

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: MOTIONS AND DISPUTES; REFERRAL TO MAGISTRATE~~
JUDGE

~~(1) Discovery Disputes.~~

(a) Resolution Without Court Assistance.

(1) The parties must make reasonable efforts ~~without court assistance~~ to resolve a discovery dispute arising under Fed. R. Civ. P. 26-37 ~~and 45.~~
before seeking court assistance.

~~(1)~~(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) ~~thereto,~~ and specifying why those responses ~~/ or~~ objections are inadequate, and;

(B) requesting to meet and confer, either in person or by telephone, ~~with alternative and including suggested~~ dates and times ~~to do so.~~

~~(b) If the parties cannot resolve the dispute, and they wish to have the Court mediate the dispute in accordance with Fed. Short Form Discovery Motion.~~

~~(2) If the discovery disputes remain after reasonable efforts, and the parties need a court order to resolve the dispute R. Civ. P. 16(b)(3)(v), the parties (either individually or jointly) may contact chambers and request a discovery dispute conference.~~

~~(3)~~(1) ~~If the parties wish for the court to resolve the matter by order,~~ 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 ~~Short Form Discovery Motion~~ motion must-:

(A) include a certification that states—

(i) the parties made reasonable efforts to reach agreement on the disputed matters ~~and recite~~;

(ii) the date, time, and ~~place~~ method of ~~such consultation~~ the reasonable efforts; and

(iii) the names of all participating parties or attorneys. ~~The filing party should~~;

(B) include as exhibits to the motion a copy of the ~~offending~~ disputed discovery request, and any response ~~(if it exists) as an exhibit to the Short Form Motion. Each party should also email chambers a proposed order setting forth the relief requested; and~~

~~(4)~~ (C) be filed no later than 45 days after the prompt written communication in a word processing format (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.

~~(5) The parties must request expedited treatment as additional relief for the motion in CM/ECF to facilitate resolution of the dispute as soon as practicable. (After clicking the primary event, click Expedite.)~~

Motions

Start typing to find another event.

Available Events (click to select events)	Selected Events (click to remove events)
Enforce Judgment	Short Form Discovery
Entry of Default	Expedite
Entry of Judgment	
Exclude	
Expedite	
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	
Hearing	

Next Clear

~~(7)~~(3) The opposing party must file its response 5 business days¹ after the filing of the ~~Motion~~motion, unless the court orders otherwise ~~ordered~~. ~~Any opposition should~~. 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.

~~(8)~~(5) To resolve the dispute, the court may:

(A) set a hearing without waiting for a response to the motion;

~~(A)~~ decide the issue on the basis of the Short Form Discovery Motion motion after hearing from the partiesopposing party has had an opportunity to the dispute respond, either ~~in writing or~~ at a hearing, consistent with DUCivR 7-1(f);

~~(B)~~ set a hearing, telephonic or in writing; or otherwise, upon receipt of the Motion without waiting for any Opposition; and/or

~~(C)~~ request furtheradditional briefing and set a briefing schedule.

~~(9)~~(6) ~~If any party to the dispute believes it needs extended~~Any request for overlength briefing, ~~it should request such briefing in the short form motion or at a hearing, if one takes place. This request should~~ must accompany, and not replace, the substantive argument ~~about the~~ discovery dispute.

(c) A party subpoenaing a non-party must include a copy of this Expedited Consideration.

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

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

Motions

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Next Clear

(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.

~~(10) This rule with the subpoena. Any motion does not apply to quash, motion for a protective order, or motion to compel a subpoena will follow this procedure.~~

~~(11) If disputes arise during a deposition. Those disputes, including those that arise under Fed. R. Civ. P., that any party or witness believes can most 30(d)(3), may be efficiently be resolved by contacting the Court by phone, including disputes that give rise to a motion being made under Fed. R. Civ. P. 30(d)(3), the parties to the deposition must call the assigned judge and not wait to file a Short Form Discovery Motion by phone.~~

(f) Any objection to a magistrate judge's order must be made according to Objection to Magistrate Judge's Ruling.

~~(1) Fed. R. Civ. P. 72(a), but must be made within 14 days of) and DUCivR 72-3 govern objections to the magistrate judge's oral or written ruling, whichever comes first, and.~~

~~(12)~~(2) When filing an objection, the party must ~~request~~seek expedited treatment. ~~DCivR 72-3 continues to govern the handling of objections.~~