transmits, through the warden or other official having petitioner's custody, to the prosecuting officer of the jurisdiction in which the case giving rise to the detainer is pending, and to the appropriate court, a written notice of the place of imprisonment and the petitioner's request for a final disposition of the indictment, information, or complaint upon which the detainer is based; and (ii) the petitioner has not been brought to trial on such indictment, information, or complaint.~~

## **DUCrimR 57-16 REVIEW OF MAGISTRATE JUDGE DETENTION AND RELEASE ORDERS**

### **(a) Motion.**

A party may file a motion seeking review of a magistrate judge's order releasing or detaining a defendant or material witness under 18 U.S.C. § 3145. A response is not required unless the court orders otherwise.

### **(b) Hearing.**

The district judge will promptly schedule a hearing on the motion to conduct a de novo review.

### **(c) Motion to Stay the Magistrate Judge's Detention or Release Order.**

If a party files a motion to stay the magistrate judge's order, the magistrate judge who issued the release or detention order will decide the motion to stay.

## **DUCrimR 58-1      PETTY AND MISDEMEANOR OFFENSES**

### **(a) Collateral Forfeiture Schedule.**

The Collateral Forfeiture Schedule can be found on the court's website and establishes the payment of a fixed sum for certain petty and misdemeanor offenses. Payments must be made to the Central Violations Bureau.

### **(b) Resolution.**

A citation for a petty or misdemeanor offense may be resolved by:

- (1) timely paying the collateral forfeiture amount identified in the court's Collateral Forfeiture Schedule in lieu of appearing before a magistrate judge in eligible cases;
- (2) paying a collateral forfeiture amount that is less than the amount identified in the court's Collateral Forfeiture Schedule, either before or after appearing before a magistrate judge and as agreed to by the government and approved by the court;
- (3) negotiating an alternative resolution with the government in lieu of, or in addition to, paying a collateral forfeiture amount;
- (4) seeking dismissal for good cause or in the interest of justice, either before or after appearing before a magistrate judge and as agreed to by the government and approved by the court;
- (5) paying the collateral forfeiture amount as designated by a magistrate judge; or
- (6) asserting applicable rights at trial.

### **(c) Appearance Before a Magistrate Judge and Failure to Appear.**

- (1) Appearance Not Required.

Appearance in court is not required for petty or misdemeanor offenses on

the Collateral Forfeiture Schedule if the individual pays the collateral forfeiture amount.

(2) Appearance Required.

If the citation states a mandatory court appearance is required, an individual cited for a petty or misdemeanor offense must appear before a magistrate judge. A notice will issue designating the place, date, and time for the appearance.

(3) Failure to Appear and Warrant.

The court may issue a warrant for an individual that has been cited for a petty or misdemeanor offense and fails to appear in court as required. A warrant remains active until the court orders otherwise.

**(d) Effect of Payment and Non-Payment of Collateral Forfeiture.**

- (1) The collateral forfeiture is not a fine. Paying the collateral forfeiture amount in full resolves the case without an admission of liability or an adjudication of guilt and is not reported to any state or tribal government.
- (2) Incomplete, partial, or untimely payment may result in the court reissuing a citation for the original offense or a warrant. If a citation is reissued, the court may give credit for any payment already rendered.

**DUCrimR 58-2          APPEAL OF A MAGISTRATE JUDGE’S ORDER IN MISDEMEANOR  
AND PETTY OFFENSES**

**(a) Notice of Appeal.**

A party appealing a magistrate judge’s order to a district judge must file and serve a notice within 14 days after entry of the order. The district judge may decide the issue without a hearing, unless the court orders otherwise or grants a written request for a hearing filed by the appellant.

**(b) Briefs.**

- (1) Appellant’s brief must be filed and served within 14 days after filing the notice of appeal.
- (2) Appellee’s brief must be filed and served within 14 days after service of appellant’s brief.
- (3) Appellant may file and serve a reply brief within 7 days after service of appellee's brief.

**(c) Page and Word Limitations.**

- (1) Briefs. An opening brief must not exceed 20 pages or 6,200 words. A reply brief must not exceed 10 pages or 3,100 words.

- (2) Overlength Briefs.

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 brief that exceeds the page or word limits in section 58-2(b). The motion must be filed, and the order obtained, before filing the overlength brief. The motion to exceed the page or word limit must include:

- (A) the number of additional pages or words that are needed; and
- (B) a statement of good cause why additional pages or words are needed.

**(d) Service.**

Serving and filing an appeal must comply with Fed. R. Civ. P. 5.

**DUCrimR 59-1      OBJECTION TO AND MOTION TO STAY A MAGISTRATE JUDGE  
ORDER**

DUCivR 72-3 governs an objection to and a motion to stay a magistrate judge's order.



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Supervising Attorney's Name

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Address

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City, State, Zip

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Phone

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Email

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THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

---

Plaintiff,

vs.

---

Defendant.

**Consent to Participate in Court Proceedings**  
(DUCivR 83-1.5)

---

Case Number: *(including assigned judge initials and referred magistrate judge initials, if applicable)*

---

District Judge

---

Magistrate Judge

1. (Choose one):

☐ I am currently enrolled in law school and I have completed at least two semesters of legal studies at an ABA approved law school or the equivalent (if the school is not on a semester basis).

☐ I am a law school graduate as defined under the Utah Supreme Court Rule of Professional Practice 14-807 and incorporated by DUCivR 83-1.5 (If selected, skip to signature section.).

2. ☐ I am a law student, and (Choose all that apply.):

☐ I will be participating in evidentiary hearings and have successfully passed a law school course in evidence.

☐ I will be participating in criminal evidentiary hearings and have successfully passed a law school course in criminal procedure.

**Student or Graduate**

Signature



\_\_\_\_\_

Date

Student or Graduate's Printed Name

\_\_\_\_\_

\_\_\_\_\_

**Supervising Attorney**

I am a resident attorney admitted to practice law before this court. This student or graduate's participation will be under my direct and immediate personal supervision and I will be present at the hearings required under DUCivR 83-1.5.

Signature



\_\_\_\_\_

Date

Supervising Attorney's Printed Name

\_\_\_\_\_

\_\_\_\_\_

**Client(s)**

☐ I/We consent to this student or graduate's participation in this matter.

Signature



\_\_\_\_\_

Date

Client's Printed Name

\_\_\_\_\_

\_\_\_\_\_

Signature



\_\_\_\_\_

Date

Client's Printed Name

\_\_\_\_\_

\_\_\_\_\_

**Judge** I permit this student to participate in this matter consistent with DUCivR 83-1.5.

Signature



\_\_\_\_\_

Date

Judge's Printed Name

\_\_\_\_\_

\_\_\_\_\_

On the record at a hearing that occurred on \_\_\_\_\_ this day of \_\_\_\_\_, 202X,  
the judge permitted this student to participate in this matter consistent with DUCivR 83-  
1.5.

Signature



\_\_\_\_\_

Date

Supervising Attorney's Printed Name

\_\_\_\_\_

\_\_\_\_\_