

# LOCAL CIVIL RULES

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## **DUCivR 1-1      AVAILABILITY AND AMENDMENTS**

### **(a)      Availability.**

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

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

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

## **DUCivR 1-2      SANCTIONS FOR CIVIL RULE VIOLATIONS**

On a party's motion or on its own, the court may impose sanctions against an attorney, a party, or both for violating these rules. Sanctions include costs, reasonable attorney's fees, a fine, or any combination of these, or any other sanction the court deems appropriate. The court may dismiss a case or enter judgment as a sanction only in extraordinary circumstances.

## **DUCivR 3-1      CLERK'S SCHEDULE OF MISCELLANEOUS FEES**

Under 28 U.S.C. § 1914(a) and (b), the Clerk of Court collects fees as determined by the Judicial Conference of the United States. Under 28 U.S.C. § 1914(c), the court is authorized to require advance payment of those fees. A current fee schedule is available on the court's website.

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

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

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

- (A)      *In Forma Pauperis Qualifications.* To qualify as indigent, a party's total monthly income must be equal to or below 200% of the United States poverty guideline as issued each year in the Federal Register by the Department of Health and Human Services for the 48 Contiguous States and the District of Columbia.
- (B)      *Review of the Motion.* A magistrate judge will review the motion to determine whether the party qualifies as indigent and may review whether the complaint meets the conditions of section 3-2(b) below.
- (C)      *Conditions for Filing the Action.* The clerk will file the action under the following conditions:
  - (i)      as of the date of the order if the order waives the filing fee;
  - (ii)     upon payment of the required fee if the order reduces the filing fee; or
  - (iii)    upon payment of the full filing fee if the order denies the motion.
- (D)      *Payment.* A party will have 30 days from the date of the order to submit the required fee. Failure to timely pay the filing fee will result in closure of the case without filing the action. When a party

attempts to pay the filing fee after the case has been closed, the clerk will accept the payment, open a new case, and file the action as of the date of the payment.

(2) An Incarcerated Party. Under 28 U.S.C. § 1915, an incarcerated party may request authorization to proceed in a civil action without prepayment of the filing fee by filing a Motion to Proceed Without Prepayment of Fees. A form motion is available from the Clerk's Office and on the court's website.

(A) *Account Statement and Consent*. In addition to the motion, a party must submit:

- (i) a certified copy of the incarcerated party's trust fund account statement (or institutional equivalent) from each institution in which the incarcerated party was confined in the 6 months before the motion is filed. The account statement must be submitted with the motion; and
- (ii) written consent authorizing the appropriate prison official to collect fees and submit payments to the clerk if the motion is granted. If the motion is granted, the court will send a written consent form to the incarcerated party to sign and return to the court.

(B) *Initial Partial Filing Fee*. If the motion is granted, the court will assess and, when funds exist, collect an initial partial filing fee of 20% of the greater of:

- (i) the average monthly deposits to the account during the six-month period preceding the filing of the action; or
- (ii) the average monthly balance in the account for the six-month period preceding the filing of the action.

- (C) *Monthly Payments.* After the initial partial filing fee is paid, the incarcerated party must make monthly payments of 20% of the preceding month's income credited to the account but only if the account balance exceeds \$10.
- (D) *Collecting Payments.* The agency having custody of the incarcerated party must forward any payment required under this rule in the proper amount to the clerk until the filing fees are paid.
- (E) *Conditions for Filing the Action.* The clerk will file the action as of the date of the order granting the motion. If the motion is denied, the clerk will notify the incarcerated party of the decision and will file the action only upon receipt of the required fee.

**(b) Screening the Case.**

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

**(c) Service of Process.**

- (1) The clerk will not issue a summons until directed to do so by the court.
- (2) After the motion is granted, or after the case has been screened and a decision has been made to proceed with service, the court will order:
  - (A) *Regarding a non-incarcerated party's action:*
    - (i) the plaintiff to complete and return to the Clerk's Office a summons and a Service of Process form (both available from



- the Clerk's Office and on the court's website) for each defendant;
  - (ii) the clerk to issue the summons when the forms are returned; and
  - (iii) the United States Marshal to serve on each defendant the completed summons, the complaint, and a copy of the order; or
  - (iv) if the plaintiff fails to submit the forms as directed, the action may be dismissed.
- (B) *Regarding an incarcerated party's action:*
- (i) each defendant to waive service of process, under Rule 4 of the Federal Rules of Civil Procedure; or
  - (ii) the United States Marshal to serve on each defendant the completed summons, the complaint, and a copy of the order.

### **DUCivR 3-3      MULTIDISTRICT LITIGATION**

**(a)      Notice of Related Cases.**

A party filing a complaint, answer, or other pleading in a case that may be subject to pretrial proceedings before the Judicial Panel on Multidistrict Litigation under 28 U.S.C. § 1407 must file a written notice describing the nature of the case and the titles and case numbers of all related cases filed in this or any other jurisdiction.

**(b)      Filing Time Requirement.**

The notice required in section 3-3(a) must be filed at the time of filing or when the filing party becomes aware of the related cases.

**(c) Attorney Admission Upon Remand or Transfer.**

Upon remand or transfer of a multidistrict litigation case, an attorney who is not already licensed to practice in this district must apply for pro hac vice admission and pay the required fee.

**DUCivR 3-4 CIVIL COVER SHEET**

A Civil Cover Sheet, Form JS-44, must be submitted with the document that initiates a civil action. Information contained in the cover sheet has no legal effect because the cover sheet is solely for administrative purposes.

**DUCivR 3-5 MOTIONS IN PLEADINGS PROHIBITED**

A complaint, counterclaim, or crossclaim must not include a motion. A motion accompanying a complaint (for example, a motion for temporary restraining order) must be prepared and filed as a separate document.

**DUCivR 5-1 FILING AND ELECTRONIC NOTIFICATION**

**(a) Electronic Filing.**

Except as otherwise permitted in this rule, a party authorized to electronically file must sign and file documents as required in the [ECF Procedures Manual](#).

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

**(1) Unrepresented Parties.**

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

- (i) Form. To register, the party must send the Email Filing and Electronic Notification Registration Form for Unrepresented Parties to the Clerk's Office. The form is available on the court's website, and it may be hand-delivered, mailed, or emailed to the Clerk's Office ([utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov)).
- (ii) Certification. By signing the form, the party certifies that:
  - (a) documents will be emailed to the court in the appropriately sized PDF consistent with the requirements in the [ECF Procedures Manual](#);
  - (b) documents will meet the redaction requirements outlined in DUCivR 5.2-1, or the party will email a motion to file the documents under seal consistent with DUCivR 5-3, to the Clerk's Office for filing;
  - (c) an appropriate electronic signature, as outlined in the [ECF Procedures Manual](#), will be used on all documents;
  - (d) the formatting requirements outlined in DUCivR 10-1 and the [ECF Procedures Manual](#) will be followed;
  - (e) consent is given to receive by email all filings that are required to be served under Fed. R. Civ. P. 5(a) and 77(d) and Fed. R. Crim. P. 49;
  - (f) service by email constitutes service under the above rules, and the right to service by mail is waived;
  - (g) under Fed. R. Civ. P. 5, all documents will be served on parties who are not served through the court's

- CM/ECF system using mail, hand-delivery, or some other agreed-upon method;
- (h) electronic notification requires a separate account with Public Access to Court Electronic Records (PACER), and PACER may require payment of fees to view documents;
  - (i) a valid email address will be provided to receive court communications and notices; and
  - (j) notification of any name, mailing address, or email address changes will be immediately emailed to the Clerk's Office for filing.
- (iii) Email Subject Line. When emailing documents to the Clerk's Office for filing, the subject line must include the case number and document name.
  - (iv) Filing Date. Except for case-initiating documents, the filing date for a document is the date the email is sent.
  - (v) Email Notification in All Cases. An unrepresented party who registers to receive electronic notification of case activity will automatically receive email notification in all cases in which they are a party in this court.
  - (vi) Highly Sensitive Material. If a document contains highly sensitive material, as defined in [General Order 21-002](#), that could be compromised by email transmission, then the document must be hand-delivered or mailed to the Clerk's Office for filing.
  - (vii) Sanction. The court may, on its own or on a party's motion, revoke an unrepresented party's ability to file by email

and/or receive electronic notice after a determination that the privilege has been abused. If this occurs, the unrepresented party will cease to receive email notification of case activity in all cases in which they are a party. Examples of circumstances when a party abuses the privilege include repeatedly submitting:

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

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

- (i) Form. To register, the party must send the Email Filing and Electronic Notification Registration Form for Unrepresented Parties to the Clerk's Office. The form is available on the court's website, and it may be hand-delivered, mailed, or emailed to the Clerk's Office ([utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov)).
- (ii) Certification. In filing the form, the unrepresented party consents to sections 5-1(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 5-1(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.

(3) Filing Date. Except for case-initiating documents, the filing date of an emailed document is the date the email is sent.

(4) 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) Revoking Email Filing or Electronic Notification.**

To revoke email filing, electronic notification, or both, an unrepresented party must send the Revocation of Email Filing or Electronic Notification 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 to the Clerk's Office ([utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov)). The Clerk's Office will docket a notice that email filing, electronic notice, or both, has been revoked. When electronic

notification has been revoked, documents must be served on an unrepresented party in paper or as otherwise agreed or ordered.

**(d) Paper Filing.**

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

(iv) This rule does not affect the response time to a document that is not filed but is served on a party (e.g., a response to a discovery request, which is controlled by the Federal Rules of Civil Procedure).

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

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

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

**DUCivR 5-2 FILING CASES UNDER COURT SEAL**

**(a) General Rule.**

Court records are presumptively open to the public. Unless restricted by statute or court order, the sealing of civil cases is highly discouraged. In extraordinary circumstances, a judge may sua sponte order a case to be sealed or may order a case to be sealed by granting a party's motion.

**(b) Civil Actions for False Claims.**

The clerk will seal actions filed under 31 U.S.C. § 3729 for a minimum of 60 days, as required by 31 U.S.C. § 3730(b)(2). The government may seek an extension of the seal by filing an ex parte motion.

**(c) Procedures.**

(1) Sealing a New Case. To seal a new case, a party must file in the Salt Lake City Clerk's Office:

- (A) A paper copy of the complaint or initiating document;
- (B) A paper copy of a motion identifying the statute, rule, case law, or other basis permitting the court to seal the case; and



- (C) Electronic PDF copies of each document on a clearly labeled digital storage medium, consistent with those approved in the court's [ECF Procedures Manual](#).
  - (2) Sealing an Existing Case. A party must file a motion to seal the case. The motion must identify the statute, rule, case law, or other basis permitting the court to seal the case.
  - (3) Filing Documents After a Case Has Been Sealed. A party must file, in the Salt Lake City Clerk's Office, an electronic PDF copy of the document on a clearly labeled digital storage medium, consistent with those approved in the court's [ECF Procedures Manual](#). Parties are not required to file paper copies of the documents.
- (d) Access to Sealed Cases.**
- The Clerk's Office will not provide access to or information contained in a sealed case, unless otherwise directed by the court.

### **DUCivR 5-3 FILING DOCUMENTS UNDER COURT SEAL**

**(a) General Rule.**

- (1) The records of the court are presumptively open to the public. The sealing of pleadings, motions, memoranda, exhibits, and other documents or portions thereof (Documents) is highly discouraged. Unless restricted by statute or court order, the public will have access to all Documents filed with the court and to all court proceedings. On motion of a party and a showing of good cause, a judge may order that a Document be sealed. A stipulation or a blanket protective order that allows a party to designate documents as sealable will not suffice to allow the filing of Documents under seal.

See the court's [ECF Procedures Manual](#) for procedures regarding filing sealed documents nonelectronically.

- (2) To prevent the overdesignation of sealed Documents in the court record, counsel must:
  - (A) refrain from filing motions or memoranda under seal merely because an attached exhibit contains protectable information;
  - (B) redact personal identifiers, as set forth in DUCivR 5.2-1, and publicly file the Document;
  - (C) redact the confidential portions of a Document when they are not directly pertinent to the issues before the court and publicly file the Document; and
  - (D) if the protectable information is pertinent to the legal issues before the court, redact the protectable information from the Document and publicly file the Document. Follow the procedure below to file a sealed version of the Document.

**(b) Procedure for Filing Under Seal.**

- (1) Unless otherwise ordered by the court, a party must first publicly file a redacted version of the Document. A Motion for Leave to File Under Seal must be filed contemporaneously with the proposed sealed Document. The motion and proposed sealed Document must be filed as separate docket entries and both linked to the redacted version of the Document. The motion, which may be filed under seal if necessary, and the proposed sealed Document must be electronically filed. The portion of the Document sought to be filed under seal must be highlighted to identify the specific information that is sought to be sealed.

- (2) The Motion for Leave to File Under Seal must specify why the Document is privileged, protectable as a trade secret, or otherwise entitled to protection under the law. Specifically, the motion must:
  - (A) be narrowly tailored to seek protection of only the specific information that the party alleges is truly deserving of protection; and
  - (B) state the duration of the seal; and
  - (C) state the statute, rule, case law, or reason supporting the sealing of the Document; or
    - (i) If the sole basis for proposing that the Document be sealed is that another party designated it as confidential or for attorneys' eyes only, then so state that reason in the motion. If the designating party seeks to have the Document remain under seal, the designating party must file a Motion for Leave to File Under Seal in accordance with DUCivR 5-3(b)(2) within 7 days of service of the motion. If the designating party does not file a motion within 7 days, the original motion may be denied, and the Document may be unsealed without further notice.
- (3) The court may make an independent determination as to whether the Document will be sealed, regardless of the parties' agreement or a party's decision not to oppose a Motion for Leave to File Under Seal.
- (4) Subsequent Documents containing information that has already been the subject of an order allowing a sealed filing must state on the caption page, directly under the case number: "FILED UNDER SEAL PURSUANT TO COURT ORDER (DOCKET NO. \_\_\_\_)."

- (5) A Document filed under seal pursuant to section 5-3(b)(1) above will remain sealed until the court either denies the Motion for Leave to File Under Seal or enters an order unsealing it.
- (6) The court may direct the unsealing of a Document, with or without redactions, after notice to all parties and an opportunity to be heard, with the exception set forth above in section 5-3(b)(2)(C)(i).
- (7) The requirements of 5-3(b) may be modified by the court upon a showing of good cause.

**(c) Access to Sealed Documents.**

Unless otherwise ordered by the court, the clerk will not provide access to or make copies of sealed documents.

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

**(a) Forms.**

Unless represented by counsel, an incarcerated party must use forms that are substantially the same as those forms available from the Clerk of Court when filing:

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

**(b) Answers.**

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

## DUCivR 5.1-1 NOTIFICATION OF CLAIM OF UNCONSTITUTIONALITY

### (a) An Act of Congress.

Whenever the constitutionality of any act of Congress affecting the public interest is, or is intended to be, drawn into question in any suit or proceeding to which the United States, or any of its agencies, officers, or employees, is not a party, counsel for the party raising or intending to raise such constitutional issue must promptly notify the clerk, in writing, specifying the applicable act or the provisions, a proper reference to the title and section of the United States Code if the act is included in it, and a description of the claim of unconstitutionality.

Upon receipt of such notice, the clerk, on behalf of the court, will send a certificate to the Attorney General of the United States and the United States Attorney for the District of Utah in substantially the following form:

***The United States District Court for the District of Utah hereby certifies to the Attorney General of the United States that the constitutionality of an Act of Congress, Title \_\_\_\_\_, Section \_\_\_\_\_, United States Code (or other description) is drawn into question in the case of \_\_\_\_\_ v. \_\_\_\_\_, Case No. \_\_\_\_\_, to which neither the United States, nor any of its agencies, officers, or employees, is a party. Under Title 28, section 2403(a) of the United States Code, the United States is permitted to intervene in the case for the presentation of evidence, if admissible, and for argument on the question of constitutionality.***

The clerk will file a copy of the certificate in the case docket.

### (b) A Statute of a State.

Whenever the constitutionality of any statute of a state affecting the public interest is, or is intended to be, drawn into question in any suit or proceeding to which the state or any of its agencies, officers, or employees, is not a party, counsel for the party raising or intending to raise such constitutional issue must

promptly notify the clerk, in writing, specifying the act or its provisions, a reference to the title and section of the statute, if any, of which the act is part, and a description of the claim of unconstitutionality.

Upon the receipt of such notice, the clerk, on behalf of the court, will send a certificate to the Attorney General of the state in substantially the following form:

***The United States District Court for the District of Utah hereby certifies to the Attorney General of the State of \_\_\_\_\_, that the constitutionality of Title \_\_\_\_\_, Chapter \_\_\_\_\_, Section \_\_\_\_\_, (or other description) is drawn in question in the case of \_\_\_\_\_ v. \_\_\_\_\_, Case No. \_\_\_\_\_, to which neither the State of \_\_\_\_\_, nor any of its agencies, officers, or employees, is a party. Under Title 28, section 2403(b) of the United States Code, the State of \_\_\_\_\_ is permitted to intervene in the case for the presentation of evidence, if admissible, and for argument on the question of constitutionality.***

The clerk will file a copy of the certificate in the case docket.

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

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

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

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

(1) A protective order entered under Fed. R. Civ. P. 26(c) may include a redaction requirement for public filings.

- (2) The court may, on its own or on a party's motion, order redaction of protected information in public court filings. When a party requests redaction of protected information, they must proceed under DUCivR 7-1.

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

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

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

If redaction is required:

- (1) within 21 days after receiving notice that a transcript has been filed, a party must file a Notice of Intent to Request Redaction;
- (2) within 42 days after receiving notice that a transcript has been filed, a party must file a Redaction Request, specifically identifying the page and line number and the specific redaction requested; and
- (3) within 63 days after filing the transcript, a court reporter must make the requested redactions and file the redacted transcript.

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

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

## DUCivR 7-1 MOTIONS AND MEMORANDA

### (a) Motion, Response, and Reply.

- (1) Motion and Memorandum. Except as otherwise allowed by this rule, a motion and memorandum must be contained in the same document and include the following:
  - (A) an initial separate section stating succinctly the specific relief sought and the grounds for the relief; and
  - (B) a recitation of relevant facts, supporting authority, and argument.
- (2) Exception to the Requirement to Include Facts and Supporting Authority. The requirement to include facts and supporting authority under section 7-1(a)(1)(B) does not apply to the following motions:
  - (A) to extend time for the performance of an act, whether required or permitted, if the motion is made before the current deadline expires;
  - (B) to continue a hearing or other court proceeding;
  - (C) to appoint a next friend or guardian ad litem;
  - (D) to substitute a party;
  - (E) for a settlement conference;
  - (F) for referral to or withdrawal from the court's ADR program; and
  - (G) for approval of a stipulation between the parties.
- (3) No Motion Within a Response or Reply. A party may not make a motion, including a motion under Fed. R. Civ. P. 56(d), or a cross-motion in a



response or reply. Any motion must be separately filed. A cross-motion may incorporate by reference the arguments contained in a response, if applicable.

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

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

- (i) A motion or a response may not exceed 25 pages or 7,750 words.
- (ii) A reply may not exceed 10 pages or 3,100 words.
- (iii) A response to a motion must be filed within 28 days after service of the motion.
- (iv) A reply may be filed within 14 days after service of the response.

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

- (i) A motion or a response may not exceed 40 pages or 12,400 words.
- (ii) A reply may not exceed 20 pages or 6,200 words.
- (iii) A response to a motion must be filed within 28 days after service of the motion.
- (iv) A reply may be filed within 14 days after service of the response.

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

- (i) A motion or a response may not exceed 25 pages or 7,750 words.
- (ii) A reply may not exceed 10 pages or 3,100 words.
- (iii) A response to a motion must be filed within 14 days after service of the motion.

- (iv) A reply may be filed within 14 days after service of the response.
- (D) *All Other Motions.*
  - (i) A motion, response, or reply not specified above may not exceed 10 pages or 3,100 words.
  - (ii) A response to a motion must be filed within 14 days after service of the motion.
  - (iii) A reply may be filed within 14 days after service of the response.
- (5) Stipulation to Extend Filing Time. Parties seeking to extend the filing time for a response or reply must file a stipulated motion before the filing time has passed. A stipulation to extend a filing time is ineffective without a court order.
- (6) Sections Applicable to Page or Word Limits and Certification Requirement.
  - (A) All headings, citations, quotations, and footnotes count toward the page or word limit.
  - (B) The caption, face sheet, table of contents, table of authorities, signature block, certificate of service, and exhibits do not count toward the page or word limit.
  - (C) When a document exceeds the page limit, a party must certify at the end of the document that the document complies with the word limit (e.g., “I, [attorney’s name], certify that this [name of document] contains [number of words] words and complies with DUCivR 7-1(a)(4).”).
- (7) Overlength Motion, Response, or Reply.
  - (A) Unless modified by the assigned judge in a court order or on their “practices and procedures” page on the court website, a party must

first obtain a court order authorizing the additional pages or words before filing a motion, response, or reply that exceeds the page or word limits in section 7-1(a)(4). The motion must be filed, and the order obtained, before filing the overlength motion, response, or reply. The motion to exceed the page or word limit must include:

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

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

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

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

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

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

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

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

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

**(c) Supplemental Authority.**

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

- (1) The notice must contain, without argument, the following:
  - (A) a reference either to the page of the memorandum or to a point argued orally to which the supplemental authority pertains; and
  - (B) the reasons why the supplemental authority is relevant.
- (2) The court may decide a motion without waiting for a response to the notice. If the court has not ruled on the motion, a party may file a response, which may not exceed 2 pages, within 7 days after service of the notice.

**(d) Supporting Exhibits.**

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

**(e) Proposed Orders.**

- (1) When Required. A party must provide a proposed order when filing a motion under section 7-1(a)(2) of this rule or when the court orders otherwise.
- (2) Filing Procedures. To file a proposed order, a party must:
  - (A) attach it as an exhibit to the motion; and
  - (B) email an editable copy of the proposed order, copied to other parties or their counsel—

- (i) for motions filed under DUCivR 77-2, to [utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov); and
- (ii) for all other motions, to the assigned judge's chambers.

**(f) Failure to Respond.**

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

**(g) Oral Arguments on Motions.**

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

**(h) Summary Judgment.**

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

**(i) Courtesy Copies.**

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

**(j) Sanctions.**

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

- (1) returning the document for resubmission in accord with the rule;
- (2) denial of the motion; or
- (3) any other sanction the court deems appropriate.

## DUCivR 7-2 CITING UNPUBLISHED JUDICIAL DECISIONS

### (a) Permitted Citation.

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

### (b) Citation Form.

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

### (c) Copies.

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

## DUCivR 7-3 REQUEST TO SUBMIT FOR DECISION

### (a) Not Required.

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

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

If a party files a request, it must state:

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

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

**(a) Governing Rules.**

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

**(b) Initial Filings.**

- (1) A complaint must include:
  - (A) identification of the final agency action or any part being challenged;
  - (B) factual allegations supporting the grounds for the challenge; and
  - (C) the legal basis for subject-matter jurisdiction for the action.

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

- (2) In response to a complaint, the agency must file one of the following responsive documents within the time prescribed by statute, rule, or court order:
  - (A) a motion to dismiss under Fed. R. Civ. P. 12(b); or
  - (B) a short and plain statement—
    - (i) admitting or denying that the decision, or any part of it, is arbitrary and capricious or not supported by substantial evidence; and
    - (ii) identifying any affirmative defenses.
- (3) The following responsive pleadings are not allowed:
  - (A) an answer;
  - (B) a motion for judgment on the pleadings;
  - (C) a motion for summary judgment; or
  - (D) a motion to affirm or reverse the decision.
- (4) If the agency files a motion to dismiss and the court denies that motion, the agency must comply with section 7-4(b)(2)(B) within the time prescribed by Fed. R. Civ. P. 12(a)(4)(A).

**(c) Scheduling Order.**

- (1) In lieu of an Attorney Planning Meeting Report under Fed. R. Civ. P. 26(f), and within 14 days after the agency files its short and plain statement, the parties must submit a proposed scheduling order that contains:
  - (A) a brief statement of—
    - (i) the claimed errors in the agency’s decision; and
    - (ii) the reasons the agency claims its decision was not arbitrary and capricious or was supported by substantial evidence;
  - (B) dates by which the following will be filed—



- (i) the indexed administrative record, if one has not already been filed;
- (ii) objections to the administrative record and responses;
- (iii) any other motions;
- (iv) an Opening Brief, which must be filed using the CM/ECF event, “Motion for Review of Agency Action”;
- (v) an Answer Brief, which must be filed using the CM/ECF event, “Memorandum in Opposition to Motion” and linked to the “Motion for Review of Agency Action”; and
- (vi) a Reply Brief, which is limited to addressing only those issues raised in the Answer Brief, and which must be filed using the CM/ECF event, “Reply Memorandum/Reply to Response to Motion” and linked to the “Motion for Review of Agency Action.”<sup>2</sup>

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

**(d) Brief Requirements.**

- (1) Fed. R. App. P. 28(a)(2), (3), (5)-(10) govern the Opening Brief;
- (2) Fed. R. App. P. 28(b) governs the Answer Brief, except that it need not follow the requirements of Fed. R. App. P. 28(a)(1) or (4);
- (3) Fed. R. App. P. 28(c) governs the Reply Brief;
- (4) The following page and word limits apply, unless, on showing of good cause, the court orders otherwise:

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

- (A) in a case seeking review of a Social Security Administration Commissioner's decision, Opening and Answer Briefs must not exceed 7,750 words, and a Reply Brief must not exceed 3,875 words;
  - (B) in all other cases, brief length is governed by Fed. R. App. P. 32(a)(7); and
  - (C) word limits exclude the caption, face sheet, table of contents, table of authorities, signature block, certificate of service, and exhibits.
- (5) The formatting requirements of DUCivR 10-1 apply.
- (6) Unless the court orders otherwise, the court will not consider additional briefs.

#### **DUCivR 7-5      HYPERLINKS IN DOCUMENTS**

**(a) Recommended.**

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

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

**(b) Permitted.**

A hyperlink to any other resource not identified in section 7-5(a)(2) is permitted in any document filed with the court, provided that the party inserting the hyperlink:

- (1) downloads the content and files it in PDF format as an exhibit to the document; or

- (2) if the content cannot be filed electronically (e.g., an audio or video recording), files a Notice of Nonelectronic Filing as required by the [ECF Procedures Manual](#) and attaches the content to the notice.

## **DUCivR 7-6 AMICUS CURIAE PARTICIPATION**

### **(a) Participation.**

An attorney or person, entity, or the government through an attorney may seek leave of the court to file an amicus curiae brief in a case. Those seeking leave must file a motion consistent with section 7-6(b).

### **(b) Motion for Leave to File a Memorandum.**

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

### **(c) Memorandum Form and Length.**

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

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

**(d) Memorandum Contents.**

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

**(e) Time for filing.**

- (1) Supporting the Moving Party. The amicus must file the motion for leave and amicus memorandum no later than 14 days after the moving party files its motion.

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

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

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

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

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

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

**DUCivR 9-1 ALLOCATION OF FAULT**

**(a) Filing Requirements.**

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

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

**(b) Disclosure Requirements.**

- (1) If the information in section 9-1(a) is known when filing a responsive pleading, a party's responsive pleading must include it.
- (2) If the information in section 9-1(a) is unknown when filing a responsive pleading, a party must file a supplemental notice containing the information within a reasonable time after the party discovers the factual and legal basis on which fault can be allocated. The notice must be filed:
  - (A) by the deadline specified in the scheduling order, unless the court orders otherwise on a motion and good cause shown; and
  - (B) in no event later than 90 days before trial.

**DUCivR 10-1      FORMAT OF DOCUMENTS**

**(a) Format Requirements.**

- (1) Paper and Margins. A document presented for filing must be single-sided and formatted to 8½ x 11 inch plain, white paper with a top margin of at least 1½ inches and remaining margins of at least 1 inch.
- (2) Electronic Document. A document filed in CM/ECF must comply with the latest version of the [ECF Procedures Manual](#).
- (3) Font and Font Size. Font must be clearly legible and a minimum size of 12 point, including footnotes.

- (4) Spacing. Text must be double-spaced, except for block quotes and footnotes.
- (5) Pagination. Document pages must be numbered consecutively.
- (6) Contact Information and Caption. The first page of each document must include contact information of the filer and a caption identifying the document.
  - (A) Contact information to be listed in the upper left-hand corner above the caption:
    - (i) counsel's name and Utah State Bar number,<sup>3</sup> or if self-represented, the party's name;
    - (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.

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<sup>3</sup> An attorney who is an active member of the District of Columbia or a state bar other than the Utah State Bar is not required to include a bar number.

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

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

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

**TITLE OF DOCUMENT**

**Case No.** \_\_\_\_\_  
*(including assigned judge initials and  
 referred magistrate judge initials, if  
 applicable)*

**Assigned Judge  
 Referred Magistrate Judge (if applicable)**

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



comply with requirements in the latest version of the [ECF Procedures Manual](#).

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

**(b) Exhibits.**

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

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

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

**DUCivR 15-1 AMENDED PLEADINGS**

- (a) A party moving under Fed. R. Civ. P. 15(a)(2) for leave to amend a pleading must attach the following as exhibits to the motion:

- (1) the proposed amended pleading, and
- (2) a redlined version of the proposed amended pleading comparing it with the pleading sought to be amended.

- (b) A party proceeding without an attorney is exempt from the requirements of section 15-1(a)(2) of this rule.

- (c) A party who has been granted leave to file must subsequently file the amended pleading with the court. The amended pleading filed must be the same pleading proffered to the court in section 15-1(a)(1) unless the court has ordered otherwise.

## DUCivR 16-1 PRETRIAL PROCEDURE

### (a) Pretrial Scheduling and Discovery Conferences.

(1) Scheduling Conference. In accordance with Fed. R. Civ. P. 16, except in categories of actions exempted under section 16-1(a)(1)(A), the court, or a magistrate judge when authorized under section 16-1(b), will enter, by a scheduling conference or other suitable means, a scheduling order. When a scheduling conference is held, trial counsel should be in attendance and must indicate to the court (i) who trial counsel will be, (ii) their respective discovery requirements, (iii) the potential of the case for referral to the court's ADR program, and (iv) the discovery cutoff date. If counsel cannot agree to a discovery cutoff date, such date will be determined by the district judge or the magistrate judge conducting the conference.

(A) Unless otherwise ordered by the court, the following categories of cases are exempt from these scheduling conference and scheduling order requirements:

- (i) Cases filed by prisoners, including those based on motions to vacate sentence, petitions for writs of habeas corpus, and allegations of civil rights violations;
- (ii) Cases filed by parties appearing pro se or in which all defendants are pro se;
- (iii) Bankruptcy appeals and withdrawals;
- (iv) Forfeiture and statutory penalty actions;
- (v) Internal Revenue Service third-party and collection actions;
- (vi) Reviews of administrative decisions by Executive Branch agencies, including Health and Human Services;
- (vii) Actions to enforce or quash administrative subpoenas;
- (viii) Cases subject to multidistrict litigation;

- (ix) Actions to compel arbitration or set aside arbitration awards;
- (x) Proceedings to compel testimony or production of documents in actions pending in another district or to perpetuate testimony for use in any court; and
- (xi) Cases assigned to be heard by a three-judge panel.

(B) Unless otherwise ordered by the court, as a matter of general court policy, incarcerated or otherwise detained pro se parties will not be required to comply with Fed. R. Civ. P. 26(f).

**(b) Magistrate Judge.**

The court may designate a magistrate judge to hold the initial scheduling or any pretrial conference. The court generally will conduct the final pretrial conference in all contested civil cases.

**(c) Conference.**

At a time to be fixed during the scheduling conference, but at least 10 days prior to the final pretrial conference, counsel for the parties will hold a conference to discuss settlement, a proposed pretrial order, exhibit list and other matters that will aid in an expeditious and productive final pretrial conference.

**(d) Final Pretrial Conference.**

Trial counsel must attend the final pretrial conference with the court. Preparation for this final pretrial conference should proceed pursuant to Fed. R. Civ. P. 16 and should include (i) preparation by plaintiff's counsel of a recommended pretrial order that is submitted to other counsel at least 5 days prior to the final pretrial date, and (ii) preparation for resolution of unresolved issues in the case.

**(e) Pretrial Order.**

At the time of the pretrial conference, the parties will submit to the court for execution a proposed pretrial order previously served on and approved by all counsel. The form of the pretrial order should conform generally to the approved

form of pretrial order which is on the [Forms Page](#) of the court's [website](#). In the event counsel are unable to agree to a proposed pretrial order, each party will state its contentions as to the portion of the pretrial order upon which no agreement has been reached. The court then will determine a final form for the pretrial order and advise all counsel. Thereafter, the order will control the course of the trial and may not be amended except by consent of the parties and the court or by order of the court to prevent manifest injustice. The pleadings will be deemed merged therein.

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

### **(a) Authority.**

Under 28 U.S.C. §§ 471-482 and §§ 651-658 and the court's Civil Justice Expense and Delay Reduction Plan of 1991, the court has established a court-annexed alternative dispute resolution (ADR) program for the District of Utah.

### **(b) Procedures Available.**

The procedures available under the court's ADR program include arbitration and mediation. In addition, notwithstanding any provision of this rule, all civil actions may be the subject of a settlement conference as provided in DUCivR 16-3.

### **(c) Cases Excluded from ADR Program.**

- (1) Prisoner Is a Party. Unless otherwise ordered by the assigned judge, cases in which a prisoner is a party will not be subject to this rule.
- (2) Excluded from Referral to Arbitration. Pursuant to the 1998 Alternative Dispute Resolution Act, the following types of cases may be referred to mediation but are excluded from referral to arbitration in the court's ADR program:

- (A) The action originates as a bankruptcy adversary proceeding, as an appeal from the bankruptcy court, or as a review of judgment of administrative law forums or other official adjudicated proceeding;
- (B) The action is based on an alleged violation of a right secured by the Constitution of the United States; or
- (C) Jurisdiction is based in whole or in part on 28 U.S.C. § 1343.

**(d) Certificate of ADR Election.**

Except as excluded by section 16-2(c) of this rule, all counsel in civil actions should discuss the court's ADR program with their clients. The clerk will automatically issue to counsel a Notice of ADR which advises that any party at any time may contact the ADR program administrator in the office of the clerk to discuss or to request that the matter be referred to the ADR program. If one or more of the parties elects referral to the ADR program, the court or magistrate judge conducting the initial scheduling conference will consult with the parties whether to order referral of the matter to the program.

**(e) Case Referral Procedure.**

Referral into the court's ADR program will be made by order of the district, bankruptcy, or magistrate judge. Referrals to mediation may be made after consultation with the parties at the initial scheduling conference either on motion of one or more parties or on the court's motion. Referrals to arbitration may be made after consultation with the parties at the initial scheduling conference or on motion of one or more parties and the consent of all parties. The order will designate whether the case is referred to mediation or arbitration.

**(f) Stay of Discovery.**

Unless otherwise stipulated by all parties, formal discovery pursuant to Fed. R. Civ. P. 26 through 37 will be stayed with respect to all parties upon entry of an order referring a civil action to the court's ADR program. Unless otherwise

ordered by the assigned judge, no scheduled pretrial hearings or deadlines will be affected by referral into the ADR program.

**(g) ADR Case Administration.**

The administration of all cases referred to the ADR program will be governed by the District of Utah ADR Plan.

**(h) Supervisory Power of the Court.**

Notwithstanding any provision of this rule or the court's ADR Plan, every civil action filed with the court will be assigned to a judge as provided in DUCivR 83-2 of these rules. The assigned judge retains full authority to supervise such actions, consistent with Title 28, U.S.C., the Federal Rules of Civil Procedure, and these rules.

**(i) Compliance Judge.**

The court will designate a district or magistrate judge to serve as the ADR compliance judge (ADR judge) to hear and determine complaints alleging violations of provisions of this rule or the ADR Plan. When necessary, the Chief Judge may designate an alternative district or magistrate judge to temporarily perform the duties of the ADR judge.

**(j) Violations of the Rules Governing the ADR Program.**

(1) Complaints. A complaint alleging that any person or party, including the assigned ADR roster or pro tem member has materially violated a provision of this rule or the ADR Plan must be submitted to the ADR judge in writing or under oath. Copies of complaints that are reviewed by the ADR judge and not deemed frivolous and dismissed must be sent by the clerk to all parties to the action and, where appropriate, to the assigned ADR roster or pro tem member. Complaints must neither be filed with the clerk nor submitted to the judge assigned to the case.

- (2) Confidentiality. Absent a waiver of confidentiality by all necessary persons, or an order of the court, complaints submitted pursuant to this rule must not disclose confidential ADR communications.

### **DUCivR 16-3 SETTLEMENT CONFERENCES**

**(a) Authority for Settlement Conferences.**

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

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

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

**(c) Settlement Proceedings.**

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

**(d) Confidential Nature of Settlement Proceedings.**

The settlement conference will be conducted in such a way as to permit an informal, confidential discussion among counsel, the parties, and the settlement

judge. The settlement judge may require settlement memoranda to be submitted either with or without service upon the other parties and counsel participating in the settlement conference, but such memoranda must neither be made a part of the record nor filed with the Clerk of Court. The settlement judge may not communicate to the trial judge to whom the case has been assigned the confidences of the conference, except to report whether the case has been settled. Such report must be made in writing, with copies to the parties and their counsel, within a reasonable time following the conference or within such time as the trial judge may direct. If the case does not settle, no oral or written communication made during the settlement conference may be used in the trial of the case or for any other purpose.

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

**(a)      Caption.**

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

**(b)      Class Allegation Section.**

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

- (1)      the definition of the proposed class;
- (2)      the size of the proposed class;
- (3)      the adequacy of representation by the class representative;
- (4)      the common questions of law and fact;
- (5)      the typicality of claims or defenses of the class representative;
- (6)      the nature of the notice to the proposed class; and



- (7) if proceeding under Fed. R. Civ. P. 23(b)(3), the facts addressing the considerations listed in sections 23-1(c)(1)(A) through (D).

**(c) Motion for Certification.**

- (1) In any case involving a proposed class action, as part of the conference required by Fed. R. Civ. P. 26(f), the parties must discuss and include in the Attorney Planning Meeting Report the following:
  - (A) a proposed briefing schedule for a Motion for Class Certification;
  - (B) any departure from the page limits of DUCivR 7-1;
  - (C) whether discovery should be bifurcated to address the facts necessary for a determination of the sufficiency of the class;
  - (D) whether the initial scheduling order should address only discovery relevant to the Motion for Class Certification, with a subsequent scheduling order to enter after determination of the certification motion; and
  - (E) how the plan is consistent with the requirement in Fed. R. Civ. P. 23(c) that the certification question be decided “[a]t an early practicable time after a person sues or is sued as a class representative.” In the typical case, any class discovery should be completed, and the Motion for Class Certification should be filed, within 90 days after the parties’ Rule 26(f) conference.
- (2) Unless otherwise agreed by the parties or ordered by the court, the filing of a motion under Fed. R. Civ. P. 12(b) stays an obligation to file or respond to a Motion for Class Certification until the Rule 12(b) motion is resolved.

## DUCivR 26-1 GENERAL PROVISIONS GOVERNING DISCOVERY

### (a) Filing.

- (1) Not Filed. Unless the court orders otherwise, the following must not be filed:
  - (A) the disclosures required by Fed. R. Civ. P. 26(a)(1);
  - (B) the expert disclosures and reports required by Fed. R. Civ. P. 26(a)(2);
  - (C) the deposition notice required by Fed R. Civ. P. 30(b);
  - (D) the discovery requests or responses served under Fed. R. Civ. P. 33, 34, or 36; and
  - (E) a certificate of service for discovery requests or responses, including the items listed in section 26-1(a)(1)(A)-(D).
- (2) Expert Designation for Conflict Check. To allow the court to conduct a conflict check, the parties must file a notice of designation by the date specified in the governing scheduling order that lists their experts and the experts' subjects of expertise.
- (3) Exceptions. Section 26-1(a)(1) does not preclude filing a copy of the materials identified above to be used at a hearing, trial, or as an exhibit to a motion, response, or reply.

### (b) Form.

- (1) A party serving a discovery request under Fed. R. Civ. P. 33, 34, or 36 must sequentially number each request.
- (2) When serving discovery on behalf of a represented party, the requesting party must provide the discovery request in an editable electronic format to opposing counsel upon request.

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

**(c) Custody.**

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

**DUCivR 26-2 STANDARD PROTECTIVE ORDER**

**(a) Applicability.**

The Standard Protective Order, available on the court's website, applies in every case involving the disclosure of any information designated as confidential, unless the court orders otherwise. It is effective by operation of this rule at the time a case is filed and does not need to be entered in a case docket to be effective.

**(b) Improper Discovery Objection.**

Except as the court may otherwise order, it is improper to object to a discovery request or fail to produce Fed. R. Civ. P. 26(a)(1) initial disclosures on the basis that the court has not entered a protective order.

**(c) Relief From the Standard Protective Order.**

A party may file a motion, consistent with DUCivR 7-1, seeking relief from the Standard Protective Order.

**DUCivR 29-1 EXTENDING DISCOVERY RESPONSE DEADLINES**

**(a) Agreement Without Court Order.**

Parties may agree to extend the time to respond to a discovery request without court approval, unless:

- (1) the time originally prescribed to respond has expired; or
- (2) the extension modifies or interferes with:
  - (A) a deadline established by the case scheduling order;
  - (B) a filing deadline established by the court, the Federal Rules of Civil Procedure, or these Local Rules;
  - (C) a court-scheduled conference;
  - (D) a deadline for filing a proposed pretrial order;
  - (E) a trial date; or
  - (F) any other deadline referenced in Fed. R. Civ. P. 29(b).

**(b) Court Order Required.**

If the circumstances in section 29-1(a)(1) or (2) are present, the parties must obtain court approval to extend the discovery response deadline by filing a stipulated motion and proposed order.

**DUCivR 30-1 DEPOSITION OBJECTIONS AND STAYS**

**(a) Timely Form Objection.**

A party must object to the form of a deposition question at the time the question is posed and must identify the basis, which may include the following:

- ambiguous, vague, or unintelligible;
- argumentative, compound, or leading;
- mischaracterizes a witness's prior testimony or the evidence;
- calls for speculation or a narrative;
- lack of foundation; and
- assumes facts not in evidence.

**(b) Waiver.**

A party waives a form objection unless the objection complies with section 30-1(a).

**(c) Coaching Objection Prohibited.**

Objections must be concise and must not suggest answers to or coach the deponent. An attorney making a statement or objection that has the effect of coaching the deponent or suggesting an answer may be sanctioned.

**(d) Stay of Deposition.**

A motion for a protective order to stay a deposition automatically stays the deposition only if it is filed by the third business day after service of the deposition notice. The deposition is stayed until the court rules on the motion.

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

**(a) Notice or Subpoena.**

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

(2) A notice or subpoena must not:

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

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

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

(3) The court upon a finding of good cause, or the parties by agreement, may modify the limitations in section (a)(2).

(4) If a request for documents accompanies a notice or subpoena, it is subject to the provisions of Fed. R. Civ. P. 34. If a subpoena duces tecum

accompanies the notice, it is subject to the applicable Federal Rules of Civil Procedure and Local Rules.

**(b) Objection.**

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

**DUCivR 37-1 DISCOVERY DISPUTES**

**(a) Resolution Without Court Assistance.**

- (1) The parties must make reasonable efforts to resolve a discovery dispute arising under Fed. R. Civ. P. 26-37 before seeking court assistance.
- (2) At a minimum, those efforts must include a prompt written communication sent to the opposing party:
  - (A) identifying the discovery disclosure or request at issue, the response, and specifying why the response or objection is inadequate; and
  - (B) requesting to meet and confer, either in person or by telephone, and include suggested dates and times.

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

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

- (A) include a certification that states—
    - (i) the parties made reasonable efforts to reach agreement on the disputed matters;
    - (ii) the date, time, and method of the reasonable efforts; and
    - (iii) the names of all participating parties or attorneys;
  - (B) include as the only exhibits to the motion a copy of the disputed discovery request and any response; and
  - (C) be filed no later than 45 days after the prompt written communication in section 37-1(a)(2) was sent to opposing counsel, unless the court grants an extension of time for good cause. Failure to meet the deadline may result in automatic denial of the motion.
- (3) The opposing party must file its response 5 business days<sup>4</sup> after the filing of the motion, unless the court orders otherwise. The response must not exceed 500 words, exclusive of caption and signature block and must not include any additional exhibits.
- (4) At the time of filing a motion or response, each party must email to chambers and the opposing party a proposed order in a word processing format.
- (5) To resolve the dispute, the court may:
- (A) set a hearing without waiting for a response to the motion;
  - (B) decide the motion after the opposing party has had an opportunity to respond, either at a hearing or in writing; or
  - (C) request additional briefing and set a briefing schedule.
- (6) A party may request leave to file an overlength short form discovery motion or response consistent with DUCivR 7-1.

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<sup>4</sup> This provision is not subject to the addition of 3 days provided by Fed. R. Civ. P. 6(d).

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

**(c) Expedited Consideration.**

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

The screenshot shows a web interface for filing motions. 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 event types: Enforce Judgment, Entry of Default, Entry of Judgment, Exclude, Expedite (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. Below this list are "Next" and "Clear" buttons. The right column is titled "Selected Events (click to remove events)" and contains a list with "Short Form Discovery" and "Expedite".

**(d) Discovery Dispute Conference.**

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

**(e) Deposition Dispute.**

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

**(f) Objection to Magistrate Judge’s Discovery Ruling.**

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



## **DUCivR 41-1 DISMISSAL OR SETTLEMENT BEFORE JURY TRIAL**

### **(a) Duty to Notify the Court.**

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

### **(b) Jury Costs.**

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

## **DUCivR 41-2 DISMISSAL FOR FAILURE TO PROSECUTE**

At any time, the court may issue an order to show cause requiring a party seeking affirmative relief to explain why the case should not be dismissed for lack of prosecution. If the party does not show good cause, a district judge or a magistrate judge presiding by consent may enter an order of dismissal. The dismissal may be with or without prejudice, as the court deems proper.

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

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

Any party may file a motion and proposed order to consolidate 2 or more cases before a single judge if the party believes that such cases or matters:

- (1) arise from substantially the same transaction or event;
- (2) involve substantially the same parties or property;
- (3) involve the same patent, trademark, or copyright;

- (4) call for determination of substantially the same questions of law; or
- (5) for any other reason would entail substantial duplication of labor or unnecessary court costs or delay if heard by different judges.

**(b) Motion to Be Filed in Lower-Numbered Case.**

Any motion pursuant to this rule must be filed in the lower numbered case, and a notice of the motion must be filed in all other cases which are sought to be consolidated. The motion will be decided by the judge assigned the lower numbered case. If the motion is granted, the case will be consolidated into the case with the lowest number.

**(c) Sua Sponte Consolidation.**

The court may sua sponte enter an order of consolidation. Any order entered sua sponte by the court will be effective 14 days after service, unless a party in interest files an objection thereto prior to expiration of such fourteen-day period. If a timely objection is filed, no consolidation will occur until the court has entered a ruling upon the objection.

*See DUCivR 83-2(g) for rules about transferring related cases.*

**DUCivR 43-1 COURTROOM PRACTICES AND PROTOCOL**

**(a) Conduct of Counsel.**

- (1) Only 1 attorney for each party may examine or cross-examine a witness, and not more than 2 attorneys for each party may argue the merits of the action unless the court otherwise permits.
- (2) To maintain decorum in the courtroom, counsel will abide strictly by the following rules:
  - (A) Counsel will stand, if able, when addressing the court and when examining and cross-examining witnesses.

- (B) Counsel will not address questions or remarks to opposing counsel without first obtaining permission from the court. Appropriate quiet and informal consultations among counsel off the record are permitted as long as they neither delay nor disrupt the proceedings.
- (C) The examination and cross-examination of witnesses will be limited to questions addressed to the witnesses. Counsel must refrain from making statements, comments, or remarks prior to asking a question or after a question has been answered.
- (D) In making an objection, counsel must state plainly and briefly the specific ground of objection and may not engage in argument unless requested or permitted by the court to do so.
- (E) Only 1 attorney for each party may make objections concerning the testimony of a witness when being questioned by an opposing party. The objections must be made by the attorney who has conducted or is to conduct the examination or cross-examination of the witness.
- (F) The examination and cross-examination of witnesses must be conducted from the counsel's table or the lectern, except when necessary to approach the witness or the courtroom clerk's desk for the purpose of presenting or examining exhibits.

**(b) Exclusion of Witnesses.**

On its own motion or at the request of a party, the court may order witnesses excluded from the courtroom so they cannot hear the testimony of other witnesses. This section of this rule does not authorize exclusion of the following:

- (i) a party who is a natural person;
- (ii) an officer or employee of a party that is not a natural person and who is designated as that party's representative by its attorney;
- (iii) a person whose presence is shown by a party to be essential to

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

**(c) Arguments.**

The court will determine the length of time and the sequence of final arguments.

**(d) Presence of Parties and Attorneys upon Receiving Verdict or Supplemental Instructions.**

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

**DUCivR 45-1 NOTICE OF SUBPOENA REQUIRED FOR NONPARTY**

The notice of issuance of subpoena together with a copy of the proposed subpoena that is (i) directed to a nonparty, and (ii) commands production of documents and things or inspection of premises before trial must be served on each party as

prescribed by Fed. R. Civ. P. 45(a)(4). The subpoena may not be served on the nonparty until 5 days after the service of the notice.

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

**(a)      Requests for Voir Dire Examination.**

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

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

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

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

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

Unless otherwise ordered by the court, no person associated with a case before the court may communicate with a juror or prospective juror in the case, or with the family or acquaintances of such juror, either before or during trial, except in

open court and in the course of the court proceedings. No person, whether associated with the case or not, may discuss with or within the hearing of any juror or prospective juror, any matter touching upon the case or any matter or opinion concerning any witness, party, attorney, or judge in the case.

**(b) Communications After Trial.**

The court will instruct jurors that they are under no obligation to discuss their deliberations or verdict with anyone, although they are free to do so if they wish. The court may set special conditions or restrictions upon juror interviews or may forbid such interviews. Unless otherwise ordered by the court, juror contact information will not be disclosed by the court or its employees.

**DUCivR 51-1 INSTRUCTIONS TO THE JURY**

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

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

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

**(a)      Orders in Open Court.**

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

**(b)      Orders and Judgments.**

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

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

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

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

### (a) Attorney's Fees.

- (1) Separate from Bill of Costs. A party seeking attorney's fees must file a motion instead of including the request in a bill of costs.
- (2) Procedures and Requirements for a Motion for Attorney's Fees.
  - (A) *Timing.* Unless otherwise provided by statute or extended by the court under Fed. R. Civ. P. 6(b), a motion for attorney's fees must be filed and served within 14 days after:
    - (i) entry of a final judgment; or
    - (ii) an appellate remand that modifies or imposes a fee award.
  - (B) *Motion.* The motion must:
    - (i) comply with DUCivR 7-1(a)(4)(D);
    - (ii) state the basis for the award;
    - (iii) specify the total amount claimed; and
    - (iv) be accompanied by an affidavit identifying—
      - each person for whom fees are claimed and a summary of that person's relevant qualifications and experience;
      - a detailed description of the person's services rendered, the amount of time spent, the hourly rate charged; and
      - any other pertinent supporting information that justifies the award.
  - (C) *Response and Reply.* The response and reply must comply with DUCivR 7-1(a)(4)(D).

### (b) Bill of Costs.

- (1) Form. A party seeking taxation of costs must use the bill of costs form on the court's website.
- (2) Procedures and Requirements for Bill of Costs.



- (A) *Timing.* Within 14 days after the entry of final judgment, the party entitled to recover costs must file a bill of costs on the court’s form and a supporting memorandum.
- (B) *Memorandum.*
- (i) The memorandum must:
- comply with DUCivR 7-1(a)(1) and (a)(4)(D)(i);
  - clearly and concisely itemize and describe the costs;
  - identify the statutory basis for seeking reimbursement of those costs under 28 U.S.C. § 1920; and
  - include and reference copies of applicable invoices, receipts, and disbursement instruments.
- (ii) Failure to itemize and verify costs may result in costs being disallowed.
- (C) *Objection to Bill of Costs.*
- (i) A party may object to the requested costs by filing an objection, which must:
- comply with DUCivR 7-1(a)(1) and (a)(4)(D)(i);
  - be filed within 14 days after service of the bill of cost; and
  - be served on all parties.
- (D) *Reply.* Within 14 days of service of the objection, the party requesting the costs may file a reply.
- (E) *Judicial Review.* A party may seek judicial review of the taxation of costs by filing a motion within 7 days of the clerk’s entry of the bill of costs.

## DUCivR 55-1     DEFAULT AND DEFAULT JUDGMENT

### **(a) Procedure.**

To obtain a default judgment, a party must:

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

### **(b) Certificate of Default.**

- (1) A party requesting an entry of a default certificate under Fed. R. Civ. P. 55(a) must:
  - (A) file a motion for entry of default;
  - (B) file an affidavit confirming that the party against whom default is sought—
    - (i) is not an infant, in military service, or an incompetent person;
    - (ii) was served with process in a manner authorized in Fed. R. Civ. P. 4 and the date of service;
    - (iii) has failed to plead or otherwise defend; and
  - (C) email a proposed certificate of default in an editable format to [utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov).
- (2) A party may file a motion for judicial review of any order denying entry of a default certificate.

### **(c) Default Judgment.**

- (1) By the Clerk. A party must file a motion for default judgment for a sum certain to obtain a default judgment under Fed. R. Civ. P. 55(b)(1), which includes:
  - (A) the certificate of default;
  - (B) supporting affidavit; and

- (C) a proposed order, which must also be emailed in editable format to [utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov), that includes:
  - (i) the party or parties in favor of whom judgment will be entered;
  - (ii) the party or parties against whom judgment will be entered;
  - (iii) when there are multiple parties against whom judgment will be entered, whether the judgment should be entered jointly, severally, or jointly and severally; and
  - (iv) the sum certain or the computation consisting of the principal amount.
- (2) By the Court.
  - (A) In all other cases, a party must file a motion for default judgment under Fed. R. Civ. P. 55(b)(2), which includes:
    - (i) the certificate of default; and
    - (ii) a proposed default judgment, which must also be emailed to the chambers of the assigned judge.
  - (B) In cases against the United States, its officers, or agencies, the party seeking default judgment must provide evidentiary support that satisfies Fed. R. Civ. P. 55(d).
  - (C) A court may enter default judgment as a sanction without the clerk entering a certificate of default.

## **DUCivR 56-1      SUMMARY JUDGMENT MOTIONS AND MEMORANDA**

### **(a)      Compliance with DUCivR 7-1.**

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

**(b) Motion.**

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

- (1) Introduction and Relief Requested. A concise statement of each claim or defense for which summary judgment is sought and a clear statement of the relief requested.
- (2) Background (Optional). An optional section to provide context for the case, dispute, and motion. If included, this section should be placed between the Introduction and Relief Requested and the Statement of Undisputed Material Facts. The Background need not be limited to undisputed facts and need not cite to evidentiary support.
- (3) Statement of Undisputed Material Facts. A concise statement of the undisputed material facts that entitle the moving party to judgment as a matter of law. Only facts necessary to decide the motion should be included in this section. The moving party must cite with particularity the evidence in the Appendix that supports each factual assertion.
- (4) Argument. An explanation for each claim or defense, establishing, under the applicable supporting authority, why the moving party is entitled to judgment as a matter of law. The argument section should include a statement of each claim or defense on which the party is seeking summary judgment and supporting authorities. Any factual references must cite to the Appendix.

**(c) Response.**

A response to a motion for summary judgment may be accompanied by an

Appendix of Evidence, if applicable, and must include the following sections.

- (1) Introduction. A concise statement explaining why summary judgment should be denied.
- (2) Background (Optional). An optional section to provide context for the case, dispute, and motion. If included, this section should be placed between the Introduction and the Response to Statement of Undisputed Material Facts. The Background need not be limited to undisputed facts and need not cite to evidentiary support.
- (3) Response to Statement of Undisputed Material Facts. A party must restate only those specific facts the opposing party contends are genuinely disputed or immaterial, providing a concise statement explaining why the fact is disputed or immaterial, and cite to the evidence used to refute the fact. The responding party should not restate undisputed facts. If a fact is inadmissible, the responding party must object, as provided in DUCivR 7-1(b), rather than move to strike the inadmissible fact. Factual citations must reference the appropriate Appendix.
- (4) Statement of Additional Material Facts (if applicable). If additional material facts are relevant to show that there is a genuine dispute of material fact, the party must state each additional fact and cite with particularity to the Appendix that contains the supporting evidence. Do not include duplicate copies of evidence already in the record. Instead, the party must cite to evidence in a previously filed Appendix.
- (5) Argument. An explanation for each claim or defense, establishing, under the applicable supporting authority, why summary judgment should be denied. Any factual citations must cite to the appropriate Appendix.

**(d) Reply.**

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

**(e) Appendix of Evidence.**

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

(2) The Appendix must include:

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

- (i) lists each exhibit by number;
- (ii) includes a description or title of the exhibit; and
- (iii) identifies the source of the exhibit;

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

**(f) Failure to Respond.**

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

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

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

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

**(a) Deposit of Funds in Court Registry.**

- (1) Unless a statute provides otherwise (e.g., where state law requires the filing of a written undertaking or cost bond in an action against the State or its officers), a party must obtain a court order to deposit money in the court's registry.
- (2) The signed order must include:
  - (A) the statute or rule authorizing the deposit of funds in the court registry, including:
    - (i) whether the funds must be invested under Fed. R. Civ. P. 67 or otherwise; and
    - (ii) if the funds must be invested, whether they qualify as disputed ownership funds either under Fed. R. Civ. P. 22 or 28 U.S.C. § 1335 (interpleader funds);
  - (B) the United States dollar amount of the deposit; and

- (C) when applicable, a copy of the settlement agreement for a designated or qualified settlement fund under 26 U.S.C. § 468B(d)(2).
- (3) The party must deliver a copy of the order on the Clerk of Court and the court's Finance Department by email at [UTDecf\\_Forders@utd.uscourts.gov](mailto:UTDecf_Forders@utd.uscourts.gov).
- (4) The clerk will deposit the funds with the Treasurer of the United States in the name and to the credit of this court under 18 U.S.C. § 2041 through depositories designated by the Treasury to accept the deposit on its behalf.

**(b) Invested Registry Funds.**

- (1) Funds deposited under Fed. R. Civ. P. 67, and all other funds that must be invested, will be deposited in the Court Registry Investment System (CRIS). The Administrative Office (AO) of the United States Courts will administer the funds.
- (2) Funds deposited under Fed. R. Civ. P. 22 and 28 U.S.C. § 1335 meet the IRS definition of a disputed ownership fund (DOF) and require tax administration. These funds will be deposited in the DOF within CRIS. The AO is responsible for all DOF tax administration requirements.

**(c) Fees.**

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

**(d) Withdrawal of Funds from Court Registry.**

- (1) A party seeking to withdraw funds must file a motion consistent with DUCivR 7-1(a)(4)(D) and include a proposed order. The proposed order



must also be emailed in an editable format to the assigned judge's chambers.

- (2) The proposed order must include the following:
  - (A) the principal sum initially deposited;
  - (B) the identity of each payee to receive disbursement; and
  - (C) full mailing instructions for each disbursement, including complete street address and zip code.
- (3) For funds that earned interest while deposited in CRIS, the party sending the proposed order must also email Internal Revenue Service Form W-9 or W-8BEN (foreign) for each payee to [UTDecf\\_Forders@utd.uscourts.gov](mailto:UTDecf_Forders@utd.uscourts.gov). A party must not file the IRS forms with the proposed order.
- (4) The party must deliver a copy of the order and, when applicable, the completed IRS forms on the Clerk of Court and the court's Finance Department by email at [UTDecf\\_Forders@utd.uscourts.gov](mailto:UTDecf_Forders@utd.uscourts.gov).
- (5) For funds that accrued interest of \$10.00 or more, the court must include in its final order the amount of interest payable on the principal.
- (6) Disbursements from the registry will be made by check from U.S. Treasury as the Clerk's Office allows or by electronic fund transfer (EFT). Individual registry disbursements totaling \$500,000 or more must be issued via EFT.

#### **DUCivR 72-1 MAGISTRATE JUDGE AUTHORITY**

Magistrate judges in the District of Utah are authorized to perform the duties prescribed by 28 U.S.C. § 636(a)(1) and (2), and they may exercise all the powers and duties conferred upon magistrate judges by statutes of the United States and the Federal Rules of Civil and Criminal Procedure.

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

### (a) General Authority.

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

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

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

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

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

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

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

- (A) for injunctive relief including temporary restraining orders and preliminary and permanent injunctions;
- (B) for judgment on the pleadings;
- (C) for summary judgment;
- (D) to dismiss;
- (E) for default judgments; and
- (F) for judicial review of an administrative agency decision, including an award or denial of a license, benefits under the Social Security Act, or a similar privilege.

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

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

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

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

**(a) Objection.**

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

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

- (1) Response. Unless the district judge orders otherwise, a response need not be filed and a hearing will not be held on an objection. If the district court orders a response and sets a briefing schedule, the response may not exceed 15 pages or 4,650 words.
- (2) Ruling. The district judge may overrule the objection by written order at any time but may not sustain it without giving the opposing party an opportunity to file a response.
- (3) Proposed Order. The non-objecting party must email a proposed order in an editable format to the district judge's chambers if the district judge does not overrule the objection within 14 days after the objection is filed.

**(c) Motion to Stay a Magistrate Judge Order.**

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

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

### **(a)      Civil Consent Jurisdiction of Magistrate Judges.**

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

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

- (1)      Except as otherwise restricted under section 72-4(b)(2), the Clerk’s Office will randomly assign a civil matter to a magistrate judge if the matter:
  - (A)      is brought by an unrepresented party who is not incarcerated;
  - (B)      seeks judicial review of decisions of the Commissioner of the Social Security Administration (Social Security Appeal); or
  - (C)      is an eligible civil case randomly assigned under DUCivR 83-2(a).
- (2)      The Clerk’s Office will not assign a civil matter to a magistrate judge if the case:
  - (A)      includes a request for immediate injunctive or similar extraordinary relief when a standalone motion for the relief accompanies the complaint or is included in the complaint;
  - (B)      includes a claim for relief under 28 U.S.C. §§ 2241, 2254, or 2255;
  - (C)      is an in rem or civil forfeiture action involving personal or real property;
  - (D)      is an appeal from the bankruptcy court to the district court;
  - (E)      includes a claim for relief brought by a relator under the False Claims Act, 31 U.S.C. §§ 3729, et seq.;
  - (F)      includes a claim or defense related to the adjudication of, the infringement of, or rights to, a patent;
  - (G)      is one in which all district judges have a conflict; or

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

**(c) Notification of Availability of a Magistrate Judge.**

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

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

(3) Returning the Consent Form.

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

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

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

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

(1) Consent Obtained.

- (A) *Case Assigned to a Magistrate Judge.* In a case initially assigned to a magistrate judge in which the relevant parties consent, the Clerk’s Office will assign the case to the magistrate judge as the presiding judge.
  - (B) *Case Assigned to a District Judge.* In a case initially assigned to a district judge, but eligible to have a magistrate judge preside after consent, in which the relevant parties consent, the Clerk’s Office will assign the case to:
    - (i) the referred magistrate judge; or
    - (ii) a randomly selected magistrate judge if one has not been referred.
- (2) Consent not Obtained.
- (A) *Case Assigned to a Magistrate Judge.* In a case initially assigned to a magistrate judge under section 72-4(b)(1)(A) or (B) in which consent is not obtained, the Clerk’s Office will randomly assign the case to a district judge and, unless a district judge directs otherwise, enter an automatic referral under 28 U.S.C. § 636(b)(1)(B) to the magistrate judge who was initially assigned. In all other cases initially assigned to a magistrate judge in which consent is not obtained, the Clerk’s Office will randomly assign the case to a district judge and, unless the district judge directs otherwise, enter an automatic referral under 28 U.S.C. § 636(b)(1)(A) to the magistrate judge who was initially assigned.
  - (B) *Case Assigned to a District Judge.* In a case initially assigned to a district judge, in which consent is not obtained, the case remains assigned to the district judge. Any existing referral to a magistrate judge is unaffected.

**(e) Confidentiality.**

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

**(f) Authority of the Magistrate Judge Pending Consent.**

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

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

**(a) Office of Record.**

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

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

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

- New Year's Day, January 1
- Birthday of Martin Luther King, Jr. (Third Monday in January)
- Presidents' Day (Third Monday in February)
- Memorial Day (Last Monday in May)
- Juneteenth National Independence Day, June 19
- Independence Day, July 4
- Pioneer Day, July 24
- Labor Day (First Monday in September)



- Columbus Day (Second Monday in October)
- Veterans Day, November 11
- Thanksgiving Day (Fourth Thursday in November)
- Christmas Day, December 25

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

The United States Courts Law Library in the Orrin G. Hatch United States Courthouse contains non-circulating legal reference books, periodicals, and related materials. Access to the library is available to the bar and the public when library staff are on duty during normal court business hours.

**DUCivR 77-2 MOTIONS GRANTABLE BY THE CLERK OF COURT**

**(a) Motions Grantable by the Clerk of Court.**

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

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

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

**(b) Clerk's Action Reviewable.**

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

## DUCivR 79-1 ACCESS TO COURT RECORDS

### (a) Access to Public Court Records.

(1) Access via Internet. Cases filed after May 2, 2005, are available for review electronically via [Public Access to Court Electronic Records \(PACER\)](#). To access an electronic case file, users must first register for [PACER](#). Lengthy exhibits, transcripts of court proceedings, and other supporting documents may be accessible only in paper format in the Clerk's Office. Some cases filed prior to May 2, 2005, also may be accessible electronically through PACER. PACER users are subject to a modest per-page charge for case information that is downloaded.

(2) Access in the Clerk's Office. The public records of the court are available for examination in the Clerk's Office during the normal business hours and days specified in DUCivR 77-1. Paper files of cases filed prior to May 2, 2005, may not be removed from the Clerk's Office by members of the bar or the public. However, a clerk will make and furnish copies of official public court records upon request and upon payment of the prescribed fees.

### (b) Sealed Records.

Records or exhibits ordered sealed by the court are not public records within the meaning of this rule.

### (c) Search for Cases by the Clerk.

The office of the clerk is authorized to conduct searches of the most recent ten years of the master indices maintained by the Clerk of Court and to issue a certificate of such search. Pursuant to the fee schedule, the clerk will charge a fee, payable in advance, for each name for which a search is conducted.

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

### **(a)      Scope of Rules.**

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

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

These rules supersede all previous rules promulgated by the United States District Court or any judge of this court. These rules govern all applicable proceedings brought in the United States District Court. They also apply to all proceedings pending at the time they take effect, except where, in the opinion of the court, their application is not feasible or would work injustice, in which event the former rules govern.

## **DUCivR 81-2      REMOVED ACTIONS**

### **(a)      Notice.**

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

The Notice of Removal must include:

- (A)      a short and plain statement of the grounds for removal signed under Fed. R. Civ. P. 11;
- (B)      the additional content required in section 81-2(a)(2), if the court's jurisdiction for removal is based on diversity of citizenship;
- (C)      a certification that a copy of all processes, pleadings, and orders served on the removing party are filed in the federal case as required by this rule and 28 U.S.C. § 1446(a), and as permitted by 28 U.S.C. § 1447; and
- (D)      the attachments required in section 81-2(b).

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

- (A) If the court’s jurisdiction is based on diversity of citizenship, irrespective of whether service of process has been effectuated on all parties, the Notice of Removal must include:
  - (i) in the case of each individual named as a party, that party’s residence and domicile and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332;
  - (ii) in the case of each party that is a partnership, limited liability partnership, limited liability company, or other unincorporated association, like information as required in section 81-2(a)(2)(A)(i) for all its partners or members, as well as the state or other jurisdiction of its formation;
  - (iii) in the case of each party that is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction of which that party is a citizen for purposes of 28 U.S.C. § 1332;
  - (iv) in the case of an assigned claim, corresponding information for each original owner of the claim and for each assignee;
- (B) the date on which each party was served; and
- (C) the removing party must state in the Notice of Removal if any of the information above is unknown. Within 21 days after removal, the removing party must file an amended notice containing the omitted information.

**(b) Attachment of State Court Record.**

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

- (1) a copy of the operative complaint;

- (2) a current copy of the state court docket sheet;
- (3) a copy of the operative scheduling order or notice of event due dates, if available; and
- (4) a single attachment containing all pleadings, motions, orders, and other relevant filings, organized in chronological order by the state court filing date, and if applicable, consistent with DUCivR 5-2 and 5-3.

**(c) Pending State Court Motions.**

- (1) Disposition of Pending State Court Motions. All pending motions and other requests directed to the state court are automatically denied without prejudice on removal.
- (2) Obligation to Refile. If a party seeks a decision on a motion that was automatically denied under section 81-2(c)(1), the party must refile the motion, citing to relevant federal law and state if expedited consideration is requested. DUCivR 7-1 governs the motion.

**(d) Scheduling Order After Removal.**

- (1) Unless stipulated by the parties and ordered by the court, all deadlines contained in the state court scheduling order or notice of event due dates are automatically vacated on removal.
- (2) The parties must conduct an Attorney Planning Meeting under Fed. R. Civ. P. 26(f) within 14 days after the time to file a motion to remand has expired or the motion has been denied, whichever occurs last.
- (3) The parties must file the appropriate motion within 21 days after the time to file a motion to remand has expired or the motion has been denied, whichever occurs last, as follows:
  - (A) If the parties reach an agreement on all issues in the Attorney Planning Meeting Report, they must file a Stipulated Motion for Scheduling Order and attach the jointly signed Attorney Planning

Meeting Report. They must also email a stipulated Proposed Scheduling Order in editable format to the assigned judge in the case, or if an order referring the case to a magistrate judge has been entered, to the referred magistrate judge.

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

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

**(a) Attorney Admission.**

- (1) Eligibility. An attorney who is an active member in good standing of the Utah State Bar is eligible for admission to this court's bar.
- (2) Application. An eligible attorney must complete an online application using Public Access to Court Electronic Records (PACER).
- (3) Pro Bono Service Requirement. By applying to become a member of this court's bar, an attorney agrees to accept a reasonable number of pro bono appointments when requested by the court, except when the attorney is employed by a government agency that precludes accepting pro bono appointments.
- (4) Admission Fee. Once the court reviews an application and verifies the attorney's membership status with the Utah State Bar, the court will send to the attorney an email containing a link to pay the admission fee. The

admission fee must be paid within 30 days from the date of the email or the application will be denied, and the attorney must complete a new application.

- (5) Active Membership Status. An attorney who is admitted to this court's bar must renew membership as set forth in DUCivR 83-1.2. After an attorney is admitted, the attorney is not required to pay the annual registration fee until at least 12 months have passed since admission.

**(b) Federal Attorney Admission.**

- (1) Eligibility. An attorney employed by the United States, its agencies, or the Federal Public Defender's Office, who is an active member and in good standing in the bar of any state or the District of Columbia, may practice in this district in the attorney's official capacity.
- (2) Application. An eligible federal attorney must complete an online application using PACER.
- (3) Pro Bono Service Requirement. A federal attorney is exempt from the court's pro bono service requirement.
- (4) Fees. A federal attorney is exempt from paying the admission and annual registration fees.

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

- (1) Eligibility. An attorney (PHV Applicant) who is neither an active member of the Utah State Bar nor a Federal Attorney but who is an active member in good standing in the bar of any state or the District of Columbia may be admitted pro hac vice for the limited purpose of appearing in a case in this district.
  - (A) *Restrictions on Pro Hac Vice Admission*. Pro hac vice admission is not available to any attorney who:
    - (i) is a member of the Utah State Bar;

- (ii) except as provided in section 83-1.1(c)(1)(B), maintains any law office in Utah; or
  - (iii) has already been admitted pro hac vice in 3 unrelated cases in the previous 5 years in this district, unless the court finds good cause for the attorney not seeking admission to the Utah State Bar.
- (B) *Exemption from Restrictions.* A PHV Applicant who is an active member in good standing in the bar of any state or the District of Columbia and who maintains a law office in Utah may be admitted pro hac vice while awaiting admission to the Utah State Bar. Within 45 days after notice from the Utah State Bar of admission, denial of admission, or, under a Utah State Bar admission rule, upon termination of eligibility to practice, the PHV Applicant must—
  - (i) when admitted, apply for Attorney Admission under section 83-1.1(a) and pay the required admission fee; or
  - (ii) when denied admission or upon termination of eligibility to practice, cease practicing law in this court under section 83-1.1(c)(1) and:
    - (a) send a notice of admission status to the Clerk’s Office ([utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov)); and
    - (b) file a withdrawal of counsel or a substitution of counsel in every case in which the PHV Applicant has appeared.
- (2) Local Counsel. The PHV Applicant must associate with an active, local member (Local Counsel) of this court’s bar who resides in the State of Utah. Local Counsel must:
  - (A) file a motion seeking pro hac vice admission for the PHV Applicant;



- (B) attach the application and a proposed order as exhibits;
- (C) consent to appear in the matter; and
- (D) pay the pro hac vice admission fee at the time of filing the motion.

An attorney admitted pro hac vice may not appear without Local Counsel, unless the court orders otherwise.

- (3) Objection to PHV Admission. A party opposing pro hac vice admission must file an objection within 14 days of the filing of the motion, even if the court has granted the motion. Local Counsel or the PHV Applicant need not file a response after an objection is filed unless ordered to do so by the court.
- (4) Revocation of PHV Admission. The court may revoke a PHV Attorney's admission for good cause shown, including but not limited to, violation of this court's rules or failure to comply with court orders.

**(d) Rules and Conduct.**

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

## DUCivR 83-1.2 ATTORNEYS - ANNUAL REGISTRATION

### (a) General Requirement.

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

- (1) comply with the Local Rules of Practice, [ECF Procedures Manual](#), [Utah Rules of Professional Conduct](#), and [Utah Standards of Professionalism and Civility](#);
- (2) register to efile and receive electronic notifications of case activity; and
- (3) agree to accept a reasonable number of pro bono assignments from the court, except when employed by a government agency that precludes accepting pro bono assignments.

### (b) Categories of Membership.

- (1) Active Attorney. An attorney who is an active member and in good standing of the Utah State Bar and actively practices in this district.
- (2) Federal Attorney. An attorney who is employed by, or on special assignment for, the United States, its agencies, or a Federal Public Defender's Office and is an active member and in good standing of any state bar or the District of Columbia and actively practices in this district.
- (3) Inactive Attorney. An attorney who is retired or no longer practices in this district but wants to maintain membership in inactive status. An inactive attorney may reactivate membership at any time by paying the current registration fee.

### (c) Procedure to Change Status to Inactive.

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

**(d) Failure to Register.**

- (1) An attorney who does not register online by July 1 of each year will have their membership status changed to “registration lapsed” and will be unable to electronically file documents as of July 2.
- (2) To reactivate membership in this court’s bar, an attorney must pay a reinstatement fee in an amount determined by the court.

**(e) Attorney Contact Information.**

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

**DUCivR 83-1.3 ATTORNEYS – APPEARANCE AND CONTACT INFORMATION**

**(a) Appearance.**

- (1) An attorney appears on behalf of a party by appearing in court; filing a notice of appearance; or signing a pleading, motion, or waiver of service.
- (2) To appear in a case, an attorney must be admitted to practice in this district under DUCivR 83-1.1.

**(b) Limited Appearance.**

- (1) Scope. An attorney, consistent with the Utah Rules of Professional Conduct, may enter an appearance limited to:
  - (A) filing a pleading or other paper;
  - (B) acting as counsel for a specific motion or discovery procedure;
  - (C) acting as counsel for a specific hearing, including a trial, pretrial conference, or an alternative dispute resolution proceeding; or
  - (D) any other purpose with leave of the court.
- (2) Notice. The attorney must file a Notice of Limited Appearance that:

- (A) is signed by the attorney and party, except if the party is incarcerated and the attorney has accepted a pro bono appointment at the court's request;
  - (B) describes the purpose and scope of the appearance; and
  - (C) states that the party remains responsible for all matters not specifically described in the notice.
- (3) Clarification. Any party may move to clarify the description of the purpose and scope of the limited appearance.
  - (4) Party's Responsibility. A party on whose behalf an attorney files a notice of limited appearance will receive notice of all filings with the court and will remain responsible for all matters not specifically described in the notice.
  - (5) Withdrawal. An attorney who has entered a notice of limited appearance must follow the procedures to withdraw in DUCivR 83-1.4.

**(c) Self-Representation.**

- (1) Individuals may represent themselves.
- (2) A corporation, association, partnership, or other artificial entity must be represented by an attorney who is admitted under DUCivR 83-1.1.
- (3) A federally recognized Indian tribe may seek exemption from section (c)(2) by filing a motion consistent with DUCivR 7-1(a)(4)(D).

**(d) Appearance by a Party.**

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

**(e) Change of Contact Information.**

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

telephone number.

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

#### **DUCivR 83-1.4 ATTORNEYS – SUBSTITUTION AND WITHDRAWAL**

**(a) Substitution.**

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

- (1) verify that the attorney entering the case is aware of and will comply with all pending deadlines;
- (2) identify the party who the attorney is representing;
- (3) be signed by the newly appearing attorney; and
- (4) be served on all parties.

**(b) Withdrawal.**

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

- (A) the party continues to be represented by an attorney who has appeared under DUCivR 83-1.3; and
- (B) the continuing attorney is aware of and will comply with all pending deadlines, hearings, and trial dates.

- (2) Leave of Court Required. Except as allowed in section (b)(1), an attorney may not withdraw in a pending action without leave of the court. The

attorney seeking to withdraw must file a motion under DUCivR 7-

1(a)(4)(D) that includes:

- (A) the reason for withdrawal or a statement that disclosing the reason for withdrawal would violate the rules of professional conduct;
- (B) the party's last-known contact information including mailing address, email address, and telephone number or an explanation why the information is unavailable;
- (C) a statement of whether the party does or does not consent to the withdrawal;
- (D) the status of the case including any pending motions, the dates and times of any scheduled hearings, and requirements under any existing court orders or rules;
- (E) a certification signed by the party indicating they are eligible to proceed with the trial as scheduled without an attorney, if a trial date has been scheduled and an attorney is unavailable to appear;
- (F) a certification that the motion was filed and served on all parties or, if applicable, an explanation why a party cannot be notified about the motion; and
- (G) a proposed order for the court, available on the website, attached as an exhibit, that notifies the party who will be without an attorney:
  - (i) that within 21 days, they must retain an attorney or proceed without an attorney and file a Notice of Appearance;
  - (ii) that if the party is a corporation, association, partnership, or other artificial entity, it must be represented by an attorney who is admitted under DUCivR 83-1.1 and that attorney must file a Notice of Appearance; and

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

(3) Withdrawal of Limited Appearance.

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

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

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

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

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

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

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

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

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

**(d) Sanction.**

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

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

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

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

**(b) Law Student Eligibility.**

An eligible law student must:

- (1) Be enrolled and in good standing in a law school accredited by the American Bar Association, or be a recent graduate of such a school awaiting either (i) the first sitting of the bar examination, or (ii) the result of such examination;
- (2) Have completed legal studies amounting to at least four semesters, or the equivalent if the course work schedule is on some basis other than semesters;
- (3) Be certified in writing by an official of the law school designated by the dean as having the good character, competent legal ability, and necessary qualifications to provide the legal representation permitted by this rule;



- (4) Have a working knowledge of the Federal Rules of Civil and Criminal Procedure and Evidence, the Rules of Professional Conduct, and the District Court Rules of Practice; and
- (5) Neither ask for nor receive any kind of compensation or remuneration from any client on whose behalf the student renders services; however, the student may be paid a set salary or hourly wage by an employing lawyer, law firm, government office, or other entity providing legal services to the extent that the employer does not charge or otherwise seek reimbursement from the client for the services rendered by the student.

**(c) Responsibilities of Supervising Attorney.**

A supervising attorney must:

- (1) Be a member in good standing of the bar of this court;
- (2) Obtain and file with the clerk the prior written consent of the client for the services to be performed by the student in the [form](#) provided on the court's [website](#);
- (3) File with the clerk a [consent agreement](#) to supervise the student;
- (4) File with the clerk the [law school certification](#) as required by section 83-1.5(b)(3);
- (5) Assume personal professional responsibility for the quality of the student's work and be available for consultation with represented clients;
- (6) Guide and assist the student in all activities undertaken by the student and permitted by this rule to the extent required for the proper practical training of the student and the protection of the client;
- (7) Sign all pleadings or other documents filed with the court; the student may also co-sign such documents;

- (8) Be present with the student at all court appearances, depositions, and at other proceedings in which testimony is taken;
- (9) Be prepared to promptly supplement any of the student's oral or written work as necessary to ensure proper representation of the client.

**(d) Scope of Representation.**

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

- (1) Appear as assistant counsel in civil and criminal proceedings on behalf of any client, including federal, state, or local government bodies provided that the written consent of the client and the supervising attorney and a copy of the dean's certification previously have been filed with the clerk. The consent form necessary for a student to appear on behalf of the United States must be executed by the United States Attorney or First Assistant United States Attorney. The supervising attorney must be present with the student for all court appearances.
- (2) Appear as assistant counsel when depositions are taken on behalf of any client in civil and criminal cases when written consent of the client and the supervising attorney and the dean's certification previously have been filed with the clerk.
- (3) Co-sign motions, applications, answers, briefs, and other documents in civil and criminal cases after their review, approval and signature by the supervising attorney.

**(e) Law School Certification.**

Certification of a student by the law school official must be (i) in the form provided on the court's website, (ii) filed with the clerk, and (iii) unless sooner withdrawn, remain in effect for 12 months unless otherwise ordered by a judge or magistrate judge. Certification will automatically terminate if the student (i)

does not take the first scheduled bar examination following graduation, (ii) fails to achieve a passing grade in the bar examination, or (iii) is otherwise admitted to the bar of this court. Certification of a student may be withdrawn for good cause by the designated law school official.

#### **DUCivR 83-1.6 CONDUCT OF AN UNREPRESENTED PARTY**

- (a)** A party proceeding without an attorney (unrepresented party or pro se party) is obligated to comply with:
- (1) the Federal Rules of Civil Procedure;
  - (2) these Local Rules of Practice;
  - (3) the Utah Standards of Professionalism and Civility; and
  - (4) other laws and rules relevant to the action.
- (b)** An unrepresented party must immediately notify the Clerk's Office in writing of any name, mailing address, or email address changes.

#### **DUCivR 83-1.7 ATTORNEY DISCIPLINE**

**(a) Standards of Professional Conduct and Jurisdiction.**

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

**(b) Initiation of a Disciplinary Action.**

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

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

- (2) the subject of an attorney misconduct complaint that is signed under penalty of perjury (a court-provided complaint form is preferred but not required);
- (3) convicted of a crime, including—
  - (A) a felony; or
  - (B) a misdemeanor that reflects adversely on the attorney’s character and fitness; or
- (4) referred for discipline by a judicial officer of the court.

**(c) Notice of Discipline or Conviction.**

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

**(d) Commencement of a Disciplinary Action.**

(1) Reciprocal Discipline.

- (A) After receiving notice of discipline under section 83-1.7(c), the Clerk must serve on the attorney:
  - (i) a copy of the notice if the attorney did not provide the notice; and
  - (ii) an order, to become effective 28 days after the date of service, imposing reciprocal discipline in this court.
- (B) A motion for relief from the clerk’s order may be filed within 14 days of the date of service of the clerk’s order. Failure to file a motion for relief is deemed a waiver. The motion must succinctly identify the facts, relevant authority, and argument supporting the

relief from the order of reciprocal discipline. The effect of the clerk's order is stayed until the disciplinary panel, identified in section 83-1.7(f), orders otherwise. The panel may schedule an evidentiary hearing upon a showing of good cause. If an evidentiary hearing is held, the panel may enter interim orders, pending the hearing, as justice may require. If a hearing is not scheduled, the panel may affirm the clerk's order or take other action.

(2) Attorney Misconduct Complaint or Criminal Conviction.

- (A) After receiving an attorney misconduct complaint or notice of a criminal conviction, the clerk will transmit a copy to the panel with a recommendation whether to issue an order to respond.
- (B) The panel may issue an order to respond requiring the attorney to explain why the court should not restrict the attorney's ability to practice.
- (C) The clerk may serve the order to respond on the attorney by email at an identified email address. If the email is returned as undeliverable, the Clerk must serve the order to respond by certified mail, return receipt requested, on the attorney at an identified mailing address.
- (D) A response must be filed within 21 days after service of the order to respond.
- (E) After receipt of the response or the expiration of 21 days, the panel must review the documents and may:
  - (i) dismiss the complaint;
  - (ii) refer the action to a more appropriate jurisdiction;
  - (iii) impose no discipline;
  - (iv) impose interim or final discipline;

- (v) refer the action to the committee identified in section 83-1.7 (f) for review and recommendations; or
- (vi) set the matter for an evidentiary hearing before a trier of fact.

(3) Judicial Referral.

A judicial officer may make a referral in writing to the panel or any other appropriate authority regarding an attorney's misconduct. The procedure for addressing a judicial referral is the same as in section 83-1.7(d)(2).

**(e) Discipline.**

Discipline may include:

- (1) a public or private reprimand;
- (2) conditions for continuing to practice law in this jurisdiction;
- (3) probation;
- (4) suspension from the right to practice in this court;
- (5) disbarment; or
- (6) other discipline as deemed appropriate.

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

(1) Authorities.

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

unavailable member is the chair, the remaining members will select a substitute chair.

- (B) *Committee*. The panel may appoint a committee of attorneys to advise and assist it. At the panel's direction, the Committee may investigate complaints or motions for reinstatement, prepare a report and recommendation, or serve as a trier of fact.
- (C) *Investigator*. The panel may appoint an investigator to interview witnesses, gather evidence, and prepare reports or summaries.
- (D) *Hearing Officer*. The panel may appoint a neutral hearing officer to conduct an evidentiary hearing. The hearing officer must be a judicial officer or member of the court's bar.
- (E) *Examiner*. The panel may appoint a member of the committee or another attorney to present evidence in support of discipline.
- (F) *Clerk of Court*. The Clerk of Court will process a disciplinary matter as stated in this rule.

(2) Disciplinary Authority Immunity.

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

(3) Hearing.

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

(4) Records.

- (A) *Public*. An order of discipline is a public record and will be reflected in the court's public attorney directory, unless ordered otherwise.
- (B) *Confidential*. All other disciplinary records are confidential.

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

**(g) Reinstatement.**

- (1) An attorney who has been disciplined in this court may file a motion for reinstatement in the original disciplinary action. Reinstatement in this court is not automatic after reinstatement in another jurisdiction.
- (2) The motion must succinctly:
  - (A) identify disciplinary and reinstatement actions taken in any jurisdiction; and
  - (B) explain why reinstatement is appropriate in this court and will not be detrimental to the integrity of the bar of this court, the interests of justice, or the public.

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

The Chief Judge is responsible for the supervision of the assignment of civil cases to the judges of the court.

**(a) Case Assignment System.**

All case assignments are assigned by an automated case assignment system approved by the judges of the court and managed by the clerk under the direction of the Chief Judge. The assignment of cases must be random, except:

- (1) a case to be heard in locations other than Salt Lake City may, to reduce travel expense and time, be directly assigned to a judge resident in that location or to a judge designated for general assignment in that location;



(2) the Chief Judge may sua sponte assign or reassign any case upon a finding that the assignment or reassignment is necessary for the efficient administration of justice.

**(b) Judicial Recusal.**

In the event of a judicial recusal, another judge will be assigned to the case through the random selection case assignment system described in section 83-2(a) of this rule. If all judges recuse themselves, the Chief Judge of the court will request the Chief Judge of the Tenth Circuit Court of Appeals to assign a judge from another district within the circuit to hear the matter.

**(c) Emergency Matters.**

In the event an assigned judge is ill, out of town, or otherwise unavailable to consider an urgent matter, application for consideration may be made to any available judge of the court. For purposes of efficiency and coordination, requests for emergency judicial action should be directed to and coordinated through the clerk.

**(d) Post-Conviction Relief.**

Whenever a second or subsequent case seeking post-conviction or other relief by petition for writ of habeas corpus is filed by the same petitioner involving the same conviction as in the first case, it will be assigned to the same judge to whom the original case was assigned.

**(e) Section 2255 Motions.**

Under Rule 4 of the Rules Governing Section 2255 Proceedings, all motions under 28 U.S.C. § 2255 will be assigned to the judge to whom the original criminal proceeding was assigned.

**(f) Multiple Matters Arising Out of a Single Bankruptcy Case.**

In the event multiple matters arising out of a single bankruptcy case are filed in this court (whether appeals under DUCivR 83-7.9; referrals of indirect criminal

contempt of court under DUCivR 83-7.8; withdrawals of the reference of cases, proceedings or contested matters under DUCivR 83-7.4; or otherwise), the first matter will be randomly assigned to a judge of this court, as set forth in section 83-2(a) above. Thereafter, all subsequent matters arising out of the same bankruptcy case will be assigned to the judge of this court to whom the first matter was assigned.

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

Whenever 2 or more related cases are pending before different judges of this court, any party to the later-filed case may file a motion and proposed order to transfer the case to the judge with the lower-numbered case. To determine whether the case should be transferred, the court may consider the following factors:

- (1) Whether the cases arise from the same or a closely related transaction or event;
- (2) Whether the cases involve substantially the same parties or property;
- (3) Whether the cases involve the same patent, trademark, or copyright;
- (4) Whether the cases call for a determination of the same or substantially related questions of law and fact;
- (5) Whether the cases would entail substantial duplication of labor or unnecessary court costs or delay if heard by different judges;
- (6) Whether there is risk of inconsistent verdicts or outcomes;
- (7) Whether the motion has been brought for an improper purpose; or
- (8) Other factors as provided by case law.

The motion to transfer must be filed in the lower-numbered related case, and a notice of the motion must be filed in the case in which transfer is sought. While the motion must be decided by the judge assigned to the lower-numbered case, judges assigned to the cases will confer about the appropriateness of the

requested transfer. The transfer of cases may also be addressed sua sponte by the court.

**(h) Supplemental Proceedings.**

When a party files a Motion for Supplemental Proceedings, the district judge will enter a referral under 28 U.S.C. § 636(b)(1)(A) to the same magistrate judge who was initially assigned, or the Clerk's Office will randomly assign a magistrate judge if one was not previously assigned.

**DUCivR 83-3 ELECTRONIC DEVICES AND BROADCASTS**

**(a) Electronic Devices.**

The use of electronic devices is prohibited in any federal courthouse or courtroom of the District of Utah, except as otherwise authorized by this rule, court order, or the Electronic Device Use Policy.

**(b) Electronic Device Use Application.**

Credentialed members of the media may file an application with the Clerk of Court for permission to use electronic devices in public hearings. The application and a list of acceptable courtroom uses of electronic devices (listed by judge) are available in the Clerk's Office and on the court's website.

**(c) Photographs and Recordings.**

Photographing, recording, or rebroadcasting of court proceedings is prohibited. Advertising or posting of audio, video, or other forms of recordings or transcripts of court proceedings made in violation of this rule on any Internet website, blog, or other means of transmitting the information via electronic means is prohibited. Violation of these prohibitions may result in sanctions, including removal of court-issued media credentials, restricted access to future hearings, denial of access to future hearings, confiscation of a device, or any other sanction the court deems necessary and appropriate.

**(d) Exceptions.**

The court may permit the broadcasting, televising, recording, or photographing of investitive, ceremonial, naturalization, and other similar proceedings. The court also may permit the use of electronic, digital, mechanical, or photographic means for the presentation of evidence, for perpetuation of a record, or as the court otherwise authorizes.

**DUCivR 83-4 [RESERVED]**

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

**(a) Custody of Exhibits.**

(1) Exhibits Returned to the Offering Party.

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

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

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

- (3) Access to Exhibits During the Appeal. For preparation of the record on appeal, a party must make available all original exhibits, or copies, to any other party on request or court order.
- (4) Exhibits Ordered to Remain in Custody of the Clerk. When the court has ordered the Clerk of Court to retain custody of an exhibit, the Clerk's Office must retain custody until any appeal is resolved or the time for appeal has expired.

**(b) Retention of Exhibits.**

- (1) Original Exhibits.  
The offering party must retain the original exhibit.
- (2) Delivery of Exhibits for Retention.
  - (A) Within 14 days after the docketing of the court's witness and exhibit list, each party must deliver a digital storage device containing its respective exhibits, admitted and offered-but-not-admitted, to the Clerk's Office. The Clerk's Office will docket a notice of receipt. If a notice of receipt is not docketed, within 21 days after the docketing of the court's witness and exhibit list, the opposing party may deliver the other party's exhibits to the Clerk's Office.
  - (B) Exhibits that are designated sealed on the court's witness and exhibit list must be delivered on a separate and marked digital storage device.
  - (C) A photograph of a bulky or sensitive exhibit may be included on the storage device. Examples of bulky or sensitive exhibits include:
    - (i) controlled substances, poisonous or dangerous chemicals, or intoxicating liquors;
    - (ii) firearms, ammunition, or explosive devices;

- (iii) pornographic materials;
- (iv) jewelry;
- (v) money or articles of high monetary value or counterfeit money;
- (vi) demonstrative exhibits; and
- (vii) documents or physical exhibits of unusual bulk or weight.

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

- (1) The Clerk's Office will notify the offering party when exhibits retained by the Clerk of Court may be collected.
- (2) The offering party must collect the exhibits within 14 days of the notice. The same process in section 83-5(a)(1)(B) must be followed.

**DUCivR 83-6 STIPULATIONS: PROCEDURAL REQUIREMENT**

No stipulation between the parties modifying a prior order of the court or affecting the course or conduct of any civil proceeding will be effective until approved by the court.

**DUCivR 83-7.1 BANKRUPTCY - ORDER OF REFERENCE OF BANKRUPTCY MATTERS TO BANKRUPTCY JUDGES**

Under 28 U.S.C. § 157(a), the following are automatically referred to the bankruptcy judges of this district:

- (1) any or all cases under title 11 of United States Code;
- (2) any or all proceedings arising under title 11; or
- (3) any or all proceedings arising in or related to a case under title 11.

## **DUCivR 83-7.2 BANKRUPTCY - REMOVAL OF CLAIMS OR ACTIONS RELATED TO BANKRUPTCY CASES**

A notice of removal consistent with 28 U.S.C. § 1452(a) must be filed with the clerk of the bankruptcy court.

## **DUCivR 83-7.3 [RESERVED]**

## **DUCivR 83-7.4 BANKRUPTCY - WITHDRAWAL OF THE REFERENCE OF BANKRUPTCY CASES, PROCEEDINGS, AND CONTESTED MATTERS**

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

A motion requesting withdrawal of the reference must be filed in the bankruptcy court and allege that withdrawal is:

- (1) mandatory under 28 U.S.C. § 157(b)(5) because the proceeding is a personal injury tort or a wrongful death claim;
- (2) mandatory under 28 U.S.C. § 157(d) because resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce; or
- (3) appropriate because cause exists under 28 U.S.C. § 157(d) as specified in the motion.

### **(b) Briefing Requirements.**

A withdrawal motion must comply with DUCivR 7-1, unless the court orders otherwise or the parties stipulate to shorter requirements.

### **(c) Filing Deadlines.**

- (1) Bankruptcy Cases. A motion to withdraw the reference of a bankruptcy case may be made at any time.

- (2) Adversary Proceedings. A motion to withdraw the reference of an adversary proceeding must be filed within 28 days of the time the movant files its first pleading.
- (3) Contested Matters.
  - (A) If the person initiating the contested matter seeks to withdraw the reference, the motion must be filed separately and simultaneously with the pleading initiating the contested matter.
  - (B) Any other person seeking to withdraw the reference must separately file a withdrawal motion simultaneously with their initial response.

**(d) Transmittal of the Withdrawal Motion and Transfer to the District Court.**

- (1) After transmittal of the motion to the district court, the following apply:
  - (A) all filings related to the withdrawal motion must be filed in the district court; and
  - (B) the local rules of the district court apply unless otherwise ordered.
- (2) After the withdrawal motion is granted, the following apply:
  - (A) the bankruptcy court will transfer the bankruptcy case, adversary proceeding, or contested matter to the district court;
  - (B) subsequent filings related to the withdrawn case, adversary proceedings, or contested matter must be filed in the district court;
  - (C) all existing deadlines pending at the time of transfer remain in effect; and
  - (D) the local rules of the district court apply unless otherwise ordered.

**DUCivR 83-7.5 [RESERVED]**



### **DUCivR 83-7.6 BANKRUPTCY - LOCAL BANKRUPTCY RULES OF PRACTICE**

Under Fed. R. Civ. P. 83 and Fed. R. Bank. P. 9029, the district court authorizes the bankruptcy court to adopt rules of practice not inconsistent with title 11 and title 28 of the United States Code, the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, and the local rules of the district court. The bankruptcy court rules of practice will be:

- (1) subject to approval, ratification, or modification by the district court; and
- (2) promulgated and applied uniformly by each of the bankruptcy court judges in this district.

### **DUCivR 83-7.7 BANKRUPTCY - JURY TRIALS IN BANKRUPTCY COURT**

Under 28 U.S.C. § 157(e), the district court expressly designates the bankruptcy judges to conduct jury trials.

### **DUCivR 83-7.8 BANKRUPTCY – CRIMINAL CONTEMPT**

#### **(a) Limited Authority.**

Bankruptcy judges may not exercise powers of criminal contempt, except when the conduct is committed in the presence of the court.

#### **(b) Certification to District Court.**

- (1) When there is an allegation that a person or a representative of an entity, who is subject to the bankruptcy court’s jurisdiction, has committed an act or engaged in conduct that may constitute criminal contempt outside the presence of the court, the bankruptcy judge may certify the facts to the district court by serving an Order to Show Cause upon any person or entity whose behavior is at issue.

- (2) The Order to Show Cause must direct the person or representative of the entity to appear before a district court judge on a specific date and time to show cause why they should not be held in contempt.

**(c) Hearing Before District Court.**

After receipt of the Order to Show Cause, the district court, in a summary manner, will hear the evidence and rule.

**DUCivR 83-7.9 BANKRUPTCY - APPEALS TO THE DISTRICT COURT FROM THE BANKRUPTCY COURT UNDER 28 U.S.C. § 158**

Appeals to the district court, made under 28 U.S.C. § 158, must comply with DUCivR 10-1, the U.S. Bankruptcy Appellate Panel of the Tenth Circuit Local Rules (BAP Rules), and Part VIII of the Fed. R. Bankr. P. If there is any conflict between DUCivR 10-1 and the BAP Rules, DUCivR 10-1 governs. When applying the BAP Rules, any reference to the “bankruptcy appellate panel clerk” means the clerk of the district court and any reference to "this court" means the district court.

**DUCivR 86-1 EFFECTIVE DATE OF RULES**

These rules are effective December 1, 2023.