

**UNITED STATES DISTRICT COURT DISTRICT OF UTAH
NOTICE TO THE MEMBERS OF THE BAR AND THE PUBLIC**



November 16, 2021

NOTICE TO MEMBERS OF THE BAR AND THE PUBLIC

Proposed changes to the Local Rules of Practice

Public Comment Opportunity Expires on November 24, 2021, at 5:00 p.m.

The Advisory Committee on the Local Rules of Practice invites your comments regarding the following rule change:

CIVIL RULES

DUCivR 37-1	Discovery Disputes (Amended) This rule has been revised for clarity and readability. The proposed amended rule now instructs practitioners to file a short form motion no later than 45 days after the parties make reasonable efforts to resolve a discovery dispute or else the motion may be automatically denied. Please refer to subsection (b)(2)(C) of the proposed amended rule. In addition, the proposed amended rule eliminates former subsection (9), which required practitioners to include a copy of this rule with a subpoena.
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Members of the bar and the public are encouraged to make suggestions or proposals regarding the local rules by sending an email to Utd_public_comments@utd.uscourts.gov ([link sends e-mail](#)). The deadline for submitting suggestions or proposals to be considered during the next local rules amendment cycle is May 1, 2022.

DUCivR 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(s) at issue, the response(s), and specifying why those responses or objections are inadequate, and;
 - (B) requesting to meet and confer, either in person or by telephone, and including suggested dates and times.

(b) Short Form Discovery Motion.

- (1) If the discovery disputes remain 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 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 (a)(2) was sent to opposing counsel, unless the

court grants an extension of time for good cause. Failure to meet these deadlines may result in automatic denial of the motion.

- (3) The opposing party must file its response 5 business days¹ after the filing of the motion, unless the court orders otherwise. The response must not exceed 500 words, exclusive of caption and signature block.
- (4) At the time of filing a motion or response, each party must email to chambers and the opposing party a proposed order in a word processing format.
- (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) Any request for overlength briefing must accompany, and not replace, the substantive argument about the discovery dispute.

(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 selecting events. At the top, there is a search bar with the text "Start typing to find another event." Below this, there are two columns of event lists. The left column is titled "Available Events (click to select events)" and contains a scrollable list of event names: 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 scrollable list with two items: Short Form Discovery and Expedite.

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

(d) Discovery Dispute Conference.

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

(e) Deposition Disputes.

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 efficiently resolved by contacting the assigned judge by phone.

(f) Objection to Magistrate Judge's Ruling.

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