

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

DUCivR 5-1	Filing and Electronic Notification (Amended) 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
DUCivR 5-4	Habeas Corpus Petitions and Civil Rights Complaints (Amended) Eliminated duplicative sections that are already contained in DUCivR 3-2. General cleanup for clarity and to conform to current practice.
DUCivR 5.2-1	Redacting Personal Identifiers (Amended) General cleanup for clarity and to conform to current practice.
DUCivR 6-1	Filing Deadlines When Court Is Closed (Amended) General clean up to improve readability. Eliminated the cross reference to DUCivR 77-2.
DUCivR 7-1	Motions and Memoranda (Amended) 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.
DUCivR 7-2	Citing Unpublished Opinions (Amended) General cleanup for clarity and readability.
DUCivR 7-3	Request to Submit for Decision (Amended) Clarifies that a request to submit a motion for decision is not required. General cleanup for clarity and readability.
DUCivR 7-4	Filings in All Actions Seeking Judicial Review of a Decision from an Administrative Agency (Amended) 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.
DUCivR 7-5	Hyperlinks in Court Filings (Amended) General cleanup for clarity and readability.
DUCivR 9-1	Allocation of Fault (Amended) General cleanup for clarity and readability.
DUCivR 10-1	General Format of Papers (Amended) General cleanup for clarity and readability.
DUCivR 23-1	Designation of Proposed Class Action (Amended) General cleanup for clarity and readability. Clarified the process for commencing and moving to certify a class action.
DUCivR 56-1	Summary Judgment: Motions and Supporting Memoranda (Amended) General cleanup for clarity and readability.

CRIMINAL RULES

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

	govern initial appearances.
DUCrimR 6-1	Returns of Grand Jury Indictments (Eliminated) Eliminates the current rule. Federal Rule of Criminal Procedure 6 will govern returns.
DUCrimR 9-1	Issuance of Arrest Warrants on Complaints (Eliminated) Eliminates the current rule. Federal Rule of Criminal Procedure 9 will govern arrest warrant or summons on an indictment or information.
DUCrimR 11-1	Plea Agreement (Amended) Deleted the reference to restitution and removed duplicative requirements already contained in the Federal Rule.
DUCrimR 17-1	Sealing of Ex Parte Motions and Orders in Criminal Justice Act Cases Related to Trial Subpoenas (Amended) General cleanup for clarity and to conform to current practice.
DUCrimR 17-2	Motions for Subpoenas of Documents and Objects (Amended) 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.
DUCrimR 20-1	Transfer Under Fed. R. Crim. P. 20 (Amended) Changed the title. General cleanup for clarity and to conform to current practice. Incorporates portions of DUCrimR 20-2.
DUCrimR 20-2	Transfer to the District for Pleas or Sentencing (Eliminated) Consolidated into DUCrimR 20-1.
DUCrimR 30-1	Instructions to the Jury (Eliminated) 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 ([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 ~~file documents~~ electronically file must sign and file documents as required in the District of Utah CM/ECF and Efiling Administrative Procedures Manual (ECF Procedures Manual).

~~The ECF Procedures Manual is available at <http://www.utd.uscourts.gov>.~~

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

(1) Unrepresented Parties.

(A) Registration for Email Filing and Electronic Notification. An

unrepresented party may ~~request permission~~ register to ~~send email~~ documents ~~by email~~ to the Clerk's Office for filing ~~by conventionally filing a Motion for~~ 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 ~~motion~~ is available on the court's website. ~~The motion must include verification,~~ and it may be hand-delivered, mailed, or emailed (utdecf_clerk@utd.uscourts.gov) to the Clerk's Office.

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

(A)(a) ~~will submit~~ documents will be emailed to the court in appropriately sized PDF format as required consistent with the requirements in the ECF Procedures Manual;

(B) ~~has a valid email address that has been provided to the court and will be used to submit documents for filing and to receive notices of case activity from the court;~~

- ~~(b)~~ will use 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)~~(c) an appropriate digital/electronic signature on filings, as outlined in Section II(A) of the ECF Procedures Manual; and, will be used on all documents;
- ~~(D)~~(d) will comply with the formatting requirements outlined in Local Rule 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; If
- (f) service by email constitutes service under the court grants above rules, and the motion, the party may email right to service by mail is waived;
- (g) under Fed. R. Civ. P. 5, all documents and exhibits 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

(i) 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 to the Clerk's Office at utdeef_clerk@utd.uscourts.gov. The email, the subject line must include the case number and document name in.

(iv) Filing Date. Except for case-initiating documents, the subject line. The clerk will send an filing date for a document is the date the email confirming receipt to the is sent.

(v) Email Notification in All Cases. An unrepresented party and 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)(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 file the documents in the case the document must be hand-delivered or mailed to the Clerk's Office for filing.

(3) — A document will be considered filed as of the date the email is received by the clerk.

(4)(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 ~~in which~~when a party abuses the privilege include repeatedly submitting:

~~(A)~~(a) nonconforming documents or exhibits to the clerk for filing;

~~(B)~~(b) incomplete documents to avoid missing a deadline;

~~(C)~~(c) documents that needlessly complicate the proceedings or harass the court, the clerk, or the opposing party; or

~~(D)~~(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) 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) In all other circumstances, all pleadings and other case-related documents must be filed in~~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.

~~(2)~~(3) Courtesy Copy. A party does not need to provide a courtesy copy unless specified in the ~~judge's preferences~~judge's preferences on the court's website. A party must clearly label any courtesy copy on the caption page.

(4) Service.

~~(3) Service on Unrepresented Parties. A party filing a paper document must serve an unrepresented party with a copy.~~

~~(d) Electronic Notification of Case Activity.~~

~~(1) An unrepresented party may request permission to receive email notification of case activity by conventionally filing a Motion for Email Notification. The form motion is available on the court's website.~~

~~(A) By filing the motion, the unrepresented party consents to:~~

~~(i) receive by email filings that are required to be served under Fed. R. Civ. P. 5(a) and 77(d) and Fed. R. Crim. P. 49;~~

~~(ii) email constituting service under those rules;~~

~~(iii) waive the right to service by mail; and~~

~~(iv) notify the Clerk's Office in writing of on any name, mailing address, or email address changes.~~

~~(B) The CM/ECF system does not allow an unrepresented party to choose to receive email notification in one case and decline email notification in another case.~~

~~(i) When an unrepresented party obtains permission to receive email notification in any case pending before the court that party will automatically receive email notification of case activity in all cases in which they are a party.~~

~~(ii)(A) The court may, on its own or on a party's motion, revoke an unrepresented party's ability to unrepresented party who does not receive electronic notification of case activity. ~~If this occurs, the unrepresented party will cease to receive email notification of case activity in all cases in which they are a party.~~~~

~~(C) An unrepresented party who has been granted permission to receive electronic notification of case activity will file all documents in~~

~~paper, unless they have been granted permission to file by email under DUCivR 5-1(b).~~

(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.

(e)(d) Filing Time Requirements Deadline in Absence of Rule or Court Order.

~~(1) If no~~When a filing time deadline is not specified in an applicable rule ~~and no deadline or the court has been not set by the court a deadline,~~ a document related to a court proceeding must be filed a minimum of 2 business days before the scheduled proceeding.

~~(2) If a document other than the complaint is served by mail, the postmark is the effective date of filing or service. If the postmark is illegible or missing, the filing or service date is presumed to be 3 days before receipt.~~

DUCivR 5.2-1 REDACTION OF ~~REDACTING~~ PERSONAL IDENTIFIERS AND PROTECTED INFORMATION

(a) Redacting Personal Identifiers in Court Filings. ~~Pleadings.~~

~~A party~~The filer must redact ~~personal information in filings with the court, as required by Fed. R. Civ. P. 5.2. The court may order redaction of additional personal identifiers listed in Fed. by motion and order R. Civ. P. 5.2 in every court filing.~~

(b) Redaction of Protected Information.

~~(1) A~~ specific case or as to a specific document or documents. Any protective order entered under Fed. R. Civ. P. 26(c) may include a redaction ~~requirement~~requirements 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.~~

(b)(c) Reviewing Transcripts to Redact ~~Redacting~~ Personal Identifiers. ~~in Transcripts.~~

~~(1) Within 14 days after receiving~~Attorneys are responsible to review transcripts for personal information which is required to be redacted under Fed. R. Civ. P 5.2 and provide notice that ~~at~~ the court reporter has filed an originalof the redactions which must be made before the transcript, ~~a party becomes available through PACER. Unless otherwise ordered by the court, the attorney~~ must review the following ~~portions of the transcript~~ sections for personal identifiers: ÷

~~(1)~~(A) opening and closing statements made on the party's behalf;

~~(2)~~(B) statements of the party;

~~(3)~~(C) the testimony of any witnesses called by the party; and

~~(4)~~(D) any other portion of the transcript if ~~as~~ 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.

~~Redaction responsibilities apply to the attorneys even if the requestor of the transcript is the court or a member of the public including the media.~~

(c)(d) Procedure for ~~Reviewing and~~ Redacting Transcripts.

If redaction is required:

- (1) within 21 days after receiving~~Upon~~ notice ~~that~~of the filing of a transcript has been filed, a party must file a ~~with the court, the attorneys must~~ within 7 business days review the transcript and file, if necessary, a Notice of Intent to Request Redaction;
- (2) within 42~~of the Transcript. Within 21 calendar~~ 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 ~~of the filing of~~ the transcript, a~~the attorneys~~ must file a notice of redactions to be made. The redactions must be made by the court reporter must make~~within 31 calendar days of the~~ requested redactions and file~~filing of the~~ redacted transcript. ~~and a redacted copy of the transcript must promptly be filed with the clerk. Transcripts which do not require redactions and redacted transcripts must be electronically available on PACER 90 days after filing of the original transcript by the court reporter.~~

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:

(a) Form.

(1) ~~Petitions for writs of~~ habeas corpus petitions under 28 U.S.C. §§ 2254 ~~and~~ 2255;

(2) ~~, and pro se civil rights~~ 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 et seq., must (i) be in writing, signed, and verified, and (ii) comply with~~ 28 U.S.C. §§ 2254 ~~and~~ 2255 until the court notifies the parties that an answer is required. ~~Habeas corpus forms are available from the Clerk of Court.~~

(b) Supporting Affidavit.

~~A petition, motion, or complaint submitted for filing with an Application to Proceed Without Prepayment of Fees and Affidavit must be accompanied by a supporting affidavit in compliance with DUCivR 3-2. In actions by persons who are incarcerated, this affidavit must be accompanied by (i) a certification, executed by prison officials, as to the availability of funds in any account maintained by the institution for the petitioner or movant, and (ii) documentation of any account activity in the six months preceding the filing date.~~

(c) Filing Requirements.

~~Petitioners or movants seeking post-conviction relief must file with the Clerk of Court the original and one copy of the petition, motion, or complaint. If proceeding without prepayment of fees, petitioners and movants, in addition to the~~

~~original and any required copies, as prescribed in DUCivR 5-1(b), must provide the clerk with one copy for each person named as a defendant in the petition, motion, or complaint.~~

~~**(d) Answers and Responses.**~~

~~Unless otherwise ordered by the court, petitions for writs of habeas corpus under 28 U.S.C. §§ 2254 and 2255 do not require an answer or other responsive pleading.~~

DUCivR 6-1 -FILING DEADLINES WHEN COURT IS CLOSED

When the court is closed by ~~administrative~~ order of the Chief Judge, a deadline that falls~~chief judge, any deadlines which occur~~ on that day is~~are~~ extended to the next day ~~that~~ the court is open ~~for business~~.

~~See DUCivR 77-2 for the clerk's authority to extend time.~~

DUCivR 7-1 -MOTIONS AND MEMORANDA

(a) Motion, Response, and Reply.

~~(a) Motion and Motions.~~

~~All motions must be filed with the Clerk of Court or presented to the court during proceedings. Refer to the court's CM/ECF and E-filing Administrative Procedures Manual for courtesy copy requirements.~~

- (1) ~~No Separate Supporting Memorandum. Except for Written Motion.~~ The motion and any supporting memorandum must be contained in one document, ~~except~~ as otherwise allowed by this rule, a motion and memorandum must be contained in the same. The document ~~and~~ must include the following:

- (A) an initial separate section stating succinctly the ~~specific~~ precise relief sought and the ~~specific~~ grounds for the ~~relief~~ motion; and
- (B) ~~a one or more additional sections including a~~ recitation of relevant facts, supporting authority, and argument.

~~Exception~~ Specific instructions regarding Motions for Summary Judgment are provided in DUCivR 56-1. Failure to comply with the requirements of this section may result in sanctions, including (i) returning the motion to counsel for resubmission in accordance with the rule, (ii) denial of the motion, or (iii) any other sanction deemed appropriate by the court.

- (2) ~~Exceptions to Requirement to Include That a Motion Contain Facts and Supporting Legal Authority.~~ The requirement to include Although all motions must state grounds for the request and cite applicable rules, statutes, case law, or other authority justifying the relief sought, ~~no recitation of facts and~~ supporting authority under subsection (a)(1)(B) does not apply to legal authorities beyond the initial statement of the ~~precise relief sought and grounds for the motion are required for~~ the following ~~types of~~ motions:

- (A) to extend time for the performance of an act, whether required or permitted, ~~if provided~~ the motion is made before the current

~~deadline expires prior to expiration of the time originally prescribed or previously extended by the court;~~

- (B) to continue ~~either a pretrial~~ hearing or other court proceeding~~motion hearing~~;
- (C) to appoint a next friend or guardian ad litem; _____
- (D) to substitute a party~~parties~~;
- (E) for a settlement conference;
- ~~(E)(F)~~ for referral to or withdrawal from the court's ADR program; and
- ~~(F) for settlement conferences; and~~
- (G) for approval of a stipulation~~stipulations~~ between the parties.

~~No Motion Within a Response or Reply. A party may not make a motion, including a motion under Fed. For such motions, a proposed order must be attached as an exhibit to the motion and also emailed in an editable format to the chambers of the assigned judge.~~

~~(3) Length of Motions.~~

~~(3) _____ 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. Pursuant to Rules 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. ~~and 65~~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 ~~Federal~~ Rules of the response.

(C) ~~Civil Procedure: Motions Filed Under Fed. filed pursuant~~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 ~~Fed. R. Civ. P.~~ 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~~12(b), 12(c),~~ and Certification Requirement.

(A) All headings, citations, quotations, and footnotes count toward~~65~~ must not exceed ~~6,500~~ words, or in the alternative, ~~25~~ pages. If the document exceeds the page or word limit, then the party must certify compliance with the word count limit. This limitation excludes the following items: face sheet, table of contents, table of authorities, signature block, certificate of service, and exhibits.

~~(B) Length of Motions Filed Pursuant to Rule 56 of the Federal Rules of Civil Procedure: Motions filed pursuant to Fed. R. Civ. P. The caption, 56 are governed by DUCivR 56-1(g).~~

~~(C)(B) All Other Motions: All motions that are not listed above must not exceed 2,500 words, or in the alternative, 10 pages. If the document exceeds the page limit, then the party must certify compliance with the word count limit. This limitation excludes the following items: 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.

(4)(7) ~~Motions~~ Seeking Relief Similar to Another Party’s Motion. Each party seeking relief from the court must file ~~its own~~ motion that identifies the relief sought and ~~ground~~ the basis for the requested relief. A party may incorporate by reference ~~the arguments and reasons set forth in~~ another party’s arguments in the party’s own motion, if or memorandum to the extent applicable, but filing a “Notice of Joinder” is improper. to that party⁴.

⁴Advisory Committee Note: This subsection was promulgated to solve the following problem that has occasionally arisen: A and B are defendants in an action, represented by different counsel. During the course of litigation, A files a motion for summary judgment. Because the grounds for summary judgment in A’s motion apply equally to B, B files a “Notice of Joinder” in A’s motion. By filing such a notice, however, B is merely joining in a motion to grant summary judgment to A. B is not specifically requesting summary judgment for itself. Assuming the court grants A’s motion for summary judgment, confusion has arisen as to whether the court also granted summary judgment for B. To avoid this situation, this rule now requires A and B to each file a separate motion for summary judgment.

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

~~(b) Motion **Response and Reply Memoranda.**~~

~~(1) **Motions Are Not to Strike Evidence Improper Be Made in Response or Reply Memoranda; Evidentiary Objections Permitted.**~~

~~(1) No motion, including but not limited to cross-motions and motions pursuant to Fed. R. Civ. P. A motion to strike evidence offered in another party's motion, response, or reply is improper.~~

~~(A) 56(d), may be included in a response or reply memorandum. Such motions must be made in a separate document. A cross-motion may incorporate the briefing contained in a memorandum in opposition.~~

~~(2) For motions for which evidence is offered in support, the response memorandum may include evidentiary objections. If evidence is offered in a motion or a response, the response opposition to the motion, evidentiary objections may be included in the reply memorandum. While the court prefers objections to be included in the same document as the response or reply may include an objection to the evidence. In, in exceptional circumstances, the objection may be cases, a party may file evidentiary objections as a separate document. If such an objection is filed as in a separate document simultaneously with, it must be filed at the same time as that party's response or reply.~~

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

However, instead of filing duplicative arguments, B's motion for summary judgment may simply request summary judgment and incorporate by reference A's motion as the grounds for granting B's motion. A party may, but is not required to, include a hyperlink to the incorporated memoranda. Once both motions are filed, the court will have to rule on each party's motion separately, which will eliminate the ambiguity that comes from merely filing a "Notice of Joinder" in another party's motion.

~~(B)(4)~~ -A party ~~offering evidence to which there has been an objection~~ may file a response to an evidentiary ~~the~~ objection at the same time any response or reply ~~responsive memorandum, if allowed,~~ is due, or no later than 7 days after the objection was ~~is~~ filed, whichever is ~~longer. Motions to strike evidence as inadmissible are no longer appropriate and should not be filed. The proper procedure is to make an objection. See Fed. R. Civ. P. later.~~ 56(c)(2).

~~(2) Length of Response and Reply Memoranda.~~

~~(A) Memoranda Filed Regarding Motions Made Pursuant to Rules 12(b), 12(c), and 65 of the Federal Rules of Civil Procedure. Memoranda in opposition to motions made pursuant to Fed. R. Civ. P. 12(b), 12(c), and 65 must not exceed 6,500 words, or in the alternative, 25 pages. Reply memoranda must not exceed 2,500 words, or in the alternative, 10 pages, and must be limited to rebuttal of matters raised in the memorandum in opposition. If memoranda in opposition or reply exceed the page limit, then the party must certify compliance with the word count limit. These limitations exclude the following items: face sheet, table of contents, table of authorities, signature block, certificate of service, and exhibits. No additional memoranda will be considered without leave of court.~~

~~(B) Length of Opposition and Reply Memoranda Filed Regarding Motions Made Pursuant to Rule 56 of the Federal Rules of Civil Procedure. Memoranda filed pursuant to Fed. R. Civ. P. 56 are governed by DUCivR 56-1(g).~~

~~(C) All Other Motions. Opposition and reply memoranda related to all motions that are not listed above must not exceed 2,500 words, or in the alternative, 10 pages. If opposition or reply memoranda exceed the page limit, then the party must certify compliance with the word count limit. These limitations exclude the following items: face sheet, table of contents, concise introduction, table of exhibits, and exhibits. Reply memoranda must be limited to rebuttal of matters raised in the opposition memoranda. No additional memoranda will be considered without leave of court.~~

~~(3) Filing Times.~~

~~(A) Motions Filed Pursuant to Rules 12(b), 12(c), and 56 of the Federal Rules of Civil Procedure. A memorandum opposing motions filed pursuant to Fed. R. Civ. P. 12(b), 12(c), and 56 must be filed within 28 days after service of the motion or within such time as allowed by the court. A reply memorandum to such opposing memorandum may be filed at the discretion of the movant within 14 days after service of the opposing memorandum. The court may order shorter briefing periods and attorneys may also so stipulate.~~

~~(B) All Other Motions, Including Motions Filed Pursuant to Rule 65 of the Federal Rules of Civil Procedure. A memorandum opposing any motion that is not a motion filed pursuant to Fed. R. Civ. P. 12(b), 12(c), and 56 must be filed within 14 days after service of the motion or within such time as allowed by the court. A reply~~

~~memorandum to such opposing memorandum may be filed at the discretion of the movant within 14 days after service of the memorandum opposing the motion. The court may order shorter briefing periods and attorneys may also so stipulate.~~

(c) Citations of Supplemental Authority.

When pertinent and significant ~~authority comes~~authorities come to the attention of a party ~~after the party's memorandum has been filed, or after oral argument but before~~ the court has entered a decision on, a motion, the party may ~~promptly~~ file a Notice of Supplemental Authority, which may not exceed 2 pages.

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

~~(4)(A) with the court and serve a copy on all counsel, setting forth the citations. There must be a reference either to the page of the memorandum or to a point argued orally to which the citations pertain, but the notice must state, without argument, the reasons for the supplemental authority pertains; and citations. Any response must be made, filed promptly, and be similarly limited.~~

(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.

(c)(d) Supporting Exhibits to Memoranda Other Than Memoranda Related to Summary Judgment Motions.

~~When evidence is cited~~If any memorandum in support of or opposition to a motion, response, or reply, the ~~cites documents, interrogatory answers, deposition testimony, or other discovery materials,~~ relevant portions of the evidencethose materials must be attached or filed separately and contemporaneously~~to or submitted~~ with the document.

(e) Proposed Orders.

(1) When Required. A party must provide a proposed order ~~memorandum~~ when filing a motion under subsection (a)(2) of this rule or when it is filed with 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 and served on the other parties or their counsel—

(i) for motions filed under ~~For exhibits relating to summary judgment memoranda, see DUCivR 77-2, to utdecf_clerk@utd.uscourts.gov; and 56-1(b)(5) and (c)(6).~~

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

~~(d)~~(f) Failure to Respond.

Except as provided in DUCivR 56-1(f), failure to ~~Failure to~~ respond timely to a motion, other than for summary judgment, may result in the court ~~court's~~ granting the motion without further notice.

~~(e)~~ Leave of Court and Format for Overlength Motions and Memoranda.

If a motion or memorandum is to exceed the page or word limitations set forth in this rule, leave of court must be obtained. A motion for leave to file an overlength motion or memorandum must include a statement of the reasons why additional pages or words are needed and specify the number required. The court will approve such requests only for good cause and a showing of exceptional circumstances that justify the need for an extension of the specified page or word count limitations. Absent such showing, such requests will not be approved. An overlength motion or memorandum must not be filed with the clerk prior to entry of an order authorizing its filing. Motions or memoranda exceeding page or word count limitations, for which leave of court has been obtained, must contain a table of contents, with page references, listing the titles or headings of each section and subsection.

~~(f)~~(g) Oral Arguments on Motions.

The court ~~on its own initiative~~ may set any motion for oral argument ~~or hearing~~.

Otherwise, a party may request~~requests for~~ oral argument~~arguments~~ on a motion and must show~~motions will be granted on~~ good cause ~~shown~~. If oral argument is not set, the court will determine a motion based upon the parties' to~~be heard, the motion will be promptly set for hearing. Otherwise, motions are to be submitted to and will be determined by the court on the~~ written memoranda of the parties.

(h) Summary Judgment.

This rule and~~See~~ DUCivR 56-1 apply to motions for ~~specific provisions regarding~~ summary judgment ~~motions~~ 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.

~~(a) An Precedential Value.~~

~~(1) The citation of unpublished decision~~decisions~~ is a judicial opinion, order, judgment, or other written disposition that is designated “unpublished,” “permitted. Unpublished decisions are not for publication,” “non- precedential,” “not precedent,” or the like.~~

~~(2) A party but may cite to an unpublished decision~~be cited~~ for its~~their~~ persuasive value or. ~~They may also be cited~~ under the doctrines of law of the case, claim preclusion, or~~and~~ issue preclusion.~~

(b) **Citation Form.**

~~A citation~~Citation to an unpublished decision~~opinions~~ must include an appropriate parenthetical notation stating that it is ~~an~~ unpublished and a reference to an electronic database, when possible (e~~decision. E.g., *United States v. Wilson*, No. 06-2047, 2006 WL 3072766 (10th Cir. Oct. 31, 2006) (unpublished); *United States v. Keeble*, No. 05-5190, 184 F. App'x Fed. Appx. 756, 2006 U.S. App. LEXIS 14871 (10th Cir. June 15, 2006) (not selected for publication~~unpublished); *United States v. Gartrell*, No. 2:04CR97 DB, 2005 WL 2265362 (D. Utah Sept. 7, 2005) (unpublished). ~~References to unpublished decisions should include an appropriate electronic citation where possible.~~

(c) **Copies.**

If an unpublished decision is not available in a publicly accessible electronic database, a party must attach~~such as a commercial database maintained by a legal research service or a database maintained by a court,~~ a copy must be attached to the filed document. Even if a decision ~~when it is filed and must be provided to all other counsel and pro se parties.~~ ~~Even if such decisions are available in a publicly accessible, a party must~~ database, counsel should provide a copy to~~copies of the court or another party cited unpublished decision~~ upon

request.



DUCivR 7-3 _____REQUEST TO SUBMIT FOR DECISION

(a) Not Required.

~~When the briefing on a motion has been completed or when the time for such briefing has expired, either party may file a "Request to Submit for Decision."~~

The 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) _____~~served~~, the date the response opposing memorandum, if any, was filed;

(3) _____~~served~~, the date ~~of~~ the reply memorandum, if any, was filed~~served~~, and

(4) _____ whether a hearing has been requested.

DUCivR 7-4 **AN ACTION FILINGS IN ALL ACTIONS SEEKING JUDICIAL REVIEW OF A DECISION FROM AN ADMINISTRATIVE AGENCY**

~~(a)~~ (a) ~~Review of Administrative Agency Decisions.~~

~~In all cases in which~~ a) ~~Governing Rules.~~

~~When plaintiff files a party seekseomplaint or petition seeking~~ 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.¹

(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.

~~(1)(3)~~ The following responsive pleadings are not allowedappropriate and must not be filed with the court:

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

- (A) an answer ~~to the complaint~~;
- (B) a motion for judgment on the pleadings;
- (C) a motion for summary judgment; or
- (D) a motion to affirm or reverse the ~~agency's~~ decision.

~~(2) — If the Within the time prescribed by statute, rule, or court order, an agency files whose decision is the subject of the complaint must file one of the following responsive documents:~~

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

~~(B) — a short and plain statement admitting or denying that the agency decision, or any part thereof, is arbitrary and capricious or is not supported by substantial evidence, along with a statement of any affirmative defenses. In cases challenging a decision of the Commissioner of the Social Security Administration, the agency must file the administrative record along with its short and plain statement.~~

~~(3) — The Federal Rules of Civil Procedure continue to apply in proceedings under this subsection unless judicial authority, or these local rules require otherwise.²~~

~~(4) If the court denies that the motion, the agency must comply with subsection (b)(1)(B) to dismiss, the agency must file a short and plain statement either denying or admitting that the agency decision is arbitrary and capricious or is not supported by substantial evidence within the time prescribed byin Fed. R. Civ. P. 12(a)(4)(A).~~

²-Advisory Committee Note: This provision is inserted to avoid ambiguity as to whether the Federal Rules of Civil Procedure will continue to 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 judicial authority, the rules themselves, or these rules.

(c) Scheduling Order.

(1) ~~In~~ ~~Within 14 days of filing the agency's short and plain statement, and in~~ lieu of an Attorney Planning ~~Meeting Report~~ 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;

~~(5)~~(B) ~~setting forth the~~ dates by which the following will be filed—:

~~(A)~~(i) ~~the the agency, in a case other than one challenging a decision of the Social Security Administration, will file the indexed administrative record, if one has not already been~~ filed;

~~(B)~~(ii) ~~objections to the administrative record and responses thereto will be filed and served upon opposing counsel;~~

~~(C)~~(iii) ~~any other pre-merits motions will be due;~~

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

~~(D)~~ the Answer Brief," which must be filed using the CM/ECF event, "Motion for Review of Agency Action";

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

~~(F)(vi) a plaintiff may file 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.”³

~~(2) The Scheduling Order will govern proposed scheduling order must briefly state the filing deadlines issues on which plaintiff claims error in the agency decision and the basis for which the agency claims that its decision was not arbitrary and capricious or was supported by substantial evidence. Once entered, the scheduling order governs the timing of the parties’ respective briefs, unless the court modifies its order. Unless the court orders otherwise, no briefs other than those mentioned above will be received.~~

(d) Briefs Requirements.

~~(1) In cases other than a challenge to a decision of the Commissioner of the Social Security Administration, the Opening Brief must follow Fed. R. App. P. 28(a)(2), (3), (5), (6)-(10) govern the Opening). The Answer Brief;~~

~~(2) must follow 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)). The Reply Brief must follow Fed. R. App. P. 28(c) governs the Reply Brief;~~

~~(6)(4) The following page and word limits). The formatting requirements of DUCivR 10-1 apply to all briefs filed under this section. The length of the parties’ briefs is governed by Fed. R. App. P. 32(a)(7), unless the court~~

³ ~~The parties must follow the proper naming and filing conventions to ensure that the documents CM/ECF system, “motions” appear on the proper CM/ECF reports to assist a report that assists the court in managing its docket and . For this reason, parties must name their documents “Opening Brief,” “Answer Brief,” and “Reply Brief,” respectively, but must use the CM/ECF events listed above to ensure proper tracking of these filings.~~

~~orders otherwise on). Motions for overlength briefs may be granted only upon a showing of good cause;~~

~~(A) in a case seeking review~~In cases challenging the decision of the Commissioner of the Social Security Administration Commissioner's decision, ~~Plaintiff's~~ Opening Brief and ~~Defendant's~~ Answer Briefs ~~Brief~~ must not exceed ~~7,750~~6,500 words, and ~~or in the alternative, 25 pages.~~ ~~Plaintiff's~~ Reply Brief must not exceed ~~3,875~~2,500 words;

~~(B) in all other cases, brief length is governed by Fed,~~ or in the alternative, 10 pages. ~~These limitations~~ R. App. P. 32(a)(7); and

~~(7)(C) word limits~~ exclude the caption, ~~following items:~~ face sheet, table of contents, table of authorities, signature block, certificate of service, and exhibits. ~~If a brief is to exceed the page or word limitations set forth in this rule, leave of court must be obtained. Motions to file an overlength brief are discouraged and will be granted only upon a showing of good cause and exceptional circumstances, as set forth in DUCivR 7-1(e).~~

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

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

DUCivR 7-5 — HYPERLINKS IN DOCUMENTS~~COURT FILINGS~~

(a) Recommended.

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

(a) — hyperlinks to ~~Encouraged and Permissible Hyperlinks.~~

~~As a convenience for the court, practitioners are encouraged to utilize hyperlinks in a manner consistent with this rule. For purposes of this rule, a hyperlink is a reference within an electronically filed document that permits a user to click on the reference to be directed to other content. Standard legal citations must still be used so that those who desire to retrieve referenced material may do so without use of an electronic service.~~

~~(1) — Encouraged Hyperlinks.~~

~~(A)(1) Hyperlinks to other portions of the same document and to material elsewhere in the court's record; and, such as exhibits or deposition testimony, are encouraged.~~

~~(B)(2) hyperlinksA hyperlink 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 such as Westlaw, Lexis/Nexis, Google Scholar, Casemaker, Fastcase, or Findlaw is encouraged.~~

(b) Permitted.

~~Permissible Hyperlinks.~~ A hyperlink to any other ~~internet~~ resource not identified in subsection (a)(~~21~~)(B) is ~~permitted~~permissible in any document filed with the court, provided that the ~~attorney or party~~ inserting~~adding~~ the hyperlink:

~~(1) —~~ downloads the content thus cited and files~~attaches it to the document in~~ PDF format as an exhibit to the document; or

~~(2) —~~ or if the content cannot be filed electronically (e.g., an audio or video recording), files a referenced content is a media object in a format not acceptable for CM/ECF filing, submits the content with Notice of

Conventional Filing ~~underpursuant to~~ 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) ~~Allocating Party~~ Filing Requirements.

Any party that seeks to allocate fault to a nonparty ~~under~~^{pursuant to} Utah Code ~~§§ Annotated §~~ 78B-5-~~817 through 823818~~, must file:

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

(b) ~~Disclosure~~~~Allocating Party Time~~ Requirements.

(1) ~~If the~~^{The} information ~~specified~~ in subsection (a) ~~is known when filing a responsive pleading, a must be included in the~~ party's responsive pleading ~~must include~~^{if known to the party. Alternatively, it,}

(2) ~~If the information in subsection (a) is unknown when filing a responsive pleading, a party~~ must ~~file~~^{be included in} a supplemental notice ~~containing the information~~^{filed} within a reasonable time after the party discovers the factual and legal basis on which fault can be allocated. ~~The notice must be filed;~~ ~~but not later than any deadline specified in the scheduling order.~~ ~~Upon motion and good cause shown, the court may permit the party to file the information specified in subsection (a) after the expiration of any deadlines provided for in this rule, but in no event later than 90 days before the scheduled trial date.~~

(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 ~~—~~ **GENERAL FORMAT OF DOCUMENTS** PAPERS

(a) Format Requirements.

~~(a) —~~ Paper ~~Form of Pleadings~~ and Margins. ~~A document~~ Other Papers.

- ~~(1)~~ Except as otherwise permitted by the court, all pleadings, motions, and other papers, whether presented for filing must be single-sided and formatted to 8½ x 11 inch plain, white paper with ~~in person, by mail, or via CM/ECF, must have~~ a top margin of at least~~not less than~~ 1½ inches and remaining all other margins ~~of~~ must be at least 1 inch. ~~The paper size must be 8 ½ inches by 11 inches.~~
- ~~(2) —~~ Electronic Document. A document filed in CM/ECF ~~must~~ For filings submitted by mail or in person, originals must be on white, high quality paper, with printing on only one side. Filed originals must also be flat and unfolded.
- ~~(3)~~ (2) Filings submitted via CM/ECF must also comply with the latest version of the District of Utah CM/ECF and E-filing ~~E-filing~~ Administrative Procedures Manual.
- ~~(3)~~ Font and Font Size. Font must be ~~When required, copies of all originals must be prepared by using a~~ clearly legible and a minimum size of 12 point, including footnotes.
- ~~(4)~~ Spacing. ~~duplication process; copies produced via facsimile transmission are not acceptable for filing with the court.~~ Text must be ~~typewritten or plainly printed and~~ double-spaced, except for block quotes ~~quoted material and footnotes.~~
- ~~(5)~~ Pagination. Document pages ~~must~~ Exhibits attached to the original of any pleading, motion, or paper must not be separately tabbed with dividers, but an 8 ½ x 11-inch sheet must be inserted to separate and identify each

~~exhibit. Judges' copies of pleadings and exhibits may include tabbed dividers for the convenience of chambers. Each page must~~ be numbered consecutively.

(6) Contact Information and Caption. ~~The top of the~~ first page of each document must include contact information of the filer and a caption identifying the document. ~~paper filed with the court must contain the following:~~

(A) Contact information to be listed in the upper left-hand corner above the caption:

counsel's name

(i) Counsel's Name and Utah State Bar number,¹ or if self-represented, the party's name; Number²

Attorney For
Address
Telephone
Email Address

~~THE UNITED STATES DISTRICT COURT~~

~~DISTRICT OF UTAH~~

(ii) counsel's law firm name;

(iii) mailing address;

(iv) telephone number;

(v) email address;

(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.

¹ 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.

² Under DUCivR 83-1.3, any changes to this name and contact information must be transmitted immediately to the Clerk's Office. Attorneys admitted Pro Hac Vice are not required to include a bar number.

Name Counsel's Name and Utah State Bar Number (or Party's Name if self-represented)
of Law Firm Name
Mailing
Case Case No. _____
(with district judge initials and magistrate judge initials, if case is referred)

TITLE OF DOCUMENT

~~**District and/or Magistrate Judge's Name (when**~~ Address
Telephone
Email Address
Attorney for
(Limited Appearance, if applicable)

THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

<p><u>JOHN DOE,</u> <u>Plaintiff,</u> <u>v.</u> <u>JANE DOE,</u> <u>Defendant.</u></p>	<p><u>TITLE OF DOCUMENT</u></p> <p><u>Case No. _____</u> <i><u>(including assigned judge initials and referred magistrate judge initials, if applicable)</u></i></p> <p><u>Assigned Judge</u> <u>Referred Magistrate Judge (if applicable)</u></p>
---	--

~~Jury Demand. When Proposed orders submitted to the court must comply with DUCivR~~

~~54-1. Such orders must be prepared and submitted as separate documents. All documents served or filed after the commencement of a case must include the properly captioned case number. For example:~~

~~Northern Division Civil Cases 1:11CV100 RJS~~

~~Central Division Civil Cases 2:11CV100 RJS~~

~~Southern Region Civil Cases: 4:11CV100 DN~~

~~Northern Division Criminal Cases 1:11CR100 RJS~~

~~Central Division Criminal Cases 2:11CR100 RJS~~

~~Southern Region Criminal Cases: 4:11CR100 DN~~

~~Legend:~~

~~1 – Northern Division (Ogden Office)~~

~~2 – Central Division (Salt Lake Office)~~

~~4 – Southern Region (St. George Office)~~

~~11 – Calendar Year~~

~~CV – Civil Case~~

~~CR – Criminal Case~~

~~AD – Attorney Discipline Case~~

~~MC – Miscellaneous Case~~

~~MJ – Magistrate Judge Case~~

~~RF – Restricted Filer Case~~

~~100 – Consecutive Case Number~~

~~RJS – Assigned Judge Initials~~

~~(7) _____ The title of each document must indicate its nature and on whose behalf it is filed. Where a jury trial is demanded as permitted by rule or statute and the party is requesting a jurythe Federal Rules of Civil Procedure, the words “JURY DEMANDED” should~~must~~ be placed in capital letters in~~on~~ the caption of the initial pleading~~first page~~ immediately below the title;~~of the pleading. Where a matter has been referred to a magistrate judge, the~~~~

~~caption for all motions, pleadings, and related documents in the matter must include the name of the magistrate judge below the title of the document.~~

(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.

~~(b)~~ The Clerk's Office **Font Requirements.**

~~The required font type is Times New Roman or Arial. Font size must be a minimum of 12 point, including footnotes, although use of 14 point is encouraged. All page limits as set forth in these rules apply, even if a party elects to use a font size larger than 12.~~

~~(c)~~ Examination by the Clerk.

~~The clerk will examine all pleadings and other papers filed and may require counsel or a self-represented party to refile documents that do not properly revise or provide required copies of pleadings or other papers not conforming to the requirements of this rule set forth in these rules.~~

DUCivR 23-1 _____ DESIGNATION OF PROPOSED CLASS ACTION

(a) **Caption.**

~~The~~In any case sought to be maintained as a class action, the complaint or other pleading asserting a class action must include ~~within the caption~~ the words; "Proposed Class Action" in the caption.

(b) **Class Allegation Section.**

~~The complaint or other~~Any pleading ~~purporting to commence a class action~~ must contain a separate section ~~entitled "Class Action Allegations"~~ setting forth the ~~information required below in subsection (c).~~

~~(c)~~ **Class Action Requisites.**

~~The class action allegation section must address the~~ following:

- (1) ~~the~~The definition of the proposed class;
- (2) ~~the~~The size of the proposed class;
- (3) ~~the~~The adequacy of representation by the class representative;
- (4) ~~the~~The common questions of law and fact;
- (5) ~~the~~The typicality of claims or defenses of the class representative;
- (6) ~~the~~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).~~additional matters pertinent to the findings as provided by that subsection.~~

~~(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.

~~Unless the court otherwise orders, the proponent of a class must file a motion for certification that the action is maintainable as a class action within 90 days after service of a pleading purporting to commence a class action, including cross claims and counterclaims. In cases removed or transferred to this court, the motion must be filed within 90 days of the removal or transfer.~~

DUCivR 37-1 ~~—DISCOVERY; MOTIONS AND DISPUTES; REFERRAL TO MAGISTRATE~~
~~JUDGE~~

(a) Resolution Without Court Assistance.

~~(a) Discovery Disputes.~~

(1) ~~The parties must make reasonable efforts without court assistance to~~
resolve a discovery dispute arising under Fed. R. Civ. P. 26-37 before
seeking court assistance.

~~(1)(2) and 45.~~ 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) ~~, thereto,~~ 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 ~~with alternative~~ dates and times ~~to do so.~~

~~(b) If the parties cannot resolve the dispute, and they wish to have the Court~~
~~mediate the dispute in accordance with Fed. R. Civ. P. Short Form Discovery~~
~~Motion.~~

~~(2) If the discovery disputes remain after reasonable efforts, and the parties~~
~~need a court order to resolve the dispute~~ 16(b)(3)(v), the parties (either
individually or jointly) may contact chambers and request a discovery
dispute conference.

~~(3)(1) If the parties wish for the court to resolve the matter by order,~~ 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 ~~Short Form Discovery Motion~~ must:

- (A) ~~include a certification that~~ states—

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

(ii) ~~and recite~~ the date, time, and method ~~place~~ of the reasonable efforts; ~~such consultation~~ and

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

~~(4)(B) . The filing party should~~ include as exhibits to the motion a copy of the ~~disputed~~ offending discovery request and any response; ~~and /response (if it exists) as an exhibit to the Short Form Motion.~~ ~~Each party should also email chambers a proposed order setting forth the relief requested in a word processing format.~~

(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.

~~(5) The parties must request expedited treatment as additional relief for the motion in CM/ECF to facilitate resolution of the dispute as soon as practicable. (After clicking the primary event, click 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, there are two columns of event lists. The left column is titled "Available Events (click to select events)" and contains a list of events including "Enforce Judgment", "Entry of Default", "Entry of Judgment", "Exclude", "Expedite" (which is highlighted in blue), "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", and "Hearing". The right column is titled "Selected Events (click to remove events)" and contains a list with "Short Form Discovery" and "Expedite". At the bottom of the interface, there are two buttons: "Next" and "Clear".

~~(6)~~(3) The opposing party must file its response 5 business days¹ after the filing of the ~~Motion~~motion, unless the court orders otherwise ~~ordered~~. ~~Any opposition should~~. 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.

~~(7)~~(5) To resolve the dispute, the court may:

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

~~(A)~~ decide the issue on the basis of the Short Form Discovery Motion motion after hearing from the partiesopposing party has had an opportunity to the dispute respond, either ~~in writing or~~ at a hearing, ~~consistent with DUCivR 7-1(f);~~

(B) set a hearing, telephonic or in writing; or otherwise, upon receipt of the Motion without waiting for any Opposition; and/or

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

~~(8)~~(6) ~~If any party to the dispute believes it needs extended~~Any request for overlength briefing, ~~it should request such briefing in the short form motion or at a hearing, if one takes place. This request should~~ must accompany, and not replace, the substantive argument ~~about the discovery dispute.~~

(c) A party subpoenaing a non-party must include a copy of this Expedited Consideration.

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

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

Motions

Start typing to find another event.

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	
Expedite	
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	

Next Clear

(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.

~~(9) — This rule does not apply to A party subpoenaing a non-party must include a copy of this rule with the subpoena. Any motion to quash, motion for a protective order, or motion to compel a subpoena will follow this procedure.~~

~~(10) If disputes arising arise during a deposition. Those disputes, including those that arise under Fed. that any party or witness believes can most R. Civ. P. 30(d)(3), may be efficiently be resolved by contacting the Court by phone, including disputes that give rise to a motion being made under Fed. R. Civ. P. 30(d)(3), the parties to the deposition must call the assigned judge by phone and not wait to file a Short Form Discovery Motion.~~

(f) Objection to Magistrate Judge’s Ruling.

~~(1) Any objection to a magistrate judge’s order must be made according to Fed. R. Civ. P. 72(a) and DUCivR 72-3 govern objections to), but must be made within 14 days of the magistrate judge’s oral or written ruling.~~

~~(11)(2) When filing an objection, the party, whichever comes first, and must~~
~~seek request~~ expedited treatment. ~~DUCivR 72-3 continues to govern the~~
~~handling of objections.~~

DUCivR 56-1 ~~_____~~ SUMMARY JUDGMENT; MOTIONS AND ~~SUPPORTING~~ MEMORANDA

(a) Compliance with DUCivR 7-1.

~~(a) Summary Judgment Motions and Memoranda.~~

A motion for summary judgment, response, and reply ~~the supporting memorandum~~ must comply with DUCivR 7-1 ~~clearly identify itself 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. ~~case caption and introduction.~~

~~(b) Motion Requirements and Supporting Evidence.~~

A motion for summary judgment must be titled "Motion for Summary Judgment," ~~include the following sections and~~ be supported by an Appendix of Evidence, and include the following sections: as follows:

- (1) Introduction and Relief Requested ~~Sought~~. A concise statement of each claim or defense for which summary judgment is sought and, along with a clear statement of the relief requested. ~~The parties should endeavor to address all summary judgment issues in a single motion. If a party files more than one motion, the court may strike the motion and require that the motions be consolidated into a single motion.~~
- (2) Background (Optional). An optional ~~Parties may opt to include this~~ section to provide ~~background and~~ context for the case, dispute, and motion. If included, this section should be placed between the Relief Requested ~~Sought~~ section and the Statement of Undisputed Material Facts ~~sections~~ section. 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 ~~those~~ facts necessary to decide the motion should be included in this section. The moving party must cite with particularity the evidence in the Appendix ~~of Evidence~~ that supports each factual assertion.

- (4) Argument. An explanation for each claim or defense, ~~establishing of why~~, under the applicable ~~supporting authority, why legal principles~~, the moving party is entitled to judgment as a matter of law. The ~~argument section arguments~~ 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 ~~of Evidence, not the Statement of Undisputed Material Facts~~.

(c) Response.

- ~~(5) Appendix of Evidence. All evidence offered in support of the motion must be submitted in an attached appendix. The appendix should be preceded by a captioned cover page index that lists each exhibit by number, includes a description or title, and if the exhibit is a document, identifies the source of the document. The appendix should include complete copies of all exhibits, including complete copies of depositions, to the extent possible. In cases where lengthy depositions are relied upon, the moving party need not submit the entire deposition. However, the moving party must submit at least 4 pages before and 4 pages after the cited deposition transcript page(s), for a total of at least 9 pages.¹~~

(c) ~~Opposition Memorandum Requirements and Supporting Evidence.~~

~~A response memorandum in opposition to a motion for summary judgment may be accompanied by an Appendix, if applicable, and must include the following sections, and, if applicable, be supported by an Appendix of Evidence as follows:~~

¹ Minuscripts are permissible, unless otherwise ordered by the court. Only one page of a minuscrite before and after the cited deposition transcript page is required, provided that it contains 4 pages of the deposition transcript on a single page.

- (1) Introduction. A concise summary explaining why summary judgment should be denied.
- (2) Background (Optional). ~~An optional~~ ~~Parties may opt to include this~~ section to provide ~~background and~~ 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~~ ~~need~~ not ~~be~~ limited to undisputed facts and ~~do~~ ~~need~~ not need to cite to evidentiary support.
- (3) Response to Statement of Undisputed Material Facts. A party must restate only those specific facts ~~A restatement of each fact~~ the opposing party contends are ~~is~~ genuinely disputed or immaterial, providing a concise statement explaining why the fact is disputed or immaterial, and a citation ~~with particularity~~ to the evidence used upon which the non-moving party relies to refute the fact. The responding party should not restate undisputed facts. If a that fact is inadmissible, the responding party must object, as provided in DUCivR 7-1(b), rather than moving to strike the inadmissible fact.² Any factual citations must reference the appropriate ~~party's~~ Appendix of Evidence, ~~rather than either party's factual statements or responses. The non-moving party should not restate all the moving party's statement of facts and should only respond to those facts for which there is a genuine dispute of material fact.~~
- (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 ~~such~~ fact and cite with

² ~~ADVISORY COMMITTEE NOTE: Parties who wish to raise evidentiary objections may do so pursuant to DUCivR 7-1(b)(1)(B) and Fed. R. Civ. P. 56(c)(2).~~

particularity ~~to the evidence that supports~~ the ~~factual assertion from the~~ ~~appropriate party's~~ 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 Evidence.

(5) Argument. An explanation for each claim or defense, ~~establishing of why,~~ under the applicable ~~supporting authority, why legal principles,~~ 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.

~~(5)(e) Appendix of Evidence, rather than either party's factual statements or responses.~~

~~(1) Appendix of Evidence.~~ All evidence ~~cited~~ ~~offered in opposition to~~ ~~in~~ ~~the~~ motion, ~~response, or reply~~ - must be compiled ~~submitted~~ in an appendix. Do not include, ~~utilizing the same procedure set out in DUCivR 56-1(b)(5).~~ Counsel must make every effort not to duplicate copies of evidence ~~already in~~ ~~submitted by~~ the record. ~~Instead, the other party must cite to evidence in a previously filed Appendix.~~

(2) -The Appendix must:

(A) ~~include a captioned,~~ ~~appendix should be preceded by a cover-~~ ~~page index that~~ —

(i) ~~—~~ — lists each exhibit by number;

(ii) ~~—~~ — includes a description or title of ~~and, if~~ the exhibit; and

~~(6)(iii) is a document,~~ — identifies the source of the

exhibit; document.

~~(d) Reply.~~ include complete copies of all exhibits, including deposition transcripts. For lengthy deposition transcripts, the

~~The moving party may submit file a reply memorandum. In the reply, a moving party may cite only additional evidence not previously cited in the relevant pages of opening memorandum to rebut a claim that a material fact is in dispute. Otherwise, no additional evidence may be cited in the deposition reply memorandum, and if cited, the 4 pages before court will disregard it.~~

~~(e) Citations of Supplemental Authority.~~

~~(B) When pertinent and 4 pages significant authorities come to the attention of a party after the sections cited. Manuscript transcripts are permitted, unless otherwise ordered by the court. party's memorandum in support of or in opposition to a summary judgment motion has been filed, or after oral argument but before decision, a party may promptly file a notice with the court and serve a copy on all counsel, setting forth the citations. There must be a reference either to the page of the memorandum or to a point argued orally to which the citations pertain, and the notice must state, without argument, the reasons for the supplemental citations. Any response must be filed promptly and be similarly limited.~~

(f) Failure to Respond.

~~When a party fails~~ Failure to respond timely respond, the court may grant to a ~~motion for summary judgment may result in the court's granting~~ the motion without further notice ~~if, provided~~ the moving party has established that it is entitled to judgment as a matter of law.

~~(g) Length of Memoranda and Filing Times.~~

~~(1) A motion for summary judgment and a memorandum in opposition must not exceed 10,000 words, or in the alternative, 40 pages. A reply brief~~

~~cannot exceed 5,000 words, or in the alternative, 20 pages. If the document exceeds the page limit, then the party must certify compliance with the word count limit. This limitation includes the following items: introduction, relief sought, background, statement of undisputed material facts, response to statement of undisputed material facts, statement of additional material facts, argument, and conclusion. This limitation excludes the following items: face sheet, table of contents, table of authorities, signature block, certificate of service, and appendix. Motions to file an overlength brief are discouraged and will be granted only upon a showing of good cause and exceptional circumstances, as set forth in DUCivR 7-1(e).~~

~~(2) Filing times are governed by DUCivR 7-1.~~

~~See DUCivR 7-1 for guidelines regarding motions and memoranda in general, and DUCivR 7-2 for guidelines on citing unpublished decisions.~~

DUCrimR 1-1 ~~SCOPE; AND AVAILABILITY; NOTICE OF RULE CHANGES; EFFECT ON PENDING CASES AMENDMENTS; PRIOR RULES~~

(a) Scope.

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

(b) Availability.

~~These rules are made available as specified in DUCivR 1-1(a) governs access.~~
~~Notice of amendments to copies of these rules.~~

(c) Notice and Public Comment.

~~opportunity to comment is governed by DUCivR 1-1(b) governs the court's process for providing a public comment period on proposed substantive rule changes.~~ The relationship of these rules to rules previously promulgated by this ~~court~~ and providing notice of adopted changes.

(d) Effect on Pending Cases.

~~the application of these rules to criminal proceedings pending at the time they take effect are governed by 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~~—The court,~~ on its own, the court initiative, may impose sanctions against an attorney, a party, or both for violating~~violation of~~ these ~~criminal~~ rules. Sanctions ~~may include, but are not limited to, the assessment of~~ costs, reasonable attorney's~~s' attorneys'~~ fees, a fine, a fines, or any combination of these, or any other sanction the court deems appropriate~~against an attorney or a party.~~

~~**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 indictments will be filed immediately with the Clerk of Court, and the defendants will be scheduled to appear before the 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, ~~which, if appropriate, includes the amount of restitution and a list of victims. If the agreement involves the dismissal of other charges or stipulates that a specific sentence is appropriate, the court will review and consider the presentence report before accepting or rejecting the plea agreement.~~

(b) Cooperation Agreement.

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

DUCrimR 17-1 SEALING OF EX PARTE MOTIONS AND ORDERS IN CRIMINAL JUSTICE ACT CASES RELATING TO WITNESSTRIAL 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.

~~Unless otherwise directed by the court, the clerk will seal at the time of filing all ex parte motions and orders in Criminal Justice Act (CJA) cases for issuance of trial subpoenas. Copies of such orders, when executed, will be served by the clerk on only the party that made the motion. Motions for appointment of experts, authorization of travel, and other extra-ordinary expenses must be submitted using the court's e-Voucher system.~~

~~See DUCrimR 16-1 for discovery ordered by pretrial conference and DUCrimR 44-1 for payment of services.~~

DUCrimR 17-2 ~~MOTION~~ **MOTIONS FOR SUBPOENA FOR SUBPOENAS OF DOCUMENTS AND OBJECTS**

(a) ~~A party who seeks documents or objects from a witness~~~~All parties~~, regardless of whether ~~the party has~~~~they have~~ retained or appointed counsel or ~~is self-~~~~represented~~~~represent themselves~~, must file ~~a motion~~~~Motions~~ for ~~a subpoena~~ under ~~Subpoenas pursuant to~~ Fed. R. Crim. P. ~~Rule~~ 17(c). ~~A party~~ with the Court prior to issuance of any subpoena. ~~Parties~~ may file ~~the motions~~~~such motions~~ ex parte and under seal, ~~in which case, the~~ ~~The~~ docket entry will identify ~~the~~ ~~motion~~~~all such filings~~ as SEALED EX PARTE MOTION.

(b) The ~~motion must~~~~Motion should~~ include:

(1) ~~a description of the~~~~The~~ specific material ~~requested~~;

~~(1)(2) sought, including an~~ ~~explanation~~~~attachment~~ of the ~~following~~ ~~draft~~ subpoena;

~~(2)(A) A proffer as to~~ the likelihood of admissibility/~~materiality~~ of the material ~~requested~~~~sought~~;

~~(3)(B) An explanation as to~~ why the ~~movant could not otherwise procure~~ the material ~~is unavailable through other means; and~~;

~~(4)(C) An explanation as to~~ why the ~~movant cannot prepare the~~ matter ~~cannot be adequately prepared~~ without the material; ~~in advance~~; and

(3) ~~one of the following representations~~—

(A) ~~the subpoena~~~~Either a representation that the material sought~~ does not ~~seek a victim's~~~~request~~ personal or confidential ~~information~~;

(B) ~~material concerning a victim, a representation that~~ the movant does not know ~~whether~~~~if~~ the ~~subpoena seeks a victim's~~~~material~~ ~~sought concerns~~~~request~~ personal or confidential ~~information~~; ~~material concerning a victim~~, or

~~(5)(C) a representation that the subpoena movant expressly seeks a victim's personal or confidential information; and material concerning a victim.~~

~~(4) a copy of the proposed subpoena attached as an exhibit.~~

~~(c) If the requested subpoena seeks material about a victim or the requesting party does not know whether she/he seeks material about a victim, 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 Victim Coordinator from the Office of the United States Attorney 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 for the victims(s) in the case. If the subpoena seeks personal or confidential material concerning a victim, the Court will provide 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

~~(c)(5) the Clerk's Office will issue the subpoena to the movant for service. victim or his or her legal representative prior to issuance as required by Rule 17(c)(3).~~

~~(d) "Victim" means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia.~~

DUCrimR 20-1 TRANSFER FOR PLEA AND SENTENCE ~~TRANSFERS UNDER FED. R. CRIM.~~

~~P. 20~~

(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.

~~Where a criminal case against a named defendant who has not been sentenced is pending in this jurisdiction, and the United States Attorney receives notification that a criminal case pending in another jurisdiction against the same defendant, is to be transferred to this jurisdiction under Fed. R. Crim. P. 20, the United States Attorney must promptly notify the Clerk of Court. On receiving the case file from the transferring jurisdiction, the clerk will open a new case under the Rule 20 transfer and assign it to the judge to whom the pending case is assigned.~~

~~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.~~