
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

IN THE MATTER OF ADOPTION OF
AMENDED LOCAL RULES OF
PRACTICE FOR THE DISTRICT
COURT

**GENERAL ORDER
23-012**

Under 28 U.S.C. § 2071 and Fed. R. Civ. P. 83, proposed changes to the local rules of practice were published for public comment in August and September 2023. The court has considered the proposed rule changes, along with the public comments that were received. The judges convened in September and October and approved these rule changes:

CIVIL RULES

DUCivR 7-1	Motions and Memoranda (Amend) The Committee received a comment requesting that clarifying language be added to notify parties that informal arrangements to extend the motion filing deadlines are ineffective. The court must approve agreements to extend deadlines as required in DUCivR 83-6. Therefore, section (a)(5) was added to clarify that a stipulation to extend filing times is ineffective without a court order.
DUCivR 7-4	An Action Seeking Judicial Review of a Decision from an Administrative Agency (Amend) Clarifying language was added to specify the sections of the rule that apply to Social Security Actions under 42 U.S.C. § 405 and refers those who electronically file to the ECF Procedures Manual for guidance.

DUCivR 26-1	<p>General Provisions Governing Discovery (Amend) The Committee received a comment requesting clarifying language be added to section (a)(1)(D) to notify parties that they should not file a certificate of service for initial disclosures discovery, expert disclosures, or notices of depositions. Clarifying language was also added to section (a)(2) confirming that parties should file a notice of designation of experts for conflict purposes.</p>
DUCivR 30-2	<p>Notices Required for Depositions Under Fed. R. Civ. P. 30(b)(6) (Amend) General stylistic clean up to improve clarity and readability. The Committee received a comment suggesting use of the phrase “notice or subpoena” to be consistent with Fed. R. Civ. P. 30(b)(6), and the phrase was added to the rule. The title and rule were amended to include “subpoena.”</p>
DUCivR 37-1	<p>Discovery Disputes (Amend) Section (b)(3) was amended to clarify that exhibits in addition to the disputed discovery should not be attached. Section (b)(6) was amended to clarify that a motion for leave to file an overlength motion or response must adhere to the requirements of DUCivR 7-1(a)(4)(D). Section (b)(7) was added to the rule to clarify that a motion to quash a subpoena and a motion related to the standard protective order are exempt from the short form briefing requirements of DUCivR 37-1 and instead follow DUCivR 7-1(a)(4)(D).</p>
DUCivR 54-2	<p>Costs: Taxation of Costs and Attorney’s Fee (Amend) General stylistic clean up to improve clarity and readability. Clarified a motion for attorney’s fees should be separate from a Bill of Costs. Clarified the briefing requirements for the motion and affidavit for motion for attorney’s fees. Additionally, specified the briefing requirements related to a Bill of Costs and eliminated the Clerk of Court’s ability to hold a hearing to resolve objections. The title of the rule was revised to mirror the proposed amendments.</p>
DUCivR 55-1	<p>Default and Default Judgments (Amend) General stylistic clean up to improve clarity and readability. Clarified that a Clerk’s Certificate of Default is not required when a party seeks a default judgment as a sanction. Clearly identified the briefing requirements for parties seeking a default judgment for a sum certain. The title of the rule was revised to mirror the proposed amendments.</p>
DUCivR 56-1	<p>Summary Judgment Motions and Memoranda (Amend) The first sentence of section (b) was eliminated because the Committee received a comment that some practitioners were interpreting it to mean that a party could file only 1 summary judgment motion during the pendency of the case. The rule was</p>

	clarified to confirm parties should cite to the appropriate appendices instead of the Statement of Undisputed Facts.
DUCivR 67-1	Receipt and Deposit of Registry Funds (Amend) General stylistic clean up to improve clarity and readability. In 2015 and 2016, the court issued General Orders 15-002a and 16-007 . These orders adopted local procedures to ensure uniformity in the deposit, investment, and tax administration of funds held in the court's registry. Sections of General Order 16-007 conflicted with this rule. Additionally, changes were made to the Guide to Judiciary Policy related to when a court must accept electronic fund transfers. The amendments to the rule supersede the General Orders referenced above and clearly identify the necessary information that must be contained in the court order for depositing or withdrawing funds from the court's registry.
DUCivR 71.1-1	Deposits in the Court Registry (Eliminate) This rule is unnecessary because of the amendments to DUCivR 67-1.
DUCivR 72-3	Response to an Objection to a Magistrate Judge Decision (Amend) General stylistic clean up to improve clarity and readability. Clarified the page or word limits for an objection and response. The title of the rule was revised to mirror the proposed amendments.
DUCivR 72-4	Consent to the Jurisdiction of the Magistrate Judge (Amend) An amendment was made to section (b)(1)(A) to incorporate the requirements of General Order 23-003 to exempt cases filed by a party who is incarcerated from direct assignment to a magistrate judge.
DUCivR 81-2	Removed Actions (Amend) The court changed the requirements associated with filing the Attorney Planning Meeting Report and proposed Scheduling Order after removal. Section (d) has been amended to reflect the current requirements for filing those documents with the court.
DUCivR 83-1.2	Attorneys – Annual Registration (Amend) An amendment was made to section (d)(2) to incorporate the requirements of General Order 23-005 to permit the court to set the attorney reinstatement fee.
DUCivR 83-1.3	Attorneys – Appearances by Attorneys (Amend) General stylistic clean up to improve clarity and readability. Clarified that an attorney who signs a waiver of service has entered a general appearance in the case and must be admitted to practice before the court. Clarified that an attorney who has accepted a limited scope pro bono assignment, at the court's request, on behalf of a party who is incarcerated does not need to secure the party's signature on the limited appearance.

	Clarified in section (c) that a federally recognized tribe may be exempt from needing an attorney to appear on its behalf. In section (e), clarified the requirements for an attorney to provide the court with updated contact information. The title of the rule was revised to mirror the proposed amendments.
DUCivR 83-1.4	Attorneys – Substitution and Withdrawal of Attorney (Amend) General stylistic clean up to improve clarity and readability. The Committee received a comment requesting clarification about what happens when an attorney withdraws leaving the client unrepresented and without the client’s consent. Clarified that when a trial date is pending and an attorney is being replaced by new counsel, an attorney does not need to file a motion for leave before withdrawing from the case.
DUCivR 83-1.5-1	Attorney Disciplinary Actions – General Provisions (Amend) General stylistic clean up to improve clarity and readability. Combined all attorney discipline rules and the reinstatement rule in one rule. Established a process for the Clerk of Court to impose reciprocal discipline, which an attorney may challenge by filing a motion for relief from the Clerk’s order. If a motion to challenge the Clerk’s order is filed, the Disciplinary Panel will address the motion. Explained the various disciplinary authorities the court may employ to assist in resolving an attorney disciplinary matter. Section (f)(4) clarifies that an order of discipline will be reflected in the attorney’s status in the court’s public attorney directory. The title of the rule was revised to mirror the proposed amendments. The rule will be renumbered to DUCivR 83-1.7 to accommodate the renumbering of DUCivR 83-1.6 and 83-1.7.
DUCivR 83-1.5-2	Reciprocal Discipline (Eliminate) This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-3	Criminal Conviction Discipline (Eliminate) This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-4	Referral by a Judicial Officer (Eliminate) This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-5	Attorney Misconduct Complaint (Eliminate) This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-6	Committee on the Conduct of Attorneys (Eliminate) This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-7	Evidentiary Hearing (Eliminate)

	This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.5-8	Reinstatement (Eliminate) This rule is unnecessary because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.6	Attorneys – Student Practice Rule (Renumbered) This rule will be renumbered to DUCivR 83-1.5 because of the changes to DUCivR because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-1.7	Conduct of an Unrepresented Party (Renumbered) This rule will be renumbered to DUCivR 83-1.6 because of the changes to DUCivR because of the amendments to DUCivR 83-1.5-1.
DUCivR 83-5	Custody and Disposition of Trial Exhibits (Amend) General stylistic clean up to improve clarity and readability. Clarified the process for retention of hearing and trial exhibits by the court and parties. The amendments are made to create uniform retention and disposal of hearing and trial exhibits by the court and parties.

CRIMINAL RULES

DUCrimR 5-2	Pretrial Service Reports (Amend) General stylistic clean up to improve clarity and readability. Identified a process in section (c) for the handling and filing of documents the court receives related to the issue of detention before the hearing. Eliminated the requirement in section (d) for defense counsel and the government to destroy copies of the reports. In section (e), clarified when the court may authorize additional disclosure of the reports. The title of the rule was revised to mirror the proposed amendments.
DUCrimR 32-1	Presentence Investigation Reports: Time, Objections, Submission, Resolution of Disputes (Amend) General stylistic clean up to improve clarity and readability. Clarified the process for objecting to the Presentence Investigation Report, which is modeled after the process in the United States Sentencing Commission Guidelines. Identified a process in section (b)(4) for the handling and filing of documents the court receives related to sentencing before the hearing. The title of the rule was revised to mirror the proposed amendments.
DUCrimR 41-1	Sealing of Fed. R. Crim. P. 41 Cases and Documents (Amend) The Committee received a request from the United States Attorney’s Office to create a carve out from the motion requirement if all that is being redacted is personal identifiers

	that are required to be redacted under Fed. R. Crim P. 49.1. Section (a)(2) was created to address the United States Attorney's Office request.
DUCrimR 44-1	Right to and Assignment of Counsel (Eliminate) This rule is unnecessary because case law and Fed. R. Crim. P. 44 sufficiently address a defendant's right to counsel.

PATENT RULES

LPR Preamble	Preamble (Eliminate) Recommendation is to eliminate Preamble because it is superfluous to the content that is already in the rules.
LPR 1	Scope of Rules and Sections (Amend) General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. Added LPR 1.8 to replace LPR 3.5, which has been eliminated. This new section clarifies the process for a motion to stay pending reexamination or other post-grant proceedings.
LPR 2	Patent Initial Disclosures and Sections (Amend) General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. Section 101 ineligibility contentions were added to LPR 2.4 in response to comments the Committee received.
LPR 3	Final Contentions and Sections (Amend) General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. LPR 3.5 was eliminated.
LPR 4	Claim Construction Proceedings and sections (Amend) General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. LPR 4.3(e) clarifies that a second deposition is not available for witnesses who have been previously deposed, which was part of the old LPR 4.2(a).
LPR 5	Expert Witnesses and Sections (Amend) General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. Amended LPR 5.1 to provide 3 sets of expert reports to be consistent with the changes to the proposed Scheduling Order used in general civil litigation cases. Deleted LPR 5.1(d) because it is redundant with the federal rule.
LPR 6	Dispositive Motions and Sections (Amend) General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized. Eliminated LPR 6.2 because it created

	unnecessary premature summary judgment briefing before the court had ruled on the claim construction briefs.
LPR 7	Final Pretrial Conference and Sections (Amend) General stylistic clean up to each section of the rule to improve clarity and readability. Those stylistic changes are not summarized.
Appendix	Appendix (New) Added as an illustrative display of the chronology of the LPR deadlines and events.

Minor modifications were made to DUCrimR 5-2, 32-1, and 41-1 to specify that certain documents—like an unredacted search warrant—must be filed under seal unless the court orders otherwise.

In addition to the rules that were published for comment in August, the court notified the public of its intent to update or introduce into practice the following court forms:

FORMS

Attorney Planning Meeting Report – General (Amend) General stylistic clean up to improve clarity and readability. Those stylistic changes are not summarized. Adds statement regarding good cause to support the entry of the court’s Standard Protective Order. Creates a process for utilization of a protective order that is not the court’s Standard Protective Order. Adds option to clarify if the parties do not intend to disclose information, documents, or other materials that will be designated as confidential. Clarifies filing of notice of designation of experts, as required in DUCivR 26-1, to support internal court conflict checks. Better aligns deadlines with court practices.
Attorney Planning Meeting Report – Patent (New)
Proposed Scheduling Order – General (Amend) General stylistic clean up to improve clarity and readability. Those stylistic changes are not summarized. Adds statement regarding good cause for entry of the court’s Standard Protective Order. Clarifies filing of notice designation of experts, as required in DUCivR 26-1, to support internal court conflict checks. Better aligns deadlines with court practices.
Proposed Scheduling Order Pre-Claim Construction – Patent (New)
Proposed Scheduling Order Post-Claim Construction – Patent (New)
Proposed Scheduling Order – Administrative Case Under DUCivR 7-4 (Amend) General stylistic clean up to improve clarity and readability. Those stylistic changes are not summarized.
Proposed Scheduling Order – ERISA (New)
Standard Protective Order (Amend)

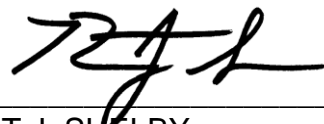
Complete rewrite and stylistic clean up to improve clarity and readability. Those stylistic changes are not summarized. Clarifies who is allowed access to information, documents, or other material that is designated as CONFIDENTIAL. Includes a revised Acknowledgement and Agreement to be Bound for technical advisors to sign. Clarifies that an inadvertent disclosure of attorney-client privileged or work-product protected information is not a waiver of the privilege or protection. Imposing the inadvertence standard under Fed. R. Evid. 502(b) undermined the reason that Rule 502 was enacted, which was imposed for those instances where no protective order is in place.

IT IS HEREBY ORDERED as follows:

- (1) that the changes to the local rules are adopted;
- (2) that the changes to the local rules are effective on December 1, 2023;
- (3) that the Clerk of Court will publish the updated rules to the Federal Bar for the District of Utah and post a copy on the court's [website](#) by December 1, 2023;
and
- (4) that the forms identified above are to be used in cases filed on or after December 1, 2023, and are effective as of the same date.

SO ORDERED this 1st day of December 2023.

BY THE COURT:



ROBERT J. SHELBY
CHIEF UNITED STATES DISTRICT JUDGE