

UNITED STATES DISTRICT COURT DISTRICT OF UTAH  
NOTICE TO THE MEMBERS OF THE BAR AND THE PUBLIC



AUGUST 24, 2021

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

Proposed changes to the Local Rules of Practice

**Public Comment Opportunity Expires on September 10, 2021, at 5:00 p.m.**

The Advisory Committee on the Local Rules of Practice invites your comments regarding the following rule changes:

**CIVIL RULES**

<b>DUCivR 5-1</b>	<b>Filing and Electronic Notification (Amended)</b> Amended to eliminate the requirement that an unrepresented party must file a motion to email file documents. Clarified that an unrepresented party may register to file documents with the court by emailing them to the Clerk's Office and that an unrepresented party may register to receive electronic notification of case activity. Specified the process for date-stamping a conventionally filed document and for calculating a response date to a conventionally filed document. General cleanup for clarity and to improve readability
<b>DUCivR 5-4</b>	<b>Habeas Corpus Petitions and Civil Rights Complaints (Amended)</b> Eliminated duplicative sections that are already contained in DUCivR 3-2. General cleanup for clarity and to conform to current practice.
<b>DUCivR 5.2-1</b>	<b>Redacting Personal Identifiers (Amended)</b> General cleanup for clarity and to conform to current practice.
<b>DUCivR 6-1</b>	<b>Filing Deadlines When Court Is Closed (Amended)</b> General clean up to improve readability. Eliminated the cross reference to DUCivR 77-2.
<b>DUCivR 7-1</b>	<b>Motions and Memoranda (Amended)</b> The rule was restructured to improve readability and to enhance clarity. Amendments were made to the page and word limit

	requirements, when an overlength brief can be permissibly filed, and how to properly raise an evidentiary objection.
<b>DUCivR 7-2</b>	<b>Citing Unpublished Opinions (Amended)</b> General cleanup for clarity and readability.
<b>DUCivR 7-3</b>	<b>Request to Submit for Decision (Amended)</b> Clarifies that a request to submit a motion for decision is not required. General cleanup for clarity and readability.
<b>DUCivR 7-4</b>	<b>Filings in All Actions Seeking Judicial Review of a Decision from an Administrative Agency (Amended)</b> The rule was restructured to improve readability and to enhance clarity. The title sections are reflective of the process in which an administrative appeal moves through the system. The amendments clarify when the court will issue a scheduling order and the corresponding federal appellate rules that practitioners need to observe when preparing briefs.
<b>DUCivR 7-5</b>	<b>Hyperlinks in Court Filings (Amended)</b> General cleanup for clarity and readability.
<b>DUCivR 9-1</b>	<b>Allocation of Fault (Amended)</b> General cleanup for clarity and readability.
<b>DUCivR 10-1</b>	<b>General Format of Papers (Amended)</b> General cleanup for clarity and readability.
<b>DUCivR 23-1</b>	<b>Designation of Proposed Class Action (Amended)</b> General cleanup for clarity and readability. Clarified the process for commencing and moving to certify a class action.
<b>DUCivR 56-1</b>	<b>Summary Judgment: Motions and Supporting Memoranda (Amended)</b> General cleanup for clarity and readability.

## CRIMINAL RULES

<b>DUCrimR 1-1</b>	<b>Scope and Availability; Amendments; Prior Rules (Amended)</b> Amended the rule title, general cleanup for clarity, and used corresponding language from DUCivR 1-1 for consistency between the rules.
<b>DUCrimR 1-2</b>	<b>Sanctions for Criminal Rule Violations (Amended)</b> General cleanup for clarity and used corresponding language to mirror DUCivR 1-2 for consistency between the rules.
<b>DUCrimR 5-1</b>	<b>Initial Appearance of Persons Under Arrest (Eliminated)</b> Eliminates the current rule. Federal Rule of Criminal Procedure 5 will

	govern initial appearances.
<b>DUCrimR 6-1</b>	<b>Returns of Grand Jury Indictments (Eliminated)</b> Eliminates the current rule. Federal Rule of Criminal Procedure 6 will govern returns.
<b>DUCrimR 9-1</b>	<b>Issuance of Arrest Warrants on Complaints (Eliminated)</b> Eliminates the current rule. Federal Rule of Criminal Procedure 9 will govern arrest warrant or summons on an indictment or information.
<b>DUCrimR 11-1</b>	<b>Plea Agreement (Amended)</b> Deleted the reference to restitution and removed duplicative requirements already contained in the Federal Rule.
<b>DUCrimR 17-1</b>	<b>Sealing of Ex Parte Motions and Orders in Criminal Justice Act Cases Related to Trial Subpoenas (Amended)</b> General cleanup for clarity and to conform to current practice.
<b>DUCrimR 17-2</b>	<b>Motions for Subpoenas of Documents and Objects (Amended)</b> General cleanup for clarity and to improve readability. Identified the process a party must undertake to notify the purported victim that their personal or confidential information is being subpoenaed before the court will issue the subpoena.
<b>DUCrimR 20-1</b>	<b>Transfer Under Fed. R. Crim. P. 20 (Amended)</b> Changed the title. General cleanup for clarity and to conform to current practice. Incorporates portions of DUCrimR 20-2.
<b>DUCrimR 20-2</b>	<b>Transfer to the District for Pleas or Sentencing (Eliminated)</b> Consolidated into DUCrimR 20-1.
<b>DUCrimR 30-1</b>	<b>Instructions to the Jury (Eliminated)</b> Eliminates the current rule. Federal Rule of Criminal Procedure 30 will govern in conjunction with the judges' orders on jury instructions.

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) ([link sends e-mail](#)). The deadline for submitting suggestions or proposals to be considered during the next local rules amendment cycle is May 1, 2022.

## DUCivR 5-1 FILING AND ELECTRONIC NOTIFICATION

### (a) Electronic Filing.

Except as otherwise permitted in this rule, a party authorized to electronically file must sign and file documents as required in the District of Utah CM/ECF and Efiling Administrative Procedures Manual (ECF Procedures Manual).

### (b) Email Filing and Electronic Notification of Case Activity.

#### (1) Unrepresented Parties.

(A) *Registration for Email Filing and Electronic Notification.* An unrepresented party may register to email documents to the Clerk's Office for filing and to receive email notification of case activity.

(i) *Form.* To register, the party must send the Email Filing and Electronic Notification Registration Form for Unrepresented Parties to the Clerk's Office. The form is available on the court's website, and it may be hand-delivered, mailed, or emailed ([utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov)) to the Clerk's Office.

(ii) *Certification.* By signing the form, the party certifies that:

- (a) documents will be emailed to the court in appropriately sized PDF format consistent with the requirements in the ECF Procedures Manual;
- (b) documents will meet the redaction requirements outlined in DUCivR 5.2-1, or the party will email a motion to file the documents under seal consistent with DUCivR 5-3, to the Clerk's Office for filing;
- (c) an appropriate electronic signature, as outlined in Section II(A) of the ECF Procedures Manual, will be used on all documents;

- (d) the formatting requirements outlined in DUCivR 10-1 and the ECF Procedures Manual will be followed;
  - (e) consent is given to receive by email all filings that are required to be served under Fed. R. Civ. P. 5(a) and 77(d) and Fed. R. Crim. P. 49;
  - (f) service by email constitutes service under the above rules, and the right to service by mail is waived;
  - (g) under Fed. R. Civ. P. 5, all documents will be served on parties who are not served through the court's CM/ECF system using mail, hand-delivery, or some other agreed-upon method;
  - (h) electronic notification requires a separate account with Public Access to Court Electronic Records (PACER), and PACER may require payment of fees to view documents;
  - (i) a valid email address will be provided to receive court communications and notices; and
  - (j) notification of any name, mailing address, or email address changes will be immediately emailed to the Clerk's Office for filing.
- (iii) *Email Subject Line.* When emailing documents to the Clerk's Office for filing, the subject line must include the case number and document name.
- (iv) *Filing Date.* Except for case-initiating documents, the filing date for a document is the date the email is sent.
- (v) *Email Notification in All Cases.* An unrepresented party who registers to receive electronic notification of case activity will

automatically receive email notification in all cases in which they are a party in this court.

(vi) *Highly Sensitive Material*. If a document contains highly sensitive material, as defined in General Order 21-002, that could be compromised by email transmission, then the document must be hand-delivered or mailed to the Clerk's Office for filing.

(vii) *Sanction*. The court may, on its own or on a party's motion, revoke an unrepresented party's ability to file by email and/or receive electronic notice after a determination that the privilege has been abused. If this occurs, the unrepresented party will cease to receive email notification of case activity in all cases in which they are a party.

Examples of circumstances when a party abuses the privilege include repeatedly submitting:

- (a) nonconforming documents or exhibits to the clerk for filing;
- (b) incomplete documents to avoid missing a deadline;
- (c) documents that needlessly complicate the proceedings or harass the court, the clerk, or the opposing party; or
- (d) documents containing viruses, worms, ransomware, spyware, malware, or other files compromising the security of the court's computer systems.

(B) *Registration for Electronic Notification (Without Email Filing)*. An unrepresented party may register to receive electronic notification of case activity without registering for email filing.

- (i) *Form.* To register, the party must send the Email Filing and Electronic Notification Registration Form for Unrepresented Parties to the Clerk’s Office. The form is available on the court’s website, and it may be hand-delivered, mailed, or emailed ([utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov)) to the Clerk’s Office.
  - (ii) *Certification.* In filing the form, the unrepresented party consents to sections (b)(1)(A)(ii)(e)-(j) above.
  - (iii) *Filing and Service.* A party receiving electronic notification must continue to file all documents in paper and effectuate service consistent with the federal rules and sections (b)(1)(A)(ii)(e)-(g) above.
  - (iv) *Email Notification in All Cases.* An unrepresented party who registers to receive electronic notification of case activity will automatically receive email notification in all cases in which they are a party in this court.
- (2) Attorneys.
- (A) *Exceptions to Electronic Filing.* An attorney must email, mail, or hand-deliver to the Clerk’s Office a document for filing when it:
    - (i) initiates a case;
    - (ii) is a proposed summons or writ; or
    - (iii) is to be filed in a sealed case.
  - (B) *Filing Date.* Except for case-initiating documents, the filing date of an emailed document is the date the email is sent.
  - (C) *Highly Sensitive Material.* If a document contains highly sensitive material, as defined in General Order 21-002, that could be compromised by email transmission, then the document must be hand-delivered or mailed to the Clerk’s Office for filing.

**(c) Paper Filing.**

- (1) Delivery. A document filed in paper must be delivered to the Clerk's Office in Salt Lake City as follows:
  - (A) in person during the business hours set forth in DUCivR 77-1; or
  - (B) by mail.
- (2) Receipt by Clerk's Office. Upon receipt of a paper document, the Clerk's Office will place a receipt date stamp on the document. The document will be electronically filed as of the receipt date stamp.
- (3) Courtesy Copy. A party does not need to provide a courtesy copy unless specified in the [judge's preferences](#) on the court's website. A party must clearly label any courtesy copy on the caption page.
- (4) Service.
  - (A) *Service on Unrepresented Parties*. A party filing a paper document must serve a copy on any unrepresented party who does not receive electronic notification of case activity.
  - (B) *Calculation of Dates*.
    - (i) A paper served and filed by U.S. mail is timely if the postmark is on or before the last day for filing or service, regardless of the receipt date stamp.
    - (ii) If the postmark is illegible or missing, the paper document is presumed served and filed 3 days before the court's receipt date stamp.
    - (iii) The deadline to respond to a filed paper document will be calculated from the Clerk's Office receipt date stamp.
    - (iv) This rule does not affect the response time to a document that is not filed but is served on a party (e.g., a response to a



discovery request, which is controlled by the Federal Rules of Civil Procedure).

- (5) Retention of a Paper Document. The Clerk's Office will not retain a paper document after it has been electronically filed.

**(d) Filing Deadline in Absence of Rule or Court Order.**

When a filing deadline is not specified in an applicable rule or the court has not set a deadline, a document related to a court proceeding must be filed a minimum of 2 business days before the scheduled proceeding.

## **DUCivR 5.2-1 REDACTION OF PERSONAL IDENTIFIERS AND PROTECTED INFORMATION**

### **(a) Redacting Personal Identifiers in Court Filings.**

A party must redact the personal identifiers listed in Fed. R. Civ. P. 5.2 in every court filing.

### **(b) Redaction of Protected Information.**

- (1) A protective order entered under Fed. R. Civ. P. 26(c) may include a redaction requirement for public filings.
- (2) The court may, on its own or on a party's motion, order redaction of protected information in public court filings. When a party requests redaction of protected information, they must proceed under DUCivR 7-1.

### **(c) Reviewing Transcripts to Redact Personal Identifiers.**

- (1) Within 14 days after receiving notice that a court reporter has filed an original transcript, a party must review the following transcript sections for personal identifiers:
  - (A) opening and closing statements made on the party's behalf;
  - (B) statements of the party;
  - (C) the testimony of any witnesses called by the party; and
  - (D) any other portion of the transcript if ordered by the court.
- (2) If no redactions are necessary, no action is needed, and the transcript will be electronically available on PACER 90 days after a court reporter files the original transcript.

### **(d) Procedure for Redacting Transcripts.**

If redaction is required:

- (1) within 21 days after receiving notice that a transcript has been filed, a party must file a Notice of Intent to Request Redaction;

- (2) within 42 days after receiving notice that a transcript has been filed, a party must file a Redaction Request, specifically identifying the page and line number and the specific redaction requested; and
- (3) within 63 days after filing the transcript, a court reporter must make the requested redactions and file the redacted transcript.

## **DUCivR 5-4 HABEAS CORPUS PETITIONS AND PRISONER CIVIL RIGHTS COMPLAINTS**

### **(a) Forms.**

An incarcerated party must use forms that are substantially the same as those forms available from the Clerk of Court when filing:

- (1) habeas corpus petitions under 28 U.S.C. §§ 2254 or 2255;
- (2) complaints under 42 U.S.C. §§ 1983 or 1985; or
- (3) complaints under any other civil-rights statute, if a form is available.

### **(b) Answers.**

The responding party need not answer a petition for writ of habeas corpus filed under 28 U.S.C. §§ 2254 or 2255 until the court notifies the parties that an answer is required.

**DUCivR 6-1 FILING DEADLINES WHEN COURT IS CLOSED**

When the court is closed by order of the Chief Judge, a deadline that falls on that day is extended to the next day the court is open.

## 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 subsection (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) 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).”).

(6) Overlength Motion, Response, or Reply.

- (A) Before filing a motion, response, or reply that exceeds the page or word limits in subsection (a)(4), a party must first obtain a court order authorizing the additional pages or words. 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.
- (7) 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.
- (8) 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 2 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 subsection (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](mailto: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 CM/ECF and Efiling Administrative 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 accordance with the rule;
- (2) denial of the motion; or
- (3) any other sanction that the court deems appropriate.

## DUCivR 7-2 CITING UNPUBLISHED JUDICIAL DECISIONS

### (a) Permitted Citation.

- (1) An unpublished decision is a judicial opinion, order, judgment, or other written disposition that is designated “unpublished,” “not for publication,” “non-precedential,” “not precedent,” or the like.
- (2) A party may cite to an unpublished decision for its persuasive value or under the doctrines of law of the case, claim preclusion, or issue preclusion.

### (b) Citation Form.

A citation to an unpublished decision must include an appropriate parenthetical notation stating that it is unpublished and a reference to an electronic database, when possible (e.g., *United States v. Keeble*, No. 05-5190, 184 F. App'x. 756, 2006 U.S. App. LEXIS 14871 (10th Cir. June 15, 2006) (not selected for publication); *United States v. Gartrell*, No. 2:04CR97 DB, 2005 WL 2265362 (D. Utah Sept. 7, 2005) (unpublished)).

### (c) Copies.

If an unpublished decision is not available in a publicly accessible electronic database, a party must attach a copy to the filed document. Even if a decision is publicly accessible, a party must provide a copy to the court or another party upon request.

### **DUCivR 7-3 REQUEST TO SUBMIT FOR DECISION**

**(a) Not Required.**

A request to submit a motion for decision is not required.

**(b) If a Request Is Filed.**

If a party files a request, it must state:

- (1) the date on which the motion was filed;
- (2) the date the response, if any, was filed;
- (3) the date the reply, if any, was filed; and
- (4) whether a hearing has been requested.

**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, the Federal Rules of Civil Procedure apply unless other law or these rules require otherwise.<sup>1</sup>

**(b) Initial Filings.**

(1) In response to a petition for review, 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—

(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.

(2) If the action seeks review of a Social Security Administration Commissioner's decision, the agency must file the administrative record along with the short and plain statement.

(3) The following responsive pleadings are not allowed:

(A) an answer;

(B) a motion for judgment on the pleadings;

<sup>1</sup> 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.

- (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 subsection (b)(1)(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) the Opening Brief, which must be filed using the CM/ECF event, “Motion for Review of Agency Action”;
    - (v) the 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.”<sup>2</sup>

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

**(d) Briefs 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 the court orders otherwise on showing of good cause:
  - (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
  - (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.

<sup>2</sup> 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.



## DUCivR 7-5 HYPERLINKS IN DOCUMENTS

### (a) Recommended.

The following hyperlinks are recommended in any document filed with the court:

- (1) hyperlinks to portions of the same document or material elsewhere in the court's record; and
- (2) hyperlinks to a government site or to legal authority from recognized electronic research services, provided that a standard citation form is also used to locate the authority.

### (b) Permitted.

A hyperlink to any other resource not identified in subsection (a)(2) is permitted in any document filed with the court, provided that the party inserting the hyperlink:

- (1) downloads the content and files it in PDF format as an exhibit to the document; or
- (2) if the content cannot be filed electronically (e.g., an audio or video recording), files a Notice of Conventional Filing under Section II(E)(6) of the [District of Utah CM/ECF Administrative Procedures Manual](#) and attaches the content to the notice.

## **DUCivR 9-1 ALLOCATION OF FAULT**

### **(a) Filing Requirements.**

Any party that seeks to allocate fault to a nonparty under Utah Code §§ 78B-5-817 through 823, must file:

- (1) a description of the factual and legal basis on which fault can be allocated;  
and
- (2) information known or reasonably available to the party that identifies the nonparty, including name, telephone number, address, and employer. If the identity of the nonparty is unknown, the party must state this in the filing.

### **(b) Disclosure Requirements.**

- (1) If the information in subsection (a) is known when filing a responsive pleading, a party's responsive pleading must include it.
- (2) If the information in subsection (a) is unknown when filing a responsive pleading, a party must file a supplemental notice containing the information within a reasonable time after the party discovers the factual and legal basis on which fault can be allocated. The notice must be filed:
  - (A) by the deadline specified in the scheduling order, unless the court orders otherwise on a motion and good cause shown; and
  - (B) in no event later than 90 days before trial.

## DUCivR 10-1 FORMAT OF DOCUMENTS

### (a) Format Requirements.

- (1) Paper and Margins. A document presented for filing must be single-sided and formatted to 8½ x 11 inch plain, white paper with a top margin of at least 1½ inches and remaining margins of at least 1 inch.
- (2) Electronic Document. A document filed in CM/ECF must comply with the latest version of the [District of Utah CM/ECF and Efiling Administrative Procedures Manual](#).
- (3) Font and Font Size. Font must be clearly legible and a minimum size of 12 point, including footnotes.
- (4) Spacing. Text must be double-spaced, except for block quotes and footnotes.
- (5) Pagination. Document pages must be numbered consecutively.
- (6) Contact Information and Caption. The first page of each document must include contact information of the filer and a caption identifying the document.
  - (A) Contact information to be listed in the upper left-hand corner above the caption:
    - (i) counsel's name and Utah State Bar number,<sup>1</sup> or if self-represented, the party's name;
    - (ii) counsel's law firm name;
    - (iii) mailing address;
    - (iv) telephone number;
    - (v) email address;

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<sup>1</sup> An attorney who is an active member of the District of Columbia or a state bar other than the Utah State Bar is not required to include a bar number.

- (vi) the party that counsel represents; and
  - (vii) if counsel is entering a limited appearance, the words “Limited Appearance” conspicuously placed.
- (B) Case information to be included in the caption table:
- (i) name of parties;
  - (ii) title of the document (e.g., Motion to Dismiss);
  - (iii) case number; and
  - (iv) the name of the assigned judge and referred magistrate judge, if applicable.

Counsel's Name and Utah State Bar Number (or Party's Name if self-represented)  
Law Firm Name  
Mailing Address  
Telephone  
Email Address  
Attorney for  
(Limited Appearance, if applicable)

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**THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

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**JOHN DOE,  
Plaintiff,  
v.  
JANE DOE,  
Defendant.**

**TITLE OF DOCUMENT**

**Case No.** \_\_\_\_\_

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

**Assigned Judge**

**Referred Magistrate Judge (if applicable)**

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- (7) Jury Demand. When a jury trial is permitted by rule or statute and the party is requesting a jury, the words "JURY DEMANDED" should be placed in capital letters in the caption of the initial pleading immediately below the title;
- (8) Signatures. Every document, excluding exhibits, must be signed by counsel or the unrepresented party.
- (A) Electronically filed documents may be signed with a scanned signature or an electronic signature. An electronic signature must

comply with requirements in the latest version of the [District of Utah CM/ECF and Efiling Administrative Procedures Manual](#).

- (B) Counsel may sign a document for another attorney whose name appears on the filing if the electronic signature indicates that the attorney authorized the signature.

**(b) Exhibits.**

Exhibits that accompany court filings must be separated by a cover page that clearly identifies each exhibit. Exhibits attached to a judge's courtesy copy must include tabbed dividers.

**(c) Non-Conforming Documents.**

The Clerk's Office may require counsel or a self-represented party to refile documents that do not conform to the requirements of this rule.

## **DUCivR 23-1 DESIGNATION OF PROPOSED CLASS ACTION**

### **(a) Caption.**

The complaint or other pleading asserting a class action must include the words "Proposed Class Action" in the caption.

### **(b) Class Allegation Section.**

The complaint or other pleading must contain a separate section setting forth the following:

- (1) the definition of the proposed class;
- (2) the size of the proposed class;
- (3) the adequacy of representation by the class representative;
- (4) the common questions of law and fact;
- (5) the typicality of claims or defenses of the class representative;
- (6) the nature of the notice to the proposed class; and
- (7) if proceeding under Fed. R. Civ. P. 23(b)(3), the facts addressing the considerations listed in subsections (A) through (D).

### **(c) Motion for Certification.**

(1) In any case involving a proposed class action, as part of the conference required by Fed. R. Civ. P. 26(f), the parties must discuss and include in the Attorney Planning Meeting Report the following:

- (A) a proposed briefing schedule for a Motion for Class Certification;
- (B) any departure from the page limits of DUCivR 7-1;
- (C) whether discovery should be bifurcated to address the facts necessary for a determination of the sufficiency of the class;
- (D) whether the initial scheduling order should address only discovery relevant to the Motion for Class Certification, with a subsequent scheduling order to enter after determination of the certification motion; and

- (E) how the plan is consistent with the requirement in Fed. R. Civ. P. 23(c) that the certification question be decided “[a]t an early practicable time after a person sues or is sued as a class representative.” In the typical case, any class discovery should be completed, and the Motion for Class Certification should be filed, within 90 days after the parties’ Rule 26(f) conference.
- (2) Unless otherwise agreed by the parties or ordered by the court, the filing of a motion under Fed. R. Civ. P. 12(b) stays an obligation to file or respond to a Motion for Class Certification until the Rule 12(b) motion is resolved.



## **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(s) at issue, the response(s), and specifying why those responses or objections are inadequate, and;
  - (B) requesting to meet and confer, either in person or by telephone, and including suggested dates and times.

### **(b) Short Form Discovery Motion.**

- (1) If the discovery disputes remain 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 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 (a)(2) was sent to opposing counsel, unless the

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

- (3) The opposing party must file its response 5 business days<sup>1</sup> after the filing of the motion, unless the court orders otherwise. The response must not exceed 500 words, exclusive of caption and signature block.
- (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) Any request for overlength briefing must accompany, and not replace, the substantive argument about the discovery dispute.

**(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.”

The screenshot shows a web interface for selecting events. At the top, there is a search bar with the text "Start typing to find another event." Below this are two columns of event lists. The left column is titled "Available Events (click to select events)" and contains a scrollable list of event names. The right column is titled "Selected Events (click to remove events)" and contains a scrollable list of selected event names. At the bottom of the interface are two buttons: "Next" and "Clear".

Available Events (click to select events)	Selected Events (click to remove events)
Enforce Judgment	Short Form Discovery
Entry of Default	Expedite
Entry of Judgment	
Exclude	
<b>Expedite</b>	
Extension of Time	
Extension of Time re Transcript	
Extension of Time to Amend	
Extension of Time to Complete Discovery	
Extension of Time to File Answer	
Extension of Time to File Response/Reply	
File Amicus Brief	
File Excess Pages	
Forfeiture of Property	
Hearing	

<sup>1</sup> 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 for the conference.

**(e) Deposition Disputes.**

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 efficiently resolved by contacting the assigned judge by phone.

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

- (1) Fed. R. Civ. P. 72(a) and DUCivR 72-3 govern objections to the magistrate judge's oral or written ruling.
- (2) When filing an objection, the party must seek expedited treatment.

## 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.

A party must address all summary judgment issues in a single motion. If a party files more than one 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, 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 Relief Requested and the Statement of Undisputed Material Facts sections. Factual summaries in the background section 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 citations must cite to the Appendix.

**(c) Response.**

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

- (1) Introduction. A concise summary 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 section and the Response to Statement of Undisputed Material Facts section. Factual summaries in the background section are not limited to undisputed facts and do not need to 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 a citation 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 moving to strike the inadmissible fact. Any 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 party's Statement of Undisputed Material Facts.

**(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 to 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:
  - (A) include 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) include 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.**

When 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.

**DUCrimR 1-1 SCOPE; AVAILABILITY; NOTICE OF RULE CHANGES; EFFECT ON PENDING CASES**

**(a) Scope.**

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

**(b) Availability.**

DUCivR 1-1(a) governs access to copies of these rules.

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

DUCivR 1-1(b) governs the court's process for providing a public comment period on proposed substantive rule changes and providing notice of adopted changes.

**(d) Effect on Pending Cases.**

DUCivR 81-1(b) governs the effect of rule changes on pending proceedings.



## **DUCrimR 1-2 SANCTIONS FOR CRIMINAL RULE VIOLATIONS**

On a party's motion or on its own, the court may impose sanctions against an attorney, a party, or both for violating these rules. Sanctions include costs, reasonable attorney's fees, a fine, a combination of these, or any other sanction the court deems appropriate.

~~**DU Crim R 5-1 INITIAL APPEARANCE OF PERSONS UNDER ARREST**~~

~~When the marshal receives custody of any person under arrest, whether charged in this district or elsewhere, the marshal must promptly inform the magistrate judge and the United States Attorney's Office. The magistrate judge will promptly schedule an appearance of the arrested person.~~

~~**DU Crim R 6-1 — RETURNS OF GRAND JURY INDICTMENTS**~~

~~In accordance with Fed. R. Crim. P. 6(f), all grand jury indictments must be returned to a United States district or magistrate judge in open court. The indictment the Clerk's Office will immediately file the indictment, will be filed immediately with the Clerk of Court, and the the defendantss will be scheduled to appear before the a magistrate judge for arraignment.~~

~~DUCrimR 9-1 ISSUANCE OF ARREST WARRANTS ON COMPLAINTS, INFORMATION,  
AND INDICTMENTS~~

~~(a) Summons or Warrant Request Upon Indictment, Information, or Complaint.~~

~~When a complaint is filed under Fed. R. Crim. P. 4(a), a summons request may be made either orally or in writing. A summons must be issued upon the filing of an indictment or information unless the government (i) submits to the court a written request for a warrant or (ii) specifically requests no service of process. A warrant request must include a brief statement of the facts justifying the arrest of the defendant. A warrant may be issued on an information only if it is accompanied by a written probable cause statement given under oath.~~

~~(b) Warrant Upon Failure to Appear.~~

~~If a defendant fails to appear in response to a summons, a warrant must be issued if, prior to issuing the warrant, the assigned district judge or magistrate judge is satisfied either (i) that the defendant received actual notice of the hearing; or (ii) that it is impractical under the circumstances to secure the defendant's appearance by way of summons.~~

## **DUCrimR 11-1 PLEA AGREEMENT**

### **(a) Plea Agreement.**

In addition to the requirements of Fed. R. Crim. P. 11, a plea agreement in a felony case must be in writing and signed by the government, defense counsel, and the defendant. The plea agreement must be accompanied by a written stipulation of facts relevant to a plea of guilty.

### **(b) Cooperation Agreement.**

A cooperation agreement must be in writing and signed by the government, defense counsel, and the defendant. The government will retain the agreement.

**DUCrimR 17-1 SEALING OF EX PARTE MOTIONS AND ORDERS IN CRIMINAL JUSTICE  
ACT CASES RELATING TO WITNESS SUBPOENAS**

A defendant's ex parte motion for a subpoena under Fed. R. Crim. P. 17(b) must be filed under seal. The Clerk's Office must also file the related order under seal and send a copy to the moving party.

## **DUCrimR 17-2 MOTION FOR SUBPOENA FOR DOCUMENTS AND OBJECTS**

- (a)** A party who seeks documents or objects from a witness, regardless of whether the party has retained or appointed counsel or is self-represented, must file a motion for a subpoena under Fed. R. Crim. P. 17(c). A party may file the motion ex parte and under seal, in which case, the docket entry will identify the motion as SEALED EX PARTE MOTION.
- (b)** The motion must include:
- (1) a description of the specific material requested;
  - (2) an explanation of the following—
    - (A) the likelihood of admissibility of the material requested;
    - (B) why the material is unavailable through other means; and
    - (C) why the matter cannot be adequately prepared without the material;
  - (3) one of the following representations—
    - (A) the subpoena does not seek a victim’s personal or confidential information;
    - (B) the movant does not know whether the subpoena seeks a victim’s personal or confidential information; or
    - (C) the subpoena expressly seeks a victim’s personal or confidential information; and
  - (4) a copy of the proposed subpoena attached as an exhibit.
- (c)** If the court concludes that a subpoena should issue that expressly seeks a victim’s personal or confidential information, the following steps will be taken, absent exceptional circumstances:
- (1) the court will enter an order directing the Clerk’s Office to provide the contact information of the victim or the victim’s legal representative to the movant;

- (2) the movant must serve the victim or the victim's legal representative, under Fed. R. Crim. P. 49, with a written notice that includes the following—
  - (A) a copy of the proposed subpoena;
  - (B) a statement that the victim has the right to file a sealed motion to quash or modify or otherwise object to the subpoena within 14 days after service of the notice;
  - (C) a copy of DUCrimR 17-2; and
  - (D) a copy of Fed. R. Crim. P. 17;
- (3) if a motion or objection is filed within 14 days after service, the subpoena will not issue until further order of the court;
- (4) if a motion or objection is not filed within 14 days after service, the movant must file a sealed ex parte certificate of compliance with DUCrimR 17-2(c)(2) and request that the court grant the motion and direct the Clerk's Office to issue the subpoena; and
- (5) the Clerk's Office will issue the subpoena to the movant for service.



## **DUCrimR 20-1 TRANSFER FOR PLEA AND SENTENCE**

### **(a) Case Assignment.**

If a case is transferred to the District of Utah under Fed. R. Crim. P. 20(a) and the defendant has a case pending in this district, then the transferred case will be assigned to the judge presiding over the pending case. Otherwise, the Clerk's Office will randomly assign the case.

### **(b) Scheduling.**

The government must contact the court to schedule further proceedings in the transferred case.

## **~~DUCrimR 30-1 INSTRUCTIONS TO THE JURY~~**

### **~~(a) Written Proposed Jury Instructions.~~**

~~Unless the court otherwise orders, 2 originals and one copy of proposed jury instructions must be prepared, served, and filed with the court a minimum of 2 full business 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. 1 original and 1 copy of each proposed instruction must (i) be numbered, (ii) indicate the identity of the party presenting the same, and (iii) contain citations of authority. A second original of each proposed instruction must be without number or citation. Individual instructions must embrace 1 subject only, and the principle of law embraced in any instruction must not be repeated in subsequent instructions. Unless the court otherwise orders, service copies of proposed instructions must be received by the adverse party or parties at least 2 full business days prior to the day the case is set for trial.~~

### **~~(b) Ruling on Requests.~~**

~~Prior to the argument of counsel, the court, in accordance with Fed. R. Crim. P. 30, will inform counsel of the court's proposed rulings regarding requests for instructions. Counsel who believe the court has provided insufficient information under Fed. R. Crim. P. 30 should so inform the court on the record prior to final argument.~~

### **~~(c) Objections or Exceptions to Final Instructions.~~**

~~The jury may be instructed orally or in writing as the court determines. As provided in Fed. R. Crim. P. 30, objections to a charge or objections to a refusal to give instructions as requested in writing must be made by informing the court before the jury has retired, but out of the hearing of the jury. Such objections must (i) identify the objectionable parts of the charge or the refused instructions, and (ii) describe the nature and the grounds of objection. Before the jury has left the box, but before formal exceptions to the charge are taken, counsel may alert the court to any corrections to or explanations of the instructions that inadvertently may have been omitted.~~