

FILED  
U.S. DISTRICT COURT

2018 NOV 29 A 10: 21

DISTRICT OF UTAH

  
DEPUTY CLERK

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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IN THE MATTER OF ADOPTION OF  
AMENDED LOCAL RULES OF PRACTICE

GENERAL ORDER  
No. 18-009

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Proposed amendments to the local rules of practice were published for comment, and the comment period has expired. The court has reviewed the proposals and the comments. The proposed rule regarding the Speedy Trial Act (DUCrimR 12-(h)(1)) has been withdrawn and will be revisited in the future.

**IT IS HEREBY ORDERED** that the following local rules be amended in accordance with the copy attached:

**DUCivR 5-1**

**Conventional Filing of Papers**

Adds a provision for calculating the filing date for documents (other than a complaint) that are mailed to the court or an opposing party. If there is a dispute about the filing date, the court will consider the postmark date to be the filing date. If the postmark is illegible or missing, the court will presume that the document was filed three days prior to the date stamp indicating receipt by the court. The response time will be calculated from the date stamp indicating the court received the papers.

**DUCivR 10-1**

**General Format of Papers**

Updates have been made to accommodate the recent creation of the Southern Region of the Central Division. Case captions should no longer indicate "Central" or "Northern" Division; case numbering format has been updated.

- DUCivR 45-1**                    **Prior Notice of Subpoena and Copy of DUCivR 37-1 for Nonparty**  
Adds language to remind litigants that a copy of DUCivR 37-1 must be included with a subpoena issued to a nonparty, as already set forth in Rule 37-1(a)(9).
- DUCivR 83-1.1**                **Attorneys-Admission to Practice**  
Adds a provision allowing pro se litigants to file a motion to receive notices of electronic filings by email; notifies pro se litigants that once they are granted the ability to receive notices of electronic filing by email, they will receive electronic notices in all their pending cases—not just the case in which they filed the motion.
- DUCivR 83-2**                    **Assignment and Transfer of Civil Cases**  
Clarifies that cases are randomly assigned, except for cases that will be heard outside of Salt Lake City and cases in which the chief judge finds that an assignment or reassignment is necessary for the efficient administration of justice.
- DUCrimR 49-2**                **Filing Criminal Cases and Documents Under Court Seal**  
Discourages sealed filings but recognizes that some documents in criminal cases should be filed under seal. Eliminates the requirement that counsel must first obtain a court order to permit a sealed filing; provides a mechanism for the court or another party to challenge documents improperly filed under seal. The amendment also anticipates the upcoming change in CM/ECF to permit attorneys to electronically file sealed documents in criminal cases.

IT IS FURTHER ORDERED that the amended local rules as attached hereto shall be adopted and become effective on December 1, 2018; and

IT IS FURTHER ORDERED that the Clerk of Court shall cause notice of the attached amendments to the local rules to be published to the Bar and the public.

Dated this 29<sup>th</sup> day of November, 2018.



Robert J. Shelby, Chief Judge



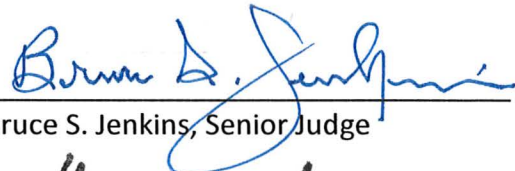
Clark Waddoups, District Judge



David Nuffer, District Judge



Jill N. Parrish, District Judge



Bruce S. Jenkins, Senior Judge



David Sam, Senior Judge



Dee Benson, Senior Judge



Tena Campbell, Senior Judge



Dale A. Kimball, Senior Judge



Ted Stewart, Senior Judge

**(a) Electronic Filing.**

Generally, registered e-filers must electronically sign and file documents, as set forth in the CM/ECF and E-filing Administrative Procedures Manual (ECF Procedures) adopted by the court to govern the court's electronic case filing system.

\*The ECF Procedures governing electronic filing are available for review, downloading, and printing at <http://www.utd.uscourts.gov>.

**(b) Conventional Filing of Pleadings and Papers.**

In all other circumstances, all pleadings and other case-related documents must be filed with the clerk at the office of record in Salt Lake City (i) in person during the business hours set forth in DUCivR 77-1 or (ii) by mail. At the time of filing a document pursuant to subparagraphs (i) and (ii), the clerk will require:

- (1) the original of all proposed orders, certificates of service, and returns of service; and
- (2) the original and **one (1)** copy of all pleadings, motions, and other papers.

When court is in session elsewhere in the district, pleadings, motions, proposed orders, and other pertinent papers may be filed with the clerk or with the court at the place where court is being held.

**(c) Filing Time Requirements.**

- (1) Unless otherwise directed by the court, all documents pertaining to a court proceeding must be filed with the clerk a minimum of **two (2) business days** before the scheduled proceeding.
- (2) For documents served by mail, other than complaint, the court will presume the postmark on the envelope to be the date the party filed the document. If the postmark is illegible or missing, the court will presume the document to have been filed three (3) days prior to the date stamp indicating receipt by the court. Response time will be calculated from the date stamp indicating the court received the papers. For papers served on a party that do not need to be filed with the court, the response time will be calculated from the date the party received the papers in accordance with Fed. R. Civ. P 33(b)(2), 34(b)(2)(A), and 36(a)(3).

## **DUCivR 10-1      GENERAL FORMAT OF PAPERS**

### **(a)      Form of Pleadings and Other Papers.**

- (1)      Except as otherwise permitted by the court, all pleadings, motions, and other papers, whether presented for filing in person, by mail, or via CM/ECF, must have a top margin of not less than 1½ inches and all other margins must be at least 1 inch. The paper size must be 8 ½ inches by 11 inches.
- (2)      For filings submitted by mail or in person, originals must be on white, high-quality paper, with printing on only one side. Filed originals must also be flat and unfolded;
- (3)      Filings submitted via CM/ECF must also comply with latest version of the [District of Utah CM/ECF and E-filing Administrative Procedures Manual](#).

Where required, copies of all originals must be prepared by using a clearly legible duplication process; copies produced via facsimile transmission are not acceptable for filing with the court. Text must be typewritten or plainly printed and double-spaced except for quoted material and footnotes. Exhibits attached to the original of any pleading, motion, or paper shall not be separately tabbed with dividers, but an 8 ½ x 11-inch sheet shall be inserted to separate and identify each exhibit. Judges' copies of pleadings and exhibits may include tabbed dividers for the convenience of chambers. Each page must be numbered consecutively. The top of the first page of each paper filed with the court must contain the following:

**Counsel Submitting, email address, and Utah State Bar Number<sup>1</sup>**

**Attorney For**

**Address**

**Telephone**

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

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<b>Name of Case</b>	<b>Case No. w/ District Judge Initials and Magistrate Judge Initials, if applicable</b>  <b>TITLE OF DOCUMENT</b>  <b>District or Magistrate Judge's Name (When Applicable)</b>
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Proposed orders submitted to the court must comply with DUCivR 54-1. Such orders must be prepared and submitted as separate documents. All documents served or filed after the commencement of a case must include the properly captioned case number. For example:

**Northern Division Civil Cases 1:11CV100- RJS**

**Central Division Civil Cases 2:11CV100- RJS**

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

**Northern Division Criminal Cases 1:11CR100-- RJS**

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

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

**Legend:**

**1 = Northern Division (Ogden Office)**

**2 = Central Division (Salt Lake Office)**

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<sup>1</sup> Pursuant to DUCivR 83-1.3, any changes to this name and contact information must be transmitted immediately to the office of the clerk. Attorneys admitted to practice Pro Hac Vice are not required to include a bar number.

**4 = Southern Region (St. George Office)**

**11 = Calendar Year**

**CV = Civil Case**

**CR = Criminal Case**

**AD = Attorney Discipline Case**

**MC = Miscellaneous Case**

**MJ = Magistrate Judge Case**

**RF = Restricted Filer Case**

**100 = Consecutive Case Number**

**RJS = Assigned Judge Initials**

The title of each document must indicate its nature and on whose behalf it is filed. Where a jury trial is demanded as permitted by the Federal Rules of Civil Procedure, the words “JURY DEMANDED” must be placed in capital letters on the first page immediately below the title of the pleading. Where a matter has been referred to a magistrate judge, the caption for all motions, pleadings, and related documents in the matter must include the name of the magistrate judge below the title of the document.

**(b) Font Requirements.**

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

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

The clerk will examine all pleadings and other papers filed and may require counsel to properly revise or provide required copies of pleadings or other papers not conforming to the requirements set forth in these rules.

**DUCivR 45-1                    PRIOR NOTICE OF SUBPOENA AND COPY OF DUCivR 37-1  
REQUIRED FOR NONPARTY**

The notice of issuance of subpoena 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 shall be served on each party as prescribed by Fed. R. Civ. P. 45(a)(4). The subpoena may not be served upon the nonparty until four (4) days after the service of the notice.<sup>1</sup> In addition, a party subpoenaing a nonparty must include a copy of DUCivR 37-1 with the subpoena. Any motion to quash, motion for a protective order, or motion to compel a subpoena will follow the procedure set forth in DUCivR 37-1.

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<sup>1</sup> This provision is subject to the addition of three (3) days provided by Fed.R.Civ.P (6)(d).



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

**(f)    Pro Se Representation.**

- (1) Any party proceeding on its own behalf without an attorney will be expected to be familiar with and to proceed in accordance with the rules of practice and procedure of this court and with the appropriate federal rules and statutes that govern the action in which such party is involved.
- (2) Any self-represented party may file a motion requesting leave to receive notices of electronic filings by email.
  - (A) Upon the granting of the motion, the party shall complete the Electronic Case Noticing Registration Form for Pro Se Parties and submit it to the clerk's office for processing. By signing the form, the party consents to (a) receive filings required to be served under Fed. R. Civ. P. 5(a) and 77(d) and Fed. R. Crim. P. 49 via email transmission and that such transmission will constitute service under those rules, (b) waive the right to service by USPS mail, and (c) notify the clerk's office of any future name, address, or email address changes.
  - (B) The CM/ECF system does not allow a self-represented party to elect to receive email notification in one case and decline such notification in another case. When a self-represented party obtains leave to receive email notification in any case pending before the court, that individual will automatically receive email notification of filings in all cases in which they are a self-represented party. Similarly, a self-represented party will cease to receive email notification in all cases before the court if a judge revokes the authorization in any case where the individual is a self-represented participant.
  - (C) The right to receive electronic notices does not change the requirement that self-represented parties file all documents conventionally in paper.

- (D) Any party filing a paper document with the court must still serve the pro se party with a paper copy of the document.

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

Supervision of the assignment of civil cases to the judges of the court is the responsibility of the chief judge.

**(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 shall 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 subsection (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 subsection (a) above. Thereafter, any and 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.**<sup>1</sup>

Whenever two 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.

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<sup>1</sup> If a case is transferred to another judge with a similar case, the transferred case will remain a separate case with its own docket and scheduling order. If consolidation—rather than transfer—is sought, please see DUCivR 42-1.

The motion to transfer shall be filed in the lower-numbered related case, and a notice of the motion shall be filed in the case in which transfer is sought. While the motion shall 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.

**DUCrimR 49-2 FILING CRIMINAL CASES AND DOCUMENTS UNDER COURT  
SEAL**

**(a) General Rule.**

The records of the court are presumptively open to the public. The sealing of cases, pleadings, motions, memoranda, exhibits, and other documents or portions thereof (hereinafter, "Documents") is generally discouraged. Unless restricted by statute, case law, court order, the Federal Rules of Criminal Procedure, or these local rules, the public shall have access to all Documents filed with the court and to all court proceedings. Counsel are encouraged to publicly file Documents and to redact personal identifiers, as set forth in Fed. R. Crim. P. 49.1, and confidential portions of a Document when they are not directly pertinent to the issues before the court.

**(b) Filing of Cases Under Seal.**

On request of the United States, made at the time a complaint or information is filed or a grand jury indictment is returned, the clerk will seal the case unless the court otherwise directs. Sealed criminal cases will be listed on the clerk's case index as *U.S.A. vs. Sealed*. When the last criminal defendant appears in this district, the court will order that a sealed case be unsealed, unless a party establishes good cause for maintaining the seal and the court so orders.

**(c) Filing of Documents Under Seal.**

- (1) Sealed Documents in *unsealed* cases must be electronically filed using the court's CM/ECF system. Documents filed in *sealed* cases must be filed conventionally with the clerk's office.<sup>1</sup>
- (2) Documents filed under seal must state "Filed Under Seal" in the case caption.
- (3) Documents containing sensitive, confidential, or personal information for or about a defendant or other individuals, grand jury matters, or Documents prepared for the court's use in plea or sentencing proceedings, may be sealed without a motion or prior approval from the court. Documents entered pursuant to this subsection

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<sup>1</sup> See the court's [CM/ECF and E-Filing Administrative Procedures Manual](#) for procedures regarding the electronic and conventional filing of sealed Documents.

shall remain sealed unless otherwise ordered by the court, pursuant to subsection (d) below.

**(d) Unsealing of Cases or Documents.**

On a motion of any party and a showing of good cause, or on the court's own initiative, the court may order that all or a portion of a Document, or a case, be unsealed after providing the parties with an opportunity to justify the continued sealing of the Document or case. Written motions to unseal must be filed under seal and state the basis for the unsealing with specific factual support.

**(e) Access to Sealed Case Dockets and Documents.**

The clerk will not provide access to or information contained in case dockets or provide copies of sealed docket reports or Documents unless ordered by the court, or requested by the United States Marshal's Service, United States Probation, Bureau of Prisons, or the filing party.