
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

IN THE MATTER OF ADOPTION OF
NEW AND AMENDED LOCAL RULES
OF PRACTICE

**GENERAL ORDER
20-032**

New rules and amendments to existing local rules of practice were published for public comment between August 17, 2020 and September 4, 2020. The court has considered the new and amended rules and the public comments that were received.

IT IS HEREBY ORDERED that following new rules and amendments to the local rules are adopted (a complete copy is attached to this Order):

CRIMINAL RULES

- DUCrimR 5-2 Pretrial Services Report (Amended)**
Incorporates General Order 20-010, which permits the electronic filing of Pretrial Service Reports, which are filed under seal. Addresses retention and disposal of copies emailed to counsel. General cleanup for clarity and consistency.
- DUCrimR 11-1 Plea Agreement (Amended)**
Amended in light of *United States v. Bacon*, 950 F.3d 1286 (10th Cir. 2020) to eliminate the requirement to file a sealed plea supplement in every criminal case in which there is a plea agreement. Includes a new section about cooperation agreements.
- DUCrimR 12-1 Pretrial Motions (Amended)**
General cleanup for clarity and consistency and to conform to current practice. The section pertaining to motions for a continuance under the Speedy Trial Act has also been revised to comply with the Tenth Circuit's Speedy Trial Act requirements and to promote uniformity in filing these motions. At the request of both

the U.S. Attorney's Office and the Federal Public Defender's Office, the current requirement that counsel inform the court as to whether the defendant has consented to the continuance has been replaced with a requirement that the movant notify the defendant of the request for a continuance.

DUCrim 49.1-1 Redacting Personal Identifiers (Renumbered)
Renumbered to conform to the District of Utah rule-numbering conventions.

DUCrimR 57-15 Magistrate Judge Authority in Criminal Cases (Amended)
General cleanup for clarity and consistency and to conform to current practice.

CIVIL RULES

DUCivR 1-1 General Provision (Amended)
General cleanup for clarity and consistency

DUCivR 1-2 Sanctions for Violating These Rules (Amended)
General cleanup for clarity and consistency.

DUCivR 3-1 Clerk's Schedule of Miscellaneous Fees (Amended)
General cleanup for clarity and consistency.

DUCivR 3-2 Proceeding Without Prepayment or Payment of Filing Fees (Amended)
General cleanup for clarity and consistency. Clarifies which application form must be used when a party is seeking in forma pauperis status, establishes the standard of indigency for a non-incarcerated party, clarifies the complaint screening process, and identifies the requirements for service of process.

DUCivR 3-3 Commencement of an Action: Notification of Multidistrict Litigation (Amended)
General cleanup for clarity and consistency. Adds a new section about pro hac vice admission upon case remand or transfer.

DUCivR 3-4 Civil Cover Sheet (Amended)
General cleanup for clarity and consistency.

DUCivR 3-5 Motions in Pleadings Prohibited (Amended)
General cleanup for clarity and consistency.

DUCivR 5-1	Filing and Electronic Notification (Amended) General cleanup for clarity and consistency. Adds a section about electronic case notification for unrepresented litigants that was previously contained in DUCivR 83-1.1(f).
DUCiv 16-3	Settlement Conferences (Corrected) In (b), replaces the incorrect citation to Fed. R. Civ. P. 16(c)(9) with a citation to 16(c)(2)(I).
DUCivR 48-1	Number of Jurors; Impaneling and Section of jury (Eliminated) Eliminates the current rule, which requires a 12-person civil jury, absent a stipulation of the parties. Federal Rule of Civil Procedure 48 will govern the number of jurors.
DUCivR 72-3	Filing Objections to Magistrate Judge Decisions (Amended) The current rule provides that, unless otherwise ordered by the assigned district judge, no response needs to be filed and no hearing will be held concerning an objection to a magistrate judge's order under Fed. R. Civ. P. 72(a) and 28 U.S.C. § 636(b)(1)(A). The proposed amendment applies the same rule to magistrate judge's orders under Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(B). General cleanup for clarity and consistency.
DUCivR 81-2	Removed Action (New) Explains the requirements for the notice in a removed action, denies without prejudice motions that were pending in state court, and addresses the scheduling order requirements.
DUCivR 83-1.1	Attorneys - Admission to Practice (Amended) Modifies the admission process to accommodate changes to the court's CM/ECF system, expands eligibility requirement for federal attorneys and exempts them from paying the admission and annual registration fees, and requires attorneys to maintain current contact information in PACER. In addition, places new restrictions on pro hac vice admissions. General cleanup for clarity and consistency.
DUCivR 83-1.2	Attorneys - Annual Registration (Amended) Eliminates the option to register by paper, requires payment to be made online, requires inactive attorneys to maintain current contact information using PACER, establishes a reinstatement fee for attorneys who do not

timely register, and includes general cleanup for clarity and consistency.

DUCivR 83-1.2 Conduct of an Unrepresented Party (New)
Identifies the obligations of an unrepresented party.

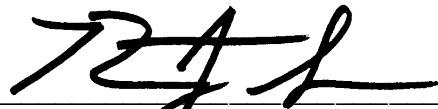
IT IS FURTHER ORDERED that these new rules will take effect on December 1, 2020, and

IT IS FURTHER ORDERED that the Clerk of Court will publish the attached rules to the Federal Bar for the District of Utah and post a copy on the court's website.

Because of the current COVID-19 pandemic and to eliminate having to circulate this Order to obtain each judge's signature, the judges of this district unanimously voted on November 19, 2020 to authorize Chief Judge Robert J. Shelby to sign this Order on behalf of all the district judges.

SO ORDERED this 25th day of November, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'RJS', is written over a horizontal line.

ROBERT J. SHELBY
CHIEF UNITED STATES DISTRICT JUDGE

DUCrimR 5-2 PRETRIAL SERVICES REPORT

(a) Requesting a Report.

When the United States requests the detention of a defendant, the magistrate judge will request a pretrial services report on the defendant under 18 U.S.C. § 3154.

(b) Contents of Pretrial Services Report.

The court directs that a Pretrial Services Report must address rebuttable presumptions and potential penalties.

(c) Filing and Distribution of Pretrial Services Reports.

Before the defendant's first court appearance, the United States Probation Office (USPO) must, when possible, file under seal a written pretrial services report in the court's CM/ECF system. USPO must also email the report simultaneously to the prosecutor and defense counsel who will appear at the hearing in which the report will be considered. Before the hearing, defense counsel may discuss and review the report with the defendant.

(d) Confidentiality and Disposal of Pretrial Services Reports.

Pretrial services reports are confidential, subject to the limitations and exceptions of 18 U.S.C. § 3153(c). Within 7 days after the initial detention hearing, the prosecutor and defense counsel must destroy their copies of the report, except that they may retain the criminal history portion of the report and permit staff and the defendant to review that portion for purposes of guideline calculations. They must not, however, disclose the report to any other person without a court order.

DUCrimR 11-1 PLEA AGREEMENT

(a) Plea Agreement.

A plea agreement must be in writing and signed by counsel and the defendant. The plea agreement must be accompanied by a written stipulation of facts relevant to a plea of guilty, which, if appropriate, includes the amount of restitution and a list of victims. If the agreement involves the dismissal of other charges or stipulates that a specific sentence is appropriate, the court will review and consider the presentence report before accepting or rejecting the plea agreement.

(b) Cooperation Agreement.

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

DUCrimR 12-1 PRETRIAL MOTIONS

(a) **Motion and Supporting Memorandum.**

(1) Motion and Memorandum. The motion and supporting memorandum must be contained in one document, except as otherwise allowed by this rule. The document must include the following:

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

(2) Page Limits. There are no page limits for motions and memoranda.

(b) **Response.**

A response memorandum must be filed within 14 days after service of the motion. There are no page limits for a response.

(c) **Reply.**

A reply memorandum may be filed at the discretion of the movant within 7 days after service of the memorandum opposing the motion. A reply memorandum must be limited to rebuttal of matters raised in the memorandum opposing the motion. There are no page limitations for a reply memorandum.

(d) **Supplemental Authority.**

When pertinent and significant authority comes to the attention of a party before the court has entered a decision on the motion, the party may promptly file a Notice of Supplemental Authority (Notice), 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 act on the motion without waiting for a response. If the court has not acted, a party may file a response, which may not exceed 2 pages, within 2 days after service of the Notice.

(e) **Unpublished Decisions.**

The citation of unpublished decisions is governed by DUCivR 7-2.

(f) Limited Statement of Facts and Legal Authority.

No statement of facts and legal authority beyond the concise statement of the relief requested and the grounds for the relief is required for the following motions:

- (1) to extend time for the performance of an act, whether required or permitted, provided the motion is made prior to expiration of the time originally prescribed or previously extended by the court;
- (2) to continue a hearing; and
- (3) to suppress evidence, unless otherwise directed by the court.

(g) Failure to Comply.

Failure to comply with the requirements of this rule may result in sanctions that may include terminating the motion and directing counsel to refile it in accordance with the rule, denial of the motion, or other sanctions the court deems appropriate.

(h) Failure to Respond.

Failure to timely respond to a motion may result in the court granting the motion without any further notice.

(i) Hearings.

The court may, on its own or on a party's request, schedule a hearing on the motion. Otherwise, the court will decide the motion based on the written memoranda.

(j) Motion to Suppress Evidence Requiring an Evidentiary Hearing.

- (1) Unless the court orders otherwise, a motion to suppress evidence must concisely state, without an accompanying legal brief, the following:
 - (A) the basis for standing;
 - (B) the evidence for which suppression is sought; and
 - (C) the legal grounds for the motion.
- (2) Unless the court orders otherwise, a response by the government is not required before the evidentiary hearing.
- (3) At the conclusion of the evidentiary hearing, the court will provide a reasonable time for all parties to respond to the issues of fact and law raised in the motion and at the hearing.

(k) Proposed Order.

The court may request that a party prepare a proposed order. Unless the court orders otherwise, the proposed order should be emailed in Word format to the chambers email address of the judge deciding the motion.

(l) Motions to Continue Under the Speedy Trial Act.

- (1) A motion to continue under the Speedy Trial Act must state:
 - (A) the event and date that activated the time limits of the Speedy Trial Act;
 - (B) the current trial date;
 - (C) whether previous motions for continuance have been made and when, and the disposition of those motions;
 - (D) whether the delay resulting from the requested continuance is excludable under the Speedy Trial Act, including citation to the specific statutory provision(s);
 - (E) the specific reasons, supported by facts, for the continuance and the why the act or event cannot be completed or occur within the time originally allotted. Specifically, if the motions seeks:
 - (i) an ends-of-justice continuance under 18 U.S.C. § 3161(h)(7)(A), the motion must address all relevant factors under 18 U.S.C. § 3161(h)(7)(B) and include an explanation of how those factors justify a continuance.
 - (ii) a continuance under 18 U.S.C. § 3161(h)(7)(B)(ii) because of the complexity of the case, including voluminous discovery, the motion must include specific facts explaining the complexity.
 - (iii) a continuance under 18 U.S.C. § 3161(h)(7)(B)(iv) to effectively prepare for trial, counsel must provide sufficient facts to allow the court to determine whether counsel has exercised due diligence, including a summary of what steps counsel has taken to prepare for trial and what preparations remain, consistent with counsel's obligation to protect privileges and trial strategy.
 - (iv) a continuance because other litigation presents a scheduling conflict, the motion must:

- (a) identify the case name, number and court;
 - (b) list the date(s) of the scheduling conflict and identify the conflicting event(s);
 - (c) explain why those conflicts preclude counsel from adequately preparing for the trial;
 - (d) explain why another attorney cannot handle the trial or the conflicting event(s); and
 - (e) include any other relevant circumstances.
- (v) a continuance because of a personal hardship for counsel or the client, the motion must include specific facts regarding the nature of that hardship and when the hardship might be resolved. The movant may file the motion under seal under DUCrimR 49-2.
- (F) the period of continuance, the facts that justify the length of the continuance, and other relief requested;
- (G) whether the defendant has been notified of the requested continuance;
- (H) whether opposing counsel agrees with or objects to the requested continuance; and
- (I) the impact, if any, of the continuance on other scheduled deadlines.
- (2) The motion must be accompanied by a proposed order. A form motion and a proposed order can be found on the court's website. The proposed order, which must not differ in any respect from the relief requested in the motion, must state the following:
 - (A) the deadline(s) being extended;
 - (B) the proposed new deadline(s); and
 - (C) the findings required under the Speedy Trial Act.

DUCrimR 49.1-1 REDACTING PERSONAL IDENTIFIERS

(a) Redacting Personal Identifiers in Pleadings.

The filer must redact personal information in filings with the court, as required by Fed. R. Crim. P. 49.1. The court may order redaction of additional personal identifiers by motion and order in a specific case or as to a specific document or documents.

(b) Redacting Personal Identifiers in Transcripts.

Attorneys are responsible to review transcripts for personal information which is required to be redacted under Fed. R. Crim. P 49.1 and provide notice to the court reporter of the redactions which must be made before the transcript becomes available through PACER. Unless otherwise ordered by the court, the attorney must review the following portions of the transcript:

- (1) opening and closing statements made on the party's behalf;
- (2) statements of the party;
- (3) the testimony of any witnesses called by the party; and
- (4) any other portion of the transcript as ordered by the court.

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

(c) Procedure for Reviewing and Redacting Transcripts.

Upon notice of the filing of a transcript with the court, the attorneys must within 7 business days review the transcript and, if necessary, file a Notice of Intent to Request Redaction of the Transcript. Within 21 calendar days of the filing of the transcript the attorneys must file a notice of redactions to be made. The redactions must be made by the court reporter within 31 calendar days of the filing of the transcript and a redacted copy of the transcript promptly be filed with the clerk. Transcripts that do not require redactions and redacted transcripts must be electronically available on PACER 90 days after filing of the original transcript by the court reporter.

DUCrimR 57-15 MAGISTRATE JUDGE AUTHORITY IN CRIMINAL CASES

(a) Authority in Preliminary Matters.

In addition to the duties authorized by statute and the Federal Rules of Criminal Procedure, and unless otherwise ordered by the court, magistrate judges are authorized to:

- (1) administer oaths and affirmations;
- (2) take acknowledgments, affidavits, and depositions;
- (3) upon motion of the United States Attorney, dismiss complaints in criminal proceedings before indictment or the filing of an information;
- (4) conduct detention hearings;
- (5) issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, and other orders necessary to secure the presence of parties, witnesses, or evidence for court proceedings;
- (6) order the forfeiture or exoneration of bonds;
- (7) issue warrants of removal;
- (8) conduct hearings under Fed. R. Crim. P. 5, 5.1 and 20;
- (9) set bail and appoint counsel, if appropriate, for material witnesses;
- (10) issue the following investigative orders:
 - (A) authorizing the installation of devices (for example, a trap and trace device or a pen register);
 - (B) directing a communication common carrier, as defined in 47 U.S.C. § 153(h), including a telephone company, to provide assistance to a named federal investigative agency in accomplishing the installation of a trap and trace device or a pen register; and
 - (C) directing a communication common carrier not to disclose the existence of a summons or subpoena in a criminal or preliminary matter;
- (11) issue pre-indictment protective orders; and
- (12) receive grand jury returns and conduct naturalization ceremonies.

(b) Authority in Pretrial Matters.

After an indictment or felony information has been filed and assigned to a district judge under DUCrimR 57-2, magistrate judges are authorized to:

- (1) conduct arraignments and initial appearances;

- (2) accept pleas of not guilty;
- (3) order presentence reports;
- (4) hear and rule on motions to modify bail and motions to modify conditions of release;
- (5) hear pretrial release and supervision violation petitions, authorize the issuance of arrest warrants or summonses, and conduct pretrial release revocation hearings;
- (6) conduct scheduling hearings under Fed. R. Crim. P. 17.1; and
- (7) accept a plea of guilty after receiving:
 - (i) an order of reference from the assigned district judge; and
 - (ii) written consent of the parties.

(c) **Authority Under Orders of Reference.**

- (1) After a district judge enters an order of reference under 28 U.S.C. § 636(b)(1)(A), magistrate judges are authorized to determine nondispositive pretrial matters, manage the discovery process, and rule on motions by attorneys appointed under the Criminal Justice Act for services under that act, including appointment of experts and investigators.
- (2) After a district judge enters an order of reference under 28 U.S.C. § 636(b)(1)(B), magistrate judges are authorized to:
 - (i) hear motions to dismiss or quash an indictment and motions to suppress evidence; and
 - (ii) file a Report and Recommendation.

(d) **Authority in Misdemeanor Criminal Trials.**

Magistrate judges may preside over the trial of persons accused of committing misdemeanors within this district under 18 U.S.C. § 3401 and as otherwise provided by statute. Magistrate judges may sentence persons convicted of misdemeanors.

(e) **Authority in Extradition Proceedings.**

Unless a district judge orders otherwise, magistrate judges are authorized to issue warrants and conduct extradition proceedings in accordance with 18 U.S.C. § 3184.

(f) **Authority in Specialized Courts.**

After a district judge enters an order of reference, or consistent with a sentencing order, a magistrate judge may preside over specialized court proceedings. In specialized courts,

magistrate judges may address issues confronting offenders as they return to their communities, including overseeing services that provide diagnostic and risk assessments, education and job training, substance abuse treatment, mental health treatment, and mentoring.

DUCivR 1-1 GENERAL PROVISION

(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, 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, as well as provides notice of any adopted changes.

DUCivR 1-2**SANCTIONS FOR VIOLATING THESE RULES**

On a party's motion or on its own, the court may impose a sanction for a violation of these rules. The sanction may include, but is not limited to, assessment of costs, a party's reasonable attorney's fees, a fine, or any combination of these, against an attorney, a party, or both. 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 clerk is authorized to require advance payment of fees. A current fee schedule is available on the court's website.

**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 submitting the action (for example, 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 or 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 (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 payment of the full or reduced filing 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 or 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 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 submit 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 (a) must be submitted 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 a 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 District of Utah CM/ECF and Efiling Administrative Procedures Manual (ECF Procedures Manual). The ECF Procedures Manual is available at <http://www.utd.uscourts.gov>.

(b) Email Filing.

- (1) An unrepresented party may request permission to send documents by email to the clerk's office for filing by conventionally filing a Motion for Email Filing and Notification. The form motion is available on the court's website. The motion must include verification that the party:
 - (A) will submit documents in PDF format as required the ECF Procedures Manual;
 - (B) has a valid email address that has been provided to the court and will be used to submit documents for filing and to receive notices of case activity from the court;
 - (C) will use an appropriate digital/electronic signature on filings, as outlined in Section II(A) of the ECF Procedures Manual; and
 - (D) will comply with the formatting requirements outlined in Local Rule DUCivR 10-1 and the ECF Procedures Manual.
- (2) If the court grants the motion, the party may email documents and exhibits for filing to the clerk's office at utdecf_clerk@utd.uscourts.gov. The email must include the case number and document name in the subject line. The clerk will send an email confirming receipt to the party and then file the documents in the case.
- (3) A document will be considered filed as of the date the email is received by the clerk.
- (4) The court may, on its own or on a party's motion, revoke an unrepresented party's ability to file by email after a determination that the privilege has been abused.

Examples of circumstances in which 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.

(c) Paper Filing.

- (1) In all other circumstances, all pleadings and other case-related documents must be filed in 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) A party does not need to provide a courtesy copy unless specified in the [judge's preferences](#) on the court's website. A party must clearly label any courtesy copy on the caption page.
- (3) A party filing a paper document must serve an unrepresented party with a copy.

(d) Electronic Notification of Case Activity.

- (1) An unrepresented party may request permission to receive email notification of case activity by conventionally filing a Motion for Email Notification. The form motion is available on the court's website.
 - (A) By filing the motion, the unrepresented party consents to:
 - (i) receive by email filings that are required to be served under Fed. R. Civ. P. 5(a) and 77(d) and Fed. R. Crim. P. 49;
 - (ii) email constituting service under those rules;
 - (iii) waive the right to service by mail; and
 - (iv) notify the clerk's office in writing of any name, mailing address, or email address changes.
 - (B) The CM/ECF system does not allow an unrepresented party to choose to receive email notification in one case and decline email notification in another case.

- (i) When an unrepresented party obtains permission to receive email notification in any case pending before the court that party will automatically receive email notification of case activity in all cases in which they are a party.
 - (ii) The court may, on its own or on a party's motion, revoke an unrepresented party's ability to receive electronic notification of case activity. If this occurs, the unrepresented party will cease to receive email notification of case activity in all cases in which they are a party.
- (C) An unrepresented party who has been granted permission to receive electronic notification of case activity will file all documents in paper, unless they have been granted permission to file by email under DUCivR 5-1(b).

(e) Filing Time Requirements.

- (1) If no filing time is specified in an applicable rule and no deadline has been set by the court, a document related to a court proceeding must be filed a minimum of 2 business days before the scheduled proceeding.
- (2) If a document other than the complaint is served by mail, the postmark is the effective date of filing or service. If the postmark is illegible or missing, the filing or service date is presumed to be 3 days before receipt.

(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(a)(5) and (c)(2)(I) 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 or not 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.

~~DU~~CivR 48-1 NUMBER OF JURORS; IMPANELING AND SELECTION OF JURY

~~In all civil cases, absent a stipulation of the parties to the contrary, the trial jury will consist of twelve (12) members, and the verdict of the jury shall be unanimous. The court for good cause, however, may excuse jurors from service during trial or deliberation, in which event the verdict still must be unanimous. No verdict will be taken from a jury of fewer than six members.~~

(a) Stay of Magistrate Judge Order.

A motion for a stay of a magistrate judge order must first be addressed by the magistrate judge who issued the order.

(b) Responding to an Objection.

Unless otherwise ordered by the district judge, a response need not be filed, and a hearing will not be held, on an objection to a magistrate judge's order issued under:

- (1) Fed. R. Civ. P. 72(a) and 28 U.S.C. § 636(b)(1)(A); or
- (2) Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(B).

(c) Ruling on the Objection.

The district judge may deny the objection by written order at any time but may not grant it without first giving the opposing party an opportunity to brief the matter. If the district judge has not overruled the objection or has not set a briefing schedule within 14 days after the objection was filed, the non-moving party must email to the district judge a proposed order in Word format denying the objection.

DUCivR 81-2 REMOVED ACTIONS

(a) Notice.

- (1) Notice of Removal. A Notice of Removal must comply with 28 U.S.C. § 1446(a).
- (2) Filing Requirements. At the time of removal, the removing party must include with the Notice of Removal:
 - (A) a current copy of the state court docket sheet;
 - (B) a current copy of the scheduling order or notice of event due dates, if available; and
 - (C) if the court's jurisdiction is based upon 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 (C)(i) above for all of 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;
 - (v) the date on which each party was served; and
 - (vi) if the information above or a designated party is unknown to the removing party, the removing party must state that in the Notice of Removal. Thereafter, within 21 days after removal, the removing party must file an update that includes the omitted information.

(b) Pending Motions.

All pending motions and other requests directed to the state court are automatically denied without prejudice upon removal, and they may be refiled in this court. Motions refiled in this court must include citation to all relevant federal law and must be revised as necessary to comply with this court's rules.

(c) **Scheduling Order.**

- (1) The parties must conduct an Attorney Planning Meeting under Fed. R. Civ. P. 26(f) within 10 days after the time to file a motion to remand has expired or the motion has been denied, whichever occurs last.
- (2) The plaintiff must file the Attorney Planning Meeting Report within 5 days after the meeting.
- (3) At the same time the Attorney Planning Meeting Report is filed, the plaintiff must email a proposed scheduling order in Word format to the assigned judge in the case, or if an Order Referring Case 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 assignments when requested by the court, except when the attorney is employed by a government agency that precludes accepting pro bono assignments.
- (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, 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) 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.

(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](#), District of Utah CM/ECF and Efiling Administrative 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](#), [District of Utah CM/ECF and Efiling Administrative 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 the membership status changed to "registration lapsed" and will be unable to electronically file documents as of July 2.

(2) To reactive a membership in this court's bar, an attorney must pay a \$200.00 reinstatement fee.

(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 83-1.7 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.