



# UNITED STATES DISTRICT COURT District of Utah

Honorable David Nuffer, Chief Judge | D. Mark Jones, Clerk of Court



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## Welcome

Welcome to the official website for the United States District Court for the District of Utah.



## Other Notices

**Court Security** - Please be advised that the courthouse is a Level 4 security building. There is a 100% ID check for all persons entering the facility. Also, it is against the law to bring any type of weapon on the property. This includes guns, knives, and OC/pepper spray. Please leave these items at home. **Courthouse**

### Firearms Policy

**Permitted Electronic Devices** - Cellular phones, laptops, tablets, and other devices with wireless communications capability may be brought into the courthouse, but may only be used subject to the **Electronic Devices in the Courthouse Policy**.

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### eJUROR

[Click here for eJuror More »](#)

Wed, 04/11/2018

### U-ACT Applications Deadline

Application submissions due by Friday May 25 at close of business. Please submit applications to Judge Shelby's chambers. [More »](#)

Wed, 02/14/2018

### Establishment of Southern Region of the Central Division

The U.S. District Court for the District of Utah has created the Southern Region of the Central Division. [More »](#)

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# UNITED STATES DISTRICT COURT District of Utah

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## Attorney Admissions

- Regular Admission
- Admission Pro Hac Vice
- Law Student Admissions

The attorney admissions process is governed by DUCivR 83-1.1. Attorneys who wish to practice in the U.S. District Court or U.S. Bankruptcy Court for the District of Utah, must be active members in good standing of the Bar of the District Court or be approved by the Court to appear pro hac vice on a case-by-case basis.

### Admission to the Bar of this Court

As set forth in DUCivR 83-1.1(b)(1), an attorney must be an **active** member in good standing of the Utah State Bar to be eligible to become a member of the Federal Bar.

#### All Applicants:

To apply for admission to the Bar of the Federal Court, resident and non-resident applicants must seek a sponsoring attorney who is an active member in good standing of this Court's Bar to move for the applicant's admission. A written motion and proposed order will need to be emailed or mailed\* to the clerk's office prior to scheduling a time for the attorney to be sworn in. It is not necessary for the sponsor to appear. The sponsoring attorney may accompany the applicant to the attorney admission proceeding and make an oral motion to the Court; however, the oath will need to be administered by a District Judge and arrangements will need to be made in advance with the Attorney Admissions Clerk. Applicants will also need to complete a registration card, sign the attorney roll book and pay a \$181 registration fee at the time of admission. Once the motion is reviewed and the order is signed by the judge, the Clerk will contact the attorney to schedule a time to be sworn in.

Please call the Admissions Clerk at (801)524-6616 or the Intake Office at (801)524-6100 with any additional questions.

#### Resident Attorneys:

[Link to Resident Attorney Motion and Order \(WordPerfect\)](#)

[Link to Resident Attorney Motion and Order \(Word\)](#)



Movant's Name & Utah State Bar #  
Movant's Law Firm  
Movant's Street Address  
City, State & ZIP  
Movant's Phone Number

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

---

<b>In re:</b>	:	
<b>Application of</b>	:	
<b>Applicant's Name</b>	:	<b>MOTION FOR ADMISSION OF RESIDENT ATTORNEY</b>
	:	

---

Movant, the undersigned, being an active member of the Bar of this Court, hereby moves this Court for the admission of Applicant to the Bar of the United States District Court for the District of Utah. Applicant has been an active member in good standing of the Utah State Bar since date.

This motion is made pursuant to Rule 83-1.1(b)(2)(B) of the Court's Local Rules of Civil Procedure.

*RESPECTFULLY SUBMITTED* this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

By: \_\_\_\_\_  
Movant

Applicant's Name & Utah State Bar #  
Applicant's Firm  
Applicant's Street Address  
City, State & ZIP  
Applicant's Phone Number

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH - CENTRAL DIVISION**

---

**In re:**  
**Application of**  
**NAME**

:  
:  
:  
:  
:

**ORDER**

---

This matter is before the Court on **Sponsoring Attorney's Name** Motion for **Applicant** Admission to the United States District Court for the District of Utah.

IT IS HEREBY ORDERED, that **Applicant** be admitted to the Bar of the United States District Court for the District of Utah upon taking the oath prescribed in DUCivR 83-1(b)(2)(D). The clerk of court is authorized to administer the oath.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

Chief U.S. District Judge

# **FEDERAL BAR REGISTRATION CARD**

**UTAH STATE BAR ID:** \_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_/\_\_\_\_

**NAME:**\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Last First Middle Name or Initial

## **CONTACT INFORMATION:**

**FIRM NAME:**\_\_\_\_\_

**STREET ADDRESS:**\_\_\_\_\_ **SUITE/ROOM#:**\_\_\_\_\_

**CITY:**\_\_\_\_\_ **STATE:**\_\_\_\_\_ **ZIP:**\_\_\_\_\_

**WORK TELEPHONE #:**\_\_\_\_\_/\_\_\_\_\_

**MOTION FOR ADMISSION MADE BY:**\_\_\_\_\_

**ADMISSION DATE:**\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

## Admission Pro Hac Vice Instructions and Forms

Attorneys who are not members of this Court's Bar may practice before this Court only after having been admitted pro hac vice pursuant to DU.Civ. Rule 83-1.1 (d). Non-resident attorneys who wish to be admitted must associate local counsel to sponsor their temporary admission. Local counsel shall move the admission of the pro hac counsel, and substitute in court if required. Local Counsel must file the following with the court:

1. Motion by local counsel for admission of the pro hac vice attorney  
This should be filed electronically and the \$250.00 fee paid on Pay.gov
2. Attached to the motion as an exhibit is the completed application for admission pro hac vice completed by the attorney seeking admission
3. Also attached as an exhibit should be a proposed order admitting the attorney.

Local counsel shall encourage pro hac vice attorneys to submit their electronic filing registration form as an exhibit to the application, noting that, if the pro hac vice attorney is a registered electronic filer in any other federal court, he or she will be given a Utah login and password upon the order granting the application.

The forms and fees must be paid for each case to which the attorney seeks admission. Attorneys for the United States from other districts are exempt from the payment of the \$250.00 fee but must comply with the other requirements of the rule.

**HOURS:** The Clerk's Office business hours are 8:30 a.m. to 4:30 p.m., Mountain Standard/Mountain Daylight Time.

**PHONE:** Call the Clerk's Office at 801-524-6100

**WEBSITE:** Visit the court's web page at **<http://www.utd.uscourts.gov>** for basic information on the court, local rules, and forms.

**FILINGS:** The Court does not accept faxed filings. Affidavits submitted as separate original filings must bear an original signature.

**E-FILING:** The Court mandated e-filing for all cases on May 1, 2006.  
The court will e-mail rather than mail orders, judgments and notices.

**COPIES:** Orders for copies of case documents must be prepaid. The Clerk's Office accepts MasterCard, Visa, Discover and American Express.

**DOCKETS:** Case dockets are now accessible through PACER at <http://ecf.utd.uscourts.gov>. Charges are based on the number of pages accessed at \$.10 per page. To access it, you may register online at <http://pacer.psc.uscourts.gov> or call the PACER Service Center at 800-676-6856.

*Updated: October 31, 2016*

Counsel Submitting and Utah State Bar Number  
Attorney For  
Address  
Telephone

**UNITED STATES DISTRICT COURT**  
**District of Utah \_\_\_\_\_ Division**

		*	
		*	Motion for Pro Hac Vice Admission and
Plaintiff	*		Consent of Local Counsel
		*	
v.		*	
		*	Case No.
Defendant.	*		

Pursuant to D.U. Civ Rule 83-1.1(d), I move the admission of \_\_\_\_\_ as pro hac vice counsel for \_\_\_\_\_ ( Plaintiff/Defendant) and consent to serve as local counsel. The application for pro hac vice admission is attached as exhibit A to this motion, an Electronic Case Filing Registration Form as exhibit B, and the admission fee, if required, has been paid to the court with the submission of this motion.

Dated

\_\_\_\_\_  
Signature of local counsel

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

## APPLICATION FOR ADMISSION PRO HAC VICE

Name of Attorney: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Firm Name: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Current bar memberships and date of admission:

Jurisdiction	Bar Number	Admitted on
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Have you ever been the subject of disciplinary action by any bar to which you have been admitted?  
\_\_\_\_ No                      \_\_\_\_ Yes ( provide additional information)

Prior pro hac vice admissions in the District of Utah: \_\_\_\_\_ none

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Admission Date: \_\_\_\_\_

(Attach list of other cases separately if more space is needed.)

I certify that I am a member in good standing of all bars to which I have been admitted. I further agree to read and comply with the Utah Rules of Professional Conduct and the Utah Standards of Professionalism and Civility. This certification that the foregoing is true and correct is made under penalty of perjury.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Non resident United States attorneys and attorneys employed by agencies of the federal government are exempt from the pro hac vice fee. All other attorneys must pay a fee of \$250.00 concurrent with this application. This application must be filed as an attachment to a motion for admission and consent filed by local counsel.

If you have not previously registered for CM/ECF in the District of Utah, please attach a completed Electronic Case Registration Form with this application to receive your login and password.



UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

_____	:	
Plaintiff	:	
	:	
v.	:	ORDER FOR PRO HAC VICE ADMISSION
	:	
_____	:	
Defendant	:	Case Number

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of \_\_\_\_\_ in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
U.S. District Judge

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

**ELECTRONIC CASE FILING REGISTRATION FORM**

Attorneys who are active or current pro hac vice members of the District of Utah's Bar may register for the District of Utah E-Filing System by (i) completing the required training and (ii) signing and returning this form to the Court. Please review carefully the registration conditions set forth below before signing.

Name - First	Middle	Last	Firm Name
Mailing Address			City, State, Zip
Utah State Bar # (if applicable)			Telephone Number

By signing this form, I understand and consent to the following:

- Pursuant to Fed. R. Civ. P. 5(b)(2)(E), I will receive all items required to be served under Fed.R.Civ.P. 5(a) and 77 (d) and Fed. R. Crim P. 49 by either (i) notice of electronic filing, or (ii) e-mail transmission;
- Such electronic service will constitute service and notice of entry as required by those rules;
- I waive my right to service by USPS mail;
- I will abide by all Court rules, orders, and procedures governing the use of the electronic filing system;
- The combination of user ID and password issued by this Court will serve as the equivalent of my signature when I e-file documents with the Court;
- I will carefully examine all documents prior to e-filing them to either (i) redact sensitive and private information pursuant to DUCiv R , or (ii) move that the filing be sealed; and
- I will secure and protect my Court-issued password against unauthorized use or compromise.

Email Address(es):

Primary E-mail address \_\_\_\_\_

Up to two additional e-mail addresses 1) \_\_\_\_\_ ,

2) \_\_\_\_\_

**To receive a login, please complete one of these four options. Please check appropriate box.**

<input type="checkbox"/> I have completed the CMECF Online Computer-Based Training modules on the court website at <a href="http://www.utd.uscourts.gov/online-computer-based-training-cmecf">http://www.utd.uscourts.gov/online-computer-based-training-cmecf</a>
<input type="checkbox"/> I have completed the CMECF Training for Attorneys given by an in-house trainer in my firm.
<input type="checkbox"/> I have an ECF account in the Utah Bankruptcy Court or in another Federal District or Bankruptcy Court.
<input type="checkbox"/> I have attended CMECF Training given by the Court.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Please complete this form, and submit it by one of the following methods:

1. Mail the form to: **United States District Court, Office of the Clerk, ATTN: CM/ECF Registration, 351 S. West Temple, Salt Lake City, Utah 84101, or**
2. Scan and email to [ut\\_support@utd.uscourts.gov](mailto:ut_support@utd.uscourts.gov), or
3. Include this form as a pdf attachment with your Application for Pro Hac Vice.

After this Court processes this form, you will receive by email your user ID and password that will enable you to access the system. The User Guide and administrative procedures for system use may be downloaded at: <http://www.utd.uscourts.gov/cmecf-electronic-case-filing>. Please call the Clerk's Office Help Desk at (801) 524-6851 if you have questions concerning registration, training, or use of the electronic filing system.





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Federal Bar Association  
Utah Chapter

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## Utah Chapter

<http://www.fedbar.org/Chapters/Utah-Chapter.aspx>

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## Message from the President

Welcome to the Utah Chapter of the Federal Bar Association's Website. If you are already a member, you know about all the great programs and events the FBA presents each year. If you are not a member yet, you should be. Download a current **membership application**.  
[More...](#)

### RESOURCES

[2018 New Year Letter to FBA Members](#)

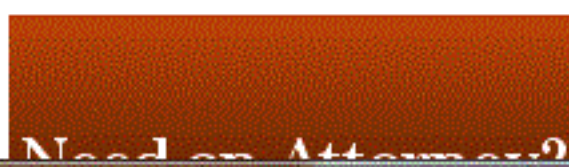
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### Member Resources

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# Federal Bar Association

## Utah Chapter

Amber M. Mettler  
President

Kristen R. Angelos  
President Elect

David L. Mortensen  
Treasurer

---

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Stephen H. Bloch

Nathan A. Crane

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R. Blake Hamilton

David Holdsworth

D. Mark Jones

J. Derek Kearl

Hon. Dale A Kimball

Kelly J. Latimer

Jonathan H. Love

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Cheryl M. Mori

Aida Neimarlija

Katherine R. Nichols

Erik O. Olson

Bryan J. Pattison

Jenifer Tomchak

Jori L Trease

Mark K. Vincent

Jessica Wilde

Analise Q. Wilson

Stewart Young

Scott Young

January 30, 2018

Happy New Year FBA Members:

We have a number of terrific events planned for 2018, including the Southern Utah Law Symposium which will be held May 11-13<sup>th</sup> in St. George, Utah, the Annual Criminal Law Seminar (also held in May), and the Annual Ronald N. Boyce Seminar (held in October), an event where most, if not all, of the federal judges present.

Additionally, this year, the Tri-State Seminar will be held at The Lodges at Deer Valley, Utah, on September 20-22<sup>nd</sup>, bringing attorneys and judges from Utah, Wyoming, and Idaho together to discuss topics important to practitioners in these states. During the Tri-State Seminar, a Friday night banquet will be held at the Utah Olympic Park (UOP) while Olympic hopefuls and prior Olympians, known as the "Flying Aces," perform aerials into the UOP pool.

As always, FBA members receive discounted pricing when registering for these events. We are once again planning a one-hour, members' only CLE which will be free to all FBA members. Information regarding this CLE will be provided in the coming months.

The FBA has a long-standing tradition of community service and engagement. Our Chapter is now participating in the SOLACE (Support of Lawyers All Concerned Encouraged) program which provides support and assistance to members of the legal community nationwide. We'll also continue to strongly support civics education and provide another Classroom to Courtroom event in April where high school students spend a day at the courthouse learning about the federal court system.

With all of this in mind, we look forward to serving you this year and look forward to seeing you in federal court. Have a wonderful, productive year.

Sincerely,

Amber M. Mettler  
President

Kristen R. Angelos  
President-Elect

David L. Mortensen  
Treasurer





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## Local Civil Rules

### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

#### RULES OF PRACTICE

December 1, 2017



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DUCivR 83-1.5.7 - Evidentiary Hearing

DUCivR 83-1.5.8 - Reinstatement

### **DUCivR 83-1.5.1 GENERAL PROVISIONS**

#### **(a) Standards of Professional Conduct.**

All attorneys practicing before this court, either as members of the bar of this court by pro hac vice admission, must comply with the rules of practice adopted by this court and with the Utah Rules of Professional Conduct as revised, amended, and interpreted by this court.

#### **(b) Grounds for Discipline.**

Any attorney who appears in this court or is a member of the bar of the court is subject to the disciplinary jurisdiction of the court. Disciplinary proceedings may be initiated in this court against an attorney who has been:

- (1) disciplined by the Utah State Bar, the Tenth Circuit Court of Appeals, or other jurisdictions;
- (2) convicted of a serious crime, which includes, without limitation, any felony or any misdemeanor which reflects adversely on the attorney's honesty, trustworthiness or fitness as an attorney;
- (3) referred for discipline by a judicial officer of the court;
- (4) the subject of an attorney misconduct complaint; or
- (5) otherwise charged with violation of an ethical or professional standard of conduct.

#### **(c) Disciplinary Panel.**

The Chief Judge will designate three judges as the Disciplinary Panel (Panel) for the court. The Panel members may be active or senior district judges, magistrate judges, or bankruptcy court judges. The Chief Judge will designate one Panel member as Panel Chair. If a Panel member must recuse from a disciplinary matter, the



remaining members have authority to proceed without the participation of that judge, and one of them will act as Panel Chair. Further, the Chief Judge may appoint a judge to act as a pro tem member of the Panel.

**(d) Disciplinary Committee.**

The Panel must appoint five members of the court's bar to serve as a Committee on the Conduct of Attorneys and must designate one member to serve as Chair. The members will serve staggered three-year terms and may be reappointed. Members will not be compensated but may be reimbursed for incidental expenses.

**(e) Clerk of Court.**

The clerk will receive attorney discipline complaints and referrals and maintain them in confidential files. If a public disciplinary order is entered, the clerk will transmit the notice thereof to any bar association to which the attorney may belong and to the American Bar Association's National Discipline Data Bank.

**(f) Confidentiality.**

If an attorney has been publicly disciplined by another jurisdiction or convicted of a serious crime as defined in (b)(2), the discipline file will be a public record. The file of other disciplinary matters will remain confidential until the Panel orders the file or parts of the file to be publicly available. All suspension and disbarment orders, including interim suspension orders, shall be distributed to the judges of the court by the clerk of court.

**(g) Waiver and Consent.**

Any attorney who is the subject of an ongoing disciplinary action may file a waiver with the clerk and consent to have discipline entered. An attorney may also, with the approval of the Panel, resign his or her membership in the bar of the court.

**(h) Interim Suspension.**

The Panel may order interim suspension of an attorney who has been convicted of a serious crime or is suspended or disbarred from the Utah State Bar or other jurisdictions pending final adjudication of disciplinary proceedings in this court. In disciplinary matters originating with a judicial referral or private complaint, the Panel may suspend the attorney during the disciplinary process if the attorney's ability to practice in the interim may pose a substantial threat of irreparable harm to the public.

**(i) Reinstatement from Interim Suspension.**

Any attorney under interim suspension for having been convicted of a serious crime as defined in (b)(2) may apply to the Panel for reinstatement upon the filing of a certificate demonstrating that the conviction has been reversed. This reinstatement will not, in and by itself, terminate the pending disciplinary proceeding.

**(j) Participant Immunity.**

Participants in disciplinary proceedings under these rules shall be entitled to the same protections for statements made in the course of the proceedings as participants in judicial proceedings. Committee members, neutral hearing examiner, investigators and attorneys who prosecute complaints shall be immune from suit for conduct committed in the course of their official duties including those undertaken in the investigatory stage. There is no immunity from civil suit for intentional misconduct.

**DUCivR 83-1.5.2 RECIPROCAL DISCIPLINE**

**(a) Notice to the Court.**

Any member of the bar of this court who has been disciplined by another jurisdiction must notify the clerk of that discipline by sending a copy of the disciplinary order to the clerk. The clerk may also receive notice of disciplinary action from the disciplining jurisdiction. The clerk will assign the matter a disciplinary case number, review the order, review the attorney's membership status with the court, and transmit the matter to the Panel Chair for review and action pursuant to section (b) of this rule.

Pursuant to the provisions of [DUCiv R 83-1.1 \(b\)\(I\)](#) the Chair of the Disciplinary Panel will enter an automatic order of disbarment or suspension upon receipt of notice of an order disbaring or suspending an attorney from the Utah State Bar. The attorney may challenge the discipline by filing a motion and demonstrating good cause as to why the suspension or disbarment should not be imposed in this court.

**(b) Procedure.**

In cases in which the discipline is imposed by another jurisdiction, the Panel Chair will issue an order to show cause why reciprocal discipline should not be imposed by this court. The clerk must serve the order to show cause on the attorney by certified mail, return receipt requested, to the attorney at the last known address as found in the court's records. The attorney will have twenty (20) days to respond.

At the conclusion of the response period for the order to show cause, the Panel will review any response received from the attorney. The Panel may then

- (1) impose different or no discipline;
- (2) impose reciprocal discipline;
- (3) refer the matter to the Committee for review and recommendations; or
- (4) set the matter for hearing before a neutral hearing examiner, a judicial officer designated by the Chief Judge upon recommendation by the Panel, or before the Panel itself.

Similar discipline will be imposed unless the attorney clearly demonstrates or the Panel finds that the other jurisdiction's procedure constituted a deprivation of due process, the evidence establishing the misconduct warrants different discipline, or the imposition of discipline would result in a grave injustice.



### **DUCivR 83-1.5.3 CRIMINAL CONVICTION DISCIPLINE**

#### **(a) Notice to the Court.**

Any member of the bar of this court must notify the clerk of any conviction of a serious crime as defined by [DUCivR 83-1.5.1 \(b\)\(2\)](#). The clerk may also receive notice of conviction from other sources. The clerk will assign the matter a disciplinary case number, review the conviction, review the attorney's membership status, and transmit the matter to the Panel Chair for review and action pursuant to section (b) of this rule.

#### **(b) Procedure.**

The Panel Chair will issue an order to show cause why discipline should not be imposed by this court and a notice that the attorney will be subject to interim suspension under [DUCivR 83-1.5.1 \(h\)](#). The clerk must serve the order to show cause and notice of suspension on the attorney by certified mail, return receipt requested, to the attorney at the last known address as found in the court's records. The attorney will have twenty (20) days to respond to the order to show cause.

At the conclusion of the response period for the order to show cause, the Panel shall review any response received from the attorney. The Panel may then

- (1) impose no discipline;
- (2) impose discipline;
- (3) refer the matter to the Committee for review and recommendations; or
- (4) set the matter for hearing before the Panel, a neutral hearing examiner or a judicial officer designated by the Chief Judge upon recommendation by the Panel.

#### **(c) Sanctions.**

The Panel may impose sanctions which include but are not limited to

- (1) disbarment;
- (2) suspension;
- (3) imposition of conditions for continuing to practice law in this jurisdiction;
- (4) mandatory continuing legal education;
- (5) public reprimand;
- (6) private reprimand; or
- (7) other discipline as deemed appropriate.

#### **DUCivR 83-1.5.4 REFERRAL BY A JUDICIAL OFFICER**

##### **(a) Referral.**

A judicial officer may make a referral in writing to the Panel recommending that an attorney be subject to discipline. The referral must be forwarded to the clerk who will assign a disciplinary case number and refer the matter to the Panel chair for review and action pursuant to section (b) of this rule.

##### **(b) Procedure.**

The Panel Chair must review the referral with other Panel members. With the concurrence of the Panel members, the Panel Chair must issue an order to show cause why discipline should not be imposed by this court. The clerk will serve the judicial referral and order to show cause on the attorney by certified mail, return receipt requested, to the attorney at the last known address as found in the court's records. The attorney will have twenty (20) days to respond.

At the conclusion of the response period for the order to show cause, the Panel will review any response received from the attorney. The Panel may then

- (1) dismiss the referral;
- (2) impose discipline;
- (3) refer the matter to the Committee for review and recommendations; or
- (4) set the matter for hearing before the Panel, a neutral hearing examiner or a judicial officer designated by the Chief Judge upon recommendation by the Panel.

##### **(c) Sanctions.**

The Panel may impose sanctions which include but are not limited to

- (1) disbarment;
- (2) suspension;
- (3) imposition of conditions for continuing to practice law in this jurisdiction;
- (4) mandatory continuing legal education;
- (5) public reprimand;
- (6) private reprimand; or
- (7) other discipline as deemed appropriate.



## **DUCivR 83-1.5.5 ATTORNEY MISCONDUCT COMPLAINT**

### **(a) Complaint.**

Any person with a complaint based upon conduct directly related to practice in this court against an attorney who is either a member of the bar of this court or has been admitted to practice pro hac vice, must sign and submit the complaint in writing and under oath. The complaint must be in the form prescribed by the court and available from the clerk. The clerk will review the complaint, review the attorney's membership status, and transmit the matter to the Panel Chair for review and action pursuant to section (b) of this rule.

### **(b) Procedure.**

The Panel will review the complaint and determine whether the complaint should be served or should be dismissed as frivolous or for asserting a claim which is not disciplinary in nature. If the complaint is dismissed, the complainant will be informed by mail. The Panel must issue an order to show cause for other complaints. The clerk will serve the complaint and order to show cause on the attorney by certified mail, return receipt requested, to the attorney at the last known address as found in the court's records. The attorney will have twenty (20) days to respond.

At the conclusion of the response period for the order to show cause, the Panel must review any response received from the attorney. The Panel may then:

- (1) dismiss the complaint;
- (2) impose discipline;
- (3) refer the matter to the Committee for review and recommendations; or
- (4) set the matter for hearing before the Panel, neutral hearing examiner or a judge designated by the Chief Judge upon recommendation by the Panel.

### **(c) Sanctions.**

The Panel may impose sanctions which include but are not limited to

- (1) disbarment;
- (2) suspension;
- (3) imposition of conditions for continuing to practice law in this jurisdiction;
- (4) mandatory continuing legal education;
- (5) public reprimand;
- (6) private reprimand; or
- (7) other discipline as deemed appropriate.

### **DUCivR 83-1.5.6 COMMITTEE ON THE CONDUCT OF ATTORNEYS**

#### **(a) Procedure.**

The Committee Chair will review the original complaint or referral and the response of the attorney. The Chair may then refer the matter to one or more Committee members to investigate and prepare a recommendation to the Committee as a whole.

#### **(b) Investigation.**

The Committee may request further information from the clerk concerning court records. In addition, the Committee or one or more members of the Committee may contact the complaining party and/or the attorney for further information and can interview persons with information regarding the alleged misconduct.

#### **(c) Report and Recommendation.**

The Committee must review the recommendation of the investigating member(s) and prepare a report and recommendation to the Panel which may contain recommendations for possible sanctions or for dismissal. The report and recommendation will contain the factual basis for the misconduct allegation and the response of the attorney and other information which has been considered by the Committee. A majority of Committee members must sign the report and recommendation. A member or members of the Committee in the minority may file a dissenting report. The Committee Chair will transmit the report and recommendation and any dissenting reports to the clerk who will serve the attorney and the complaining party, and will also transmit a copy of the report and recommendation and any dissenting report to the Panel. The attorney may file objections to the report and recommendation within ten (10) days of the date of service.

#### **(d) Recommendation for Evidentiary Hearing.**

If the Committee finds that the facts underlying the complaint or referral are in dispute, or that there are questions of law about the application of the ethical standards to the conduct alleged, the Committee may include a recommendation that the matter be referred by the Panel for an evidentiary hearing.

### **DUCivR 83-1.5.7 EVIDENTIARY HEARING**

#### **(a) Appointment of Hearing Examiner.**

If the Panel determines that the matter will be best resolved by appointment of a neutral hearing examiner to conduct an evidentiary hearing, the Panel will select a member of the court's bar to conduct the hearing.

**(b) Appointment of a Judicial Officer.**

If the Panel determines that the matter will be best resolved by the appointment of a judicial officer to conduct a hearing, the Panel will consult with the Chief Judge who will appoint a judicial officer to conduct the hearing.

**(c) Appointment of Prosecutor.**

The panel may appoint a member of the Committee or another attorney to prosecute the complaint at the hearing.

**(d) Panel Hearing.**

The Panel may, in an appropriate case, conduct the hearing sitting as a three-judge panel. If the Panel conducts the hearing, the Panel will issue a final order at the conclusion of the hearing.

**(e) Hearing Process.**

All hearings will be recorded verbatim by electronic or non-electronic means. The examiner or judicial officer may issue subpoenas for witnesses, production of documents, or other tangible things. Testimony will be taken under oath. Disciplinary proceedings are administrative rather than judicial in nature. Accordingly, the Federal Rules of Evidence will not be applicable in the evidentiary hearing unless otherwise ordered by the hearing examiner or appointed judicial officer. Evidentiary rules that are commonly accepted in administrative hearings will apply. The burden of establishing the charges of misconduct will rest with the prosecutor, who must prove the misconduct by a preponderance of the evidence.

**(f) Report and Recommendation.**

After the hearing has been concluded, the examiner or judicial officer shall prepare a report including findings of fact and conclusions of law with a recommendation regarding the imposition of sanctions to the clerk who will serve it on the attorney and the complainant and transmit it to the Panel. The attorney may file objections to the report and recommendation within ten (10) days of the date of service. The Panel will enter the final order.

**(g) Fees and Costs.**

The Panel may authorize payment of attorney's fees and expenses to an investigator or prosecutor or to an appointed hearing examiner. The Panel may tax the costs of disciplinary proceedings under these rules to the attorney subject to discipline or the attorney petitioning for reinstatement. All costs and reimbursements will



be deposited in the Court's Bar Fund. Other expenses of disciplinary proceeds may be paid by the clerk from the Court's Bar Fund when approved by the Panel or Chief Judge.

### **DUCivR 83-1.5.8 REINSTATEMENT**

#### **(a) Reinstatement from Reciprocal Discipline Matters.**

Reinstatement in this court is not automatic upon reinstatement in the court which initially imposed the discipline. An attorney who has been disciplined under [DUCivR 83-1.5.2](#) may petition the court for reinstatement after having been reinstated by the initial disciplining jurisdiction.

#### **(b) Reinstatement from Other Disciplinary Orders.**

An attorney who has been suspended by this court for a period of less than three months must be reinstated upon notification to the clerk that the suspension period is complete. An attorney who has been suspended for a period longer than three months must file a petition for reinstatement and may not practice until the petition has been reviewed and approved by the Panel. An attorney who has been disbarred may not petition for reinstatement until five years after the effective date of the disbarment.

#### **(c) Contents of the Petition.**

An attorney seeking reinstatement must demonstrate to the Panel that the conditions for reinstatement have been fully satisfied and that the resumption of the attorney's practice will not be detrimental to the integrity of the bar of this court, the interests of justice, or the public.

#### **(d) Procedure.**

The Panel will review petitions for reinstatement. If the Panel needs further information, it may refer the petition to the Committee for further investigation. The Committee will proceed as provided in [DUCivR 83-1.5.6](#).

17-04

**Opinion No. 17-04**

**Utah Ethics Opinion**

**Utah State Bar Ethics Advisory Opinion Committee**

**September 26, 2017**

*ISSUE*

1. When a Utah attorney acts as local counsel, what are the Utah attorney's duties under the Utah Rules of Professional Conduct where the lead attorney is not licensed in Utah and is admitted pro hac vice, and the client and/or the pro hac vice attorney want local counsel to do as little as possible so that the client incurs the minimum amount of fees for local counsel's work?

*OPINION*

2. Acting as local counsel for a pro hac vice attorney is not a minor or perfunctory undertaking. Local counsel violates the Utah Rules of Professional Conduct when local counsel acts as nothing more than a mail drop or messenger for the pro hac vice attorney. All attorneys admitted to the Utah State Bar are required to comply with all of the Utah Rules of Professional Conduct, including when they are acting as local counsel. Under Rule 5.1 of the Utah Rules of Professional Conduct, local counsel has a general duty to adequately supervise pro hac vice counsel and to provide expertise regarding Utah law, statutes, cases, rules, procedures, and customs in Utah. Local counsel is responsible to the client and responsible for the conduct of the Utah court proceedings. Under Rule 1.2 of the Utah Rules of Professional Conduct, local counsel may be able to limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. Regardless of any limited scope representation agreement, if local counsel determines that the pro hac vice attorney is engaging in conduct that is likely to seriously prejudice the client's interests, or the administration of justice, local counsel must communicate local counsel's independent judgment to the client, and, if necessary, to the court or tribunal.

*BACKGROUND*

3. Rule 14-806 of the Utah Rules of Judicial Administration sets forth the requirements for admission of attorneys pro hac vice who are not admitted to the Utah State Bar but are admitted to practice in another state or a federal court. Rule 14-806 provides that local counsel, who must be a resident of Utah, shall move "to admit the

applicant pro hac vice" and shall "file a written consent to appear as associate counsel." Utah R. Jud. Admin. 14-806(e), (f)(3). Local counsel must "sign the first pleading filed, ... continue as one of the counsel of record in the case unless another member of the [Utah State] Bar is substituted as associate counsel," and "be available to opposing counsel and the court for communication regarding the case and the service of papers." *Id.* 14-806(f)(4)-(6). Further, the "court may require Utah counsel to appear at all hearings. Utah counsel shall have the responsibility and authority to act for the client in all proceedings if the nonresident attorney fails to appear or fails to respond to any order of the court." *Id.* 14-806(g). Rule 14-806 requires a pro hac vice attorney to comply with and be subject to "Utah statutes, rules of the Supreme Court, including the Rules of Professional Conduct and Article 5, Lawyer Discipline and Disability, the rules of the court in which the attorney appears, and the rules of the Code of Judicial Administration." *Id.* 14-806(h).

4. In the federal district court for the District of Utah, nonresident attorneys may be admitted pro hac vice if they associate with "an active member of the bar of [the] court with whom opposing counsel and the court may communicate regarding the case and upon whom papers will be served." DUCivR 83-1.1(d)(2)(b). Further, DUCivR 83-1.1(g) provides:

All attorneys practicing before this court, whether admitted as members of the bar of this court, admitted pro hac vice ... are governed by and must comply with the rules of practice adopted by this court, and unless otherwise provided by these rules, with the Utah Rules of Professional Conduct, as revised and amended and as interpreted by this court. The court adopts the Utah Standards of Professionalism and Civility to guide attorney conduct in cases and proceedings in this court.

5. The Ethics Advisory Opinion Committee has been asked to opine as to what a Utah attorney acting as local counsel must do, at a minimum, to fulfill local counsel's obligations under the Utah Rules of Professional Conduct, regardless of what the client or pro hac vice attorney want local counsel's level of involvement to be in the case.

*ANALYSIS*

6. A Utah attorney serving as local counsel is sometimes encouraged to be, or thought of, as a mere mail drop or messenger for pro hac vice attorney in a matter. There is nothing in the Utah Rules of Professional Conduct, however, that limits the duties of an attorney admitted to the Utah State Bar who happens to be acting as local counsel for a pro hac vice attorney. In fact, Rule 5.5 provides, in

pertinent part:

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and *who actively participates in the matter....*

Utah R. Prof. Conduct 5.5(c)(1) (emphasis added).

7. All attorneys admitted to the Utah State Bar are required to comply with the Utah Rules of Professional Conduct, including when they are acting as local counsel. These Rules include, but are not limited to, Rule 1.1, which states that "a lawyer shall provide competent representation to a client," meaning the "legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation." Utah R. Prof. Cond. 1.1. They also include Rule 1.3 that provides: "A lawyer shall act with reasonable diligence and promptness in representing a client." Utah R. Prof. Cond. 1.3. Local counsel must also follow Rule 1.4's mandates, which require a lawyer to:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

Utah R. Prof. Cond. 1.4(a). Rule 1.4 also dictates that "[a] lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." Utah R. Prof. Cond. 1.4(b).

8. While local counsel must comply with Rules 1.1, 1.3, and 1.4 governing a lawyer's competence, diligence, and client communication, local counsel does not have to duplicate the work already performed by the pro hac vice attorney so long as the pro hac vice attorney is complying with the Utah Rules of Professional Conduct. Indeed, such duplication would be unnecessary and unduly expensive,

and would be to the client's detriment. *See* Utah R. Prof. Cond. 1.5(a) ("A lawyer shall not make an arrangement for, charge or collect an unreasonable fee or an unreasonable amount for expenses.").

9. Local counsel has a duty, however, to take reasonable steps to ensure that the pro hac vice attorney follows the Utah Rules of Professional Conduct, even if that entails some duplication of efforts. Rule 5.1(b) states that "[a] lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure the other lawyer conforms to the Rules of Professional Conduct." Rule 8.4(a) states that it is professional misconduct for a lawyer to "violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through acts of another...." Utah R. Prof. Cond. 8.4(a). Local counsel should thus advise the pro hac vice attorney of pertinent law, rules, procedures, and customs in Utah applicable to the matter at hand and monitor the pro hac vice attorney closely enough to know whether the pro hac vice attorney is following them. An efficient way for local counsel and the pro hac vice attorney to minimize the added expense of local counsel's involvement in the case while still ensuring that both lawyers comply with the Utah Rules of Professional Conduct would be for the pro hac vice attorney and the client to copy local counsel on all substantive written communications and to include local counsel in substantive attorney client meetings, perhaps with local counsel appearing by telephone to save on costs.

10. In some circumstances, the client and/or the pro hac vice attorney do not want local counsel to have any direct contact with the client and want all communications with the client to go through the pro hac vice attorney only. Rule 1.2 allows a lawyer to "limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent." Utah R. Prof. Cond. 1.2(c). Comment 3 to Rule 1.2 provides: "At the outset of a representation, the client may authorize the lawyer to take specific action on the client's behalf without further consultation. Absent a material change in circumstances and subject to Rule 1.4, a lawyer may rely on such advance authorization." It may thus be possible for the client (as opposed to the pro hac vice attorney) to give informed consent that the pro hac vice attorney shall alone communicate directly with the client about the matter and that local counsel may rely upon the representations of the pro hac vice attorney as to the substance of those communications. *See* Utah R. Prof. Cond. 1.2(a) ("Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued."). This informed consent would commonly be encompassed in the engagement letter between local counsel and the client at



the outset of the representation.

11. Where local counsel is retained in a contingency fee case, and/or if a contingency fee agreement already exists between the pro hac vice attorney and the client, local counsel should ensure that an (amended) fee agreement is entered into with the client that explains local counsel's role in the case and the portion of the contingency fee to which local counsel is entitled. That percentage may vary depending upon the extent of local counsel's involvement, the scope of which, if limited, should be explained in the agreement and signed by the client. *See* Utah R. Prof. Cond. 1.5(e).

12. Only an attorney who is a member of the Utah State Bar and counsel of record is both required and allowed to electronically file documents with the Utah district courts. Utah R. Jud. Admin. 4-503(1), (3). Local counsel must therefore file all documents with the court under local counsel's electronic signature, including those that are prepared by the pro hac vice attorney. Rule 11 of the Utah Rules of Civil Procedure provides:

(b) By presenting a pleading, written motion, or other paper to the court (whether by signing, filing, submitting, or advocating), an attorney ... is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances,

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

Utah R. Civ. P. 11(b); *see also* Utah R. App. P. 40(a) ("Every motion, brief, and other document must be signed by at least one attorney of record who is an active member in good standing of the Bar of this state or by a party who is self-represented."). Likewise, Rule 3.1 of the Utah Rules of Professional Conduct states that "[a] lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous...." *See also* Utah R. Prof. Cond. 3.3 & 3.4. Local counsel must therefore investigate the merits of

the case to the extent necessary to be satisfied that the substance of the documents, both legal and factual, prepared by the pro hac vice attorney complies with Rule 11 and Utah law generally before filing them with the district court. *See, e.g., Lewis v. Celina Fin. Corp.*, 655 N.E.2d 1333, 1338 (Ohio Ct.App. 1995) (holding that local counsel had personal, nondelegable duty to determine that pleadings complied with Rule 11 and could not rely on the pro hac vice attorney who forwarded pleadings for filing by local counsel under local counsel's signature to fulfill that duty). The pro hac vice attorney should give local counsel an opportunity to review all documents to be filed with the court far enough in advance of the filing deadline that local counsel can advise the client and the pro hac vice attorney about any revisions that need to be made to the documents to comply with Utah law before local counsel files them with the court or they are served on the other parties.

13. Along these same lines, because Utah Rule of Judicial Administration 14-806 requires local counsel to "be available to opposing counsel and the court for communication regarding the case and the service of papers," local counsel has a duty to keep reasonably informed about the case as it progresses and to take reasonable measures to ensure that the pro hac vice attorney appears at hearings and complies with court orders. *See* Utah R. Prof. Cond. 5.1(b).

14. Some violations of the Utah Rules of Professional Conduct by the pro hac vice attorney may require local counsel to take remedial action to fulfill local counsel's duties to the court and to other counsel or parties. If local counsel becomes aware that the pro hac vice attorney is violating or has violated such rules as Rule 3.3 (Candor towards the Tribunal), Rule 3.4 (Fairness to Opposing Party and Counsel), Rule 3.5 (Impartiality and Decorum of the Tribunal), or Rule 8.4 (Misconduct) of the Utah Rules of Professional Conduct, local counsel must take remedial action to prevent the avoidable consequences of the misconduct. Rule 5.1 states, in pertinent part:

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) The lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) The lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Utah R. Prof. Cond. 5.1(c). Local counsel might first address the matter directly with the pro hac attorney, but if

the pro hac attorney does not or will not take appropriate action, then local counsel must do so. *See, e.g.*, Utah R. Prof. Cond. 5.1 Cmt. [5] ("A supervisor is required to intervene to prevent avoidable consequences of misconduct if the supervisor knows that the misconduct occurred. Thus, if a supervising lawyer knows that a subordinate misrepresented a matter to an opposing party in negotiation, the supervisor as well as the subordinate has a duty to correct the resulting misapprehension.").

15. Similarly, if local counsel determines that the pro hac vice attorney is engaging in conduct that is likely to seriously prejudice the client's interests, such as failing to respond to discovery, local counsel has a duty to advise the client of local counsel's independent judgment that differs from that of the pro hac vice attorney and to take action to protect the client's interests, even where local counsel has agreed not to have any direct contact with the client. Rule 2.1 provides: "In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social, or political factors that may be relevant to the client's situation." Utah R. Prof. Cond. 2.1; *see* Utah R. Prof. Cond. 5.1(c)(1) (stating that a lawyer is responsible for another lawyer's violation of the Utah Rules of Professional Conduct where the lawyer, "with knowledge of the specific conduct, ratifies the conduct involved"); Utah R. Prof. Cond. 8.4(d) ("It is professional misconduct for a lawyer to engage in conduct prejudicial to the administration of justice.") Regardless of the extent of the pro hac vice attorney's involvement, local counsel remains responsible to the client for the conduct of the case before the Utah court. Depending upon the severity of the misconduct and the pro hac vice attorney's willingness or ability to rectify it, local counsel may also decide to withdraw from the representation of the client or to have the pro hac vice attorney's admission revoked. Local counsel would need to discuss either of those options with the client before pursuing them, assuming local counsel could reach the client, and would need to comply with Rule 1.16 of the Utah Rules of Professional Conduct governing the conditions under which an attorney may withdraw from representation of a client.





# UNITED STATES DISTRICT COURT District of Utah

Honorable David Nuffer, Chief Judge | D. Mark Jones, Clerk of Court

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**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

**ELECTRONIC CASE FILING REGISTRATION FORM**

**Attorneys who are active or current pro hac vice members of the District of Utah's Bar may register for the District of Utah Electronic Filing System by (i) completing the required training and (ii) signing and returning this form to the Court. Please review carefully the registration conditions set forth below before signing.**

Name - First	Middle	Last	Firm Name
Mailing Address			City, State, Zip
Utah State Bar # (if applicable)			Telephone Number

By signing this form, I understand and consent to the following:

- Pursuant to Fed. R. Civ. P. 5(b)(2)(E), I will receive all items required to be served under Fed.R.Civ.P. 5(a) and 77 (d) and Fed. R. Crim P. 49 by either (i) notice of electronic filing, or (ii) e-mail transmission;
- Such electronic service will constitute service and notice of entry as required by those rules;
- I waive my right to service by USPS mail;
- I will abide by all Court rules, orders, and procedures governing the use of the electronic filing system;
- The combination of user ID and password issued by this Court will serve as the equivalent of my signature when I e-file documents with the Court;
- I will carefully examine all documents prior to e-filing them to either (i) redact sensitive and private information pursuant to DUCiv R , or (ii) move that the filing be sealed; and
- I will secure and protect my Court-issued password against unauthorized use or compromise.

Email Address(es):

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Up to two additional e-mail addresses 1) \_\_\_\_\_ ,

2) \_\_\_\_\_

**To receive a login, you must complete one of these four options. Please check appropriate box.**

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<input type="checkbox"/> I have an ECF account in the Utah Bankruptcy Court or in another Federal District Court.

**Date:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

Please complete this form, and submit it by one of the following methods:

1. Mail the form to: **United States District Court, Office of the Clerk, ATTN: CM/ECF Registration, 351 S. West Temple, Salt Lake City, Utah 84101**, or
2. Scan and email to [ut\\_support@utd.uscourts.gov](mailto:ut_support@utd.uscourts.gov), or
3. Include this form as a pdf attachment with your Application for Pro Hac Vice.

After this Court processes this form, you will receive by email your user ID and password that will enable you to access the system. The User Guide and administrative procedures for system use may be downloaded at: <http://www.utd.uscourts.gov/cmecf-electronic-case-filing>. Please call the Clerk's Office Help Desk at (801) 524-6851 if you have questions concerning registration, training, or use of the electronic filing system.

## **DUCivR 5-2 FILING CASES UNDER COURT SEAL**

### **(a) General Rule.**

The records of the court are presumptively open to the public. The sealing of new and pending civil cases is highly discouraged. Unless restricted by statute or court order, the public shall have access to all documents filed with the court and to all court proceedings. On motion of a party and a showing of good cause, a judge may order a case to be sealed.

### **(b) Sealing of New Cases.**

(1) On Ex Parte Motion. In extraordinary circumstances, and only upon a judge's order granting an ex parte motion of the plaintiff or petitioner, an entire case may be sealed at the time it is filed. A motion to file a case under seal must be filed contemporaneously with the complaint. The complaint will remain under seal unless and until the motion is denied.

(2) Civil Actions for False Claims. When an individual files a civil action on behalf of the individual and the government pursuant to 31 U.S.C. § 3729, the clerk will seal the complaint for a minimum of sixty (60) days. Extensions may be approved by the court on motion of the government.

### **(c) Sealing of Pending Cases.**

A pending case may be sealed at any time upon a judge's sua sponte order or the granting of a motion by any party.

### **(d) Procedures for Filing Sealed Cases and Documents in Sealed Cases.**

Documents initiating or filed in a sealed case must be submitted to the clerk's office in paper along with an electronic PDF-formatted copy of the document(s) on CD, DVD, or other digital storage device, consistent with the procedures outlined in the court's [CM/ECF and E-Filing Administrative Procedures Manual](#).

### **(e) Access to Sealed Cases Dockets and Documents.**

The clerk will not provide access to or information contained in case dockets or provide copies of sealed documents unless otherwise by the court.

## **DUCivR 5-3 FILING DOCUMENTS UNDER COURT SEAL**

### **(a) General Rule.**

(1) The records of the court are presumptively open to the public. The sealing of pleadings, motions, memoranda, exhibits, and other documents or portions thereof (hereinafter, "Documents") is highly discouraged. Unless restricted by statute or court order, the public shall have access to all Documents filed with the court and to all court proceedings. On motion of a party and a showing of good cause, a judge may order that a Document be sealed. A stipulation or a blanket protective order that allows a party to designate documents as sealable will not suffice to allow the filing of Documents under seal.

(2) To prevent the overdesignating of sealed Documents in the court record, counsel shall:

- (A) refrain from filing motions or memoranda under seal merely because an attached exhibit contains protectable information;
- (B) redact personal identifiers, as set forth in [DUCivR 5.2-1](#), and publicly file the Document;
- (C) redact the confidential portions of a Document when they are not directly pertinent to the issues before the court and publicly file the Document; and
- (D) if the protectable information is pertinent to the legal issues before the court, redact the protectable information from the Document and publicly file the Document. Follow the procedure below to file a sealed version of the Document.

### **(b) Procedure for Filing Under Seal.**

(1) Unless otherwise ordered by the court, a party must first publicly file a redacted version of the Document. A Motion for Leave to File Under Seal must be filed contemporaneously with the proposed sealed Document. The motion and proposed sealed Document must be filed as separate docket entries and both linked to the redacted version of the Document. The motion, which may be filed under seal if necessary, and the proposed sealed Document must be electronically filed. The portion(s) of the Document sought to be filed under seal shall be highlighted to identify the specific information that is sought to be sealed.

(2) The Motion for Leave to File Under Seal must specify why the Document is privileged, protectable as a trade secret, or otherwise entitled to protection under the law. Specifically, the motion must:

- (A) be narrowly tailored to seek protection of only the specific information that the party alleges is truly deserving of protection; and
  - (B) state the duration of the seal; and
  - (C) state the statute, rule, case law, or reason supporting the sealing of the Document; or
- (i) If the sole basis for proposing that the Document be sealed is that another party designated it as confidential or for attorneys eyes only, then so state that reason in the motion. If the designating party seeks to have the Document sealed, the designating party must file a Motion for Leave to File Under Seal in accordance with [DUCivR 5-3\(b\)\(2\)](#) within seven (7) days of



service of the motion. If the designating party does not file a motion within seven (7) days, the original motion may be denied, and the Document may be unsealed without further notice.

(3) The court may make an independent determination as to whether the Document will be sealed, regardless of the parties' agreement or a party's decision not to oppose a Motion for Leave to File Under Seal.

(4) Subsequent Documents containing information that has already been the subject of an order allowing a sealed filing, must state on the caption page, directly under the case number: "FILED UNDER SEAL PURSUANT TO COURT ORDER (DOCKET NO. \_\_\_\_)."

(5) A Document filed under seal pursuant to section [\(b\)\(1\)](#) above will remain sealed until the court either denies the Motion for Leave to File Under Seal or enters an order unsealing it.

(6) The court may direct the unsealing of a Document, with or without redactions, after notice to all parties and an opportunity to be heard, with the exception set forth above in [\(b\)\(2\)\(C\)\(i\)](#).

(7) The requirements of Rule [5-3\(b\)](#) may be modified by the court upon a showing of good cause.

**(c) Access to Sealed Documents.**

Unless otherwise ordered by the court, the clerk will not provide access to or make copies of sealed documents.

# United States District Court District of Utah



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## ELECTRONIC SUBMISSION OF SEALED DOCUMENTS

1. Pursuant to local rule DUCivR 5-3, e-filing of sealed documents by registered e-filers is limited to only civil cases. Documents in sealed civil cases, criminal cases, and motions to proceed *in forma pauperis* (IFP) will continue to be filed in paper, following the procedure outlined in section “G. Conventional Filing/Courtesy Copies” of this manual.
2. A proposed sealed document may be maintained under seal only upon the filing of a redacted version of the document first and an order of the court granting a motion for leave to file under seal. The caption page of the redacted document must state REDACTED VERSION. The redacted version will be considered the operative document in terms of briefing and calculating deadlines.
3. The caption for sealed versions must clearly state FILED UNDER SEAL
  - a. Documents filed under seal per statute and without motion must so indicate in the document caption.
4. PDF images of sealed filings must include highlighting of the redacted portions of the previously filed redacted copy.
5. Sealed documents may be unsealed at any time upon order of the court.
6. E-Filing Procedure:
  - a. Filing the REDACTED version.
    - i. Select CIVIL on the blue toolbar at the top of the screen.
    - ii. Choose the appropriate document type/event (motion, memorandum, exhibit, affidavit, etc).
    - iii. Add “REDACTED” to the final docket text and submit the filing.
  - b. Filing the Motion for Leave to File Under Seal.
    - i. Select CIVIL on the blue toolbar at the top of the screen.

- ii. Select MOTIONS and choose the **Leave to File Sealed Document** motion relief.

**Motions**

leave Click your selection, or use arrows to highlight it and press Enter.

**Available Events (click to select events)**

- Leave to Appeal
- Leave to File Document
- Leave to File Sealed Document
- Leave to File Sealed Document - SEALED

**Selected Events (click to remove events)**

- Leave to File Sealed Document

Next Clear

(\*Use the **Leave to File Under Seal – SEALED** only if the motion must be filed under seal.)

- iii. Link the document to the REDACTED version of the document.
  - iv. NOTE: this motion may be filed under seal without leave of court, if necessary. Use the event called “Sealed Motion for Leave to File Under Seal.”
- c. Filing the SEALED version.

- i. Select CIVIL on the blue toolbar at the top of the screen.
- ii. Sealed documents are filed using the **Sealed Document** event found under **Other Documents** in the CIVIL filing menu. Do not use the motion event even if your proposed sealed document is a motion.

**Other Documents**

sealed Click your selection, or use

**Available Events (click to select an event)**

- Sealed Document

Next Clear

- iii. NOTE: as you proceed, a caution message will alert you that only the document will be sealed and not the entry on the docket. A NEF will be sent to the parties on the case without access to the document. **Filers must continue to provide copies to all other parties with a copy of the NEF attached.** A certificate of service should reflect the method of service.
- iv. Filers must link the sealed document to the original REDACTED version and any related motions.



**United States District Court  
District of Utah**



**CONVENTIONAL FILING/ COURTESY COPIES**

1. The Court will permit conventional filing in the following instances:
  - a. Pleading and other papers filed pro se;
  - b. Documents in sealed civil cases, motions for leave to proceed in forma pauperis, and sealed documents in all criminal cases;
  - c. All charging documents in criminal cases (including the complaint, information, and indictment);
  - d. All documents signed by a defendant in a criminal case;
  - e. Documents that exceed twenty-five (25) megabytes (MB) when converted to PDF that cannot be separated into smaller than twenty-five megabyte segments. These documents must be submitted in PDF format on a disk or other electronic medium. Documents and exhibits must be individually divided as separate PDFs on the medium e.g. main document, Exhibit A, Exhibit B, etc. Each PDF filename on the disk must be titled with a sufficient description so that they may be readily identified.
2. Documents presented to the Court for conventional filing may be docketed. The scanned PDF image will become the official court record.
3. Attorneys or parties filing conventionally will continue to provide courtesy copies at the time of filing as requested by chambers. Courtesy copies should be clearly identified as such in capital letters on the face sheet of the courtesy copy.
4. A registered e-filer may file exhibits to a pleading conventionally if the exhibits are photographs or other material which cannot be easily viewed or submitted in electronic format. See paragraph E 6 above.
5. A registered e-filer must electronically file a **Notice of Conventional Filing** if a filing cannot be entered electronically due to size limitation, if it contains an audio or video file, or if it cannot be scanned. (**Notices of Conventional Filing are NOT necessary for documents that are required to be filed conventionally listed in paragraph 1a-d above.**) If the subject of a conventional filing is a physical object, such as a CD, DVD, USB drive, or other storage device, that

cannot be scanned and/or entered on the docket, the filer will place the object in a paper sleeve or envelope and attach a coversheet formatted in compliance with DUCivR 10-1. The coversheet must state in the caption what the filing is and why it is being filed conventionally, e.g. “Exhibit B to Motion to Dismiss Consisting of [Video, Audio, or Extremely Oversized File].”

6. Attorneys filing civil complaints in paper must also submit the opening document(s) and cover sheet on a disk in PDF format.
7. Parties filing sealed documents conventionally must deliver the documents to the court in the following manner:
  - a. Original Document. The original document must be unfolded in an envelope with a copy of the document’s cover page affixed to the outside of the envelope. The cover page must include a notation that the document is being filed under court seal, and in civil cases, must indicate that the document is being filed in a case that the court has ordered sealed.
  - b. Disk. The sealed filing must be accompanied by a disk or other tangible electronic media containing separate PDF files of the main document and any attachments being filed, along with an index of exhibits. The disk shall be placed in the same envelope as the original document and shall be marked with the case name, case number, and the date of delivery,
  - c. Courtesy Copies. Courtesy copies of both the document and the disk, prepared in the manner described above, shall be delivered at the same time as the originals. Individual chambers may also notify counsel that an electronic version of the sealed document should be delivered to chambers via email or other method of secured electronic delivery.

**United States District Court  
District of Utah**



**INSTRUCTIONS FOR ELECTRONICALLY FILING SEALED DOCUMENTS**

**REMINDERS**

- **Redacted Versions** – redacted versions of any sealed document must be electronically filed before entering the sealed version. The caption page must state REDACTED VERSION beneath the judge’s name on the document.
- Electronic access to sealed filings will remain with court staff only. CM/ECF will send a Notice of Electronic Filing (NEF) to other registered e-filers on that case upon filing a sealed document that will state the name of the document, but it will not contain a link to the document.
- The filing attorney will be responsible for serving sealed documents with a copy of the NEF attached. Certificates of Service must reflect the method of service.
- PDF images of sealed filings must display the redacted portions as highlighted text.
- The caption for sealed versions must clearly state FILED UNDER SEAL PURSUANT TO ORDER DATED \_\_\_\_.
- Sealed documents may be unsealed at any time upon order of the court.
- Applications for Leave to Proceed Without Prepayment of Fees (IFP) will continue to be filed in paper with the clerk’s office.

**FILING**

**1. The Redacted Document**

- a. Select CIVIL on the blue toolbar at the top of the screen.
- b. File the REDACTED version of the document using the appropriate event, i.e., motion must be e-filed using the “Motion” filing event, oppositions to motions are to be e-filed using the “Memorandum in Opposition to Motion” filing event, etc.;
- c. Select the filer and attach the PDF document.
- d. Link the document to any related entries, i.e., if this document relates to a motion, link it to the motion.
- e. Proceed through the entry until you reach the docket text box. Add “REDACTED” to the final docket text.
- f. Submit the entry and verify completion with the NEF.

**2. Motion for Leave to File Under Seal\***

- a. Select CIVIL on the blue toolbar.
  - b. Select the Motions link under the Motions and Related Filings heading.
- 351 S. West Temple, Rm 1.100 • Salt Lake City, Utah 84101 • (801)524-6100  
www.utd.uscourts.gov



- c. Select **Leave to File Sealed Document** motion relief.
- d. Select the filer and attach the PDF document.
- e. Link the motion to the REDACTED version of the proposed sealed document.
- f. Modify docket text, if necessary.
- g. Submit the entry and verify completion with the NEF.

### 3. **Proposed Sealed Document\*\***

- a. Select **Other Documents** under the Other Filings heading.
- b. Select **Sealed Document** from the dropdown box.
- c. Enter the civil case number.
- d. Click Next on the case verification screen.
- e. Click Next after reviewing the notice re: text-only NEF.
- f. Attach PDF image(s) of the sealed document (including any attachments), following the guidelines outlined in the CM/ECF and E-Filing Administrative Procedures Manual.
- g. Select the filing party(s). (If this is a joint filing, pick only the party(s) you represent.)
- h. Click the box next to the question **Should the document you are filing link to another document in this case?** Enter the filing date or document number of the redacted version if known. If not known, then leave blank. Click Next.
- i. Click the box next to the REDACTED version of the document and the Motion for Leave to File Under Seal.
  - If this is a sealed version of a response, reply, or other document relating to a motion, select the related motion as well so the sealed document appears as part of the briefing on that motion.
- j. Click Next when all relevant documents have been selected.
- k. Modify docket text, if necessary. Click Next.
- l. Verify final docket text and filename of PDF. If correct, click Next.
- m. Send copies of the NEF verification and the document to all other parties.

\*If the motion itself must also be filed under seal, select the **Motion for Leave to File Under Seal - SEALED** filing event and follow the motion-filing procedure outlined above.

\*\*Follow these instructions even if your proposed sealed document is a motion. Do not use the motion event.

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

**CHECKLIST FOR FILING DOCUMENTS  
UNDER SEAL**

**HAVE YOU:**

- ☐ Placed your document in an unfolded envelope with a copy of the cover page of the document affixed to the outside of the envelope.
- ☐ Placed a notation on the coverpage affixed to the outside of the envelope that the document is “SEALED.”
- ☐ Prepared a separate envelope and copy for the Judge as noted above.
- ☐ Differentiated the envelopes as to “original” and/or “copy”.
- ☐ Used no staples or tabs in the “original” document.

***No document may be sealed unless accompanied by an order sealing the document, it is being filed in a case already under seal or it contains material under a protective order (if under an existing protective order, coverpage & document should be clearly marked: “CONFIDENTIAL, SUBJECT TO A COURT PROTECTIVE ORDER”).***

***Unless otherwise ordered, the clerk will provide access to a sealed case or document only on court order.***

## TOP TEN HELP DESK PROBLEMS

10. **SELECTING WRONG OR ALL PARTIES** – Select appropriate parties (i.e. filing Complaint against the Plaintiffs), holding Control key to select multiple roles ; avoid using “All Plaintiffs” or “All Defendants” unless filing for a group over 50 parties. If party listed more than once, select original role. In multi-defendant cases, select only your party.
9. **DESCRIBE EXHIBITS** – When attaching exhibits add specific descriptions (see Administrative Procedures for guidelines).

Category	Description
Exhibit	A
Exhibit	B
Exhibit	C

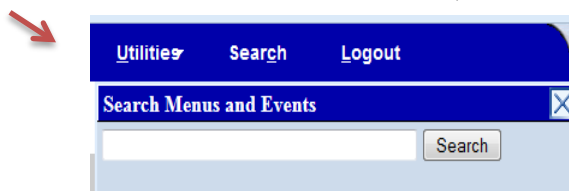
Acceptable

Category	Description
Exhibit	A - Evidentiary hearing transcript
Exhibit	B - Affidavit of Jed Johnson
Exhibit	C - Expert Report of Dr. Smith

Better description

8. **WRONG EVENT** – Choose most specific type of filing event. (Motion for Extension of Time v. Motion for Extension of Time to Answer)
7. **MOTIONS**
  - Any request/petition seeking action by the court should be filed as a Motion.
  - Stipulations should be filed as Motions and “Stipulated” entered in text.
  - If requesting multiple or alternative reliefs, select all applicable motion types.
6. **FOLLOW INSTRUCTIONS** – Read each screen carefully, follow blue prompts.
5. **REVIEW INFORMATION BEFORE SUBMITTING** – Don’t submit filing until certain correct event selected, correct documents attached, and correct parties selected.
4. **APPEARANCES** – Must enter individual appearance at beginning of case. One attorney cannot enter an appearance for another. Must file Motion to Withdraw, Notice of Withdrawal, or Request to be Removed from Service List if no longer on the case or no longer wish to receive notices.
3. **DOUBLE PAYMENT** – If prepay in the clerk’s office or completed the Pay.gov process during e-filing, do not complete Pay.gov process again, only enter receipt number.
2. **SEALED/REDACTED FILINGS** – Sealed documents may be e-filed in civil cases per local rule DUCivR 5-3. A redacted version of the document must be filed first followed by the motion to for leave to file under seal and then the sealed filing using the event Sealed Document.
1. **USE SEARCH OR CALL HELP DESK** – If unsure where to find the proper event, use the Search tab on the blue CM/ECF toolbar. Or else call the Clerk’s Office (801-524-6100) for guidance.





## United States District Court District of Utah



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### Initiating a New Civil Case

Because initiating a new civil case involves entry of parties into CM/ECF, it is not possible to initiate a civil case and file a complaint electronically without preparatory contact with the District of Utah clerk's office. If the party chooses not to e-file, the opening document and cover sheet must be brought to the clerk's office in paper (original and copy) with a disc in PDF format. All documents on the disc must include an *electronic signature or the /s/ signature*. A complaint may be e-filed through CM/ECF, which will temporarily re-direct the filer to pay.gov to pay the filing fee. If a party prefers to pay the filing fee by check, at the clerk's office, the party may still e-file the complaint.

**The filing is not complete until the fee is paid and the complaint e-filed or filed by the clerk.**

- E-mail PDF version of the civil cover sheet and the complaint or initiating document (i.e. notice of removal) to : [utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov)
- The e-mailed complaint is for informational purposes only and will not be filed by the clerk's office. The complaint must be filed by counsel as later indicated.  
**NOTE: e-mailing the complaint is NOT considered e-filing the complaint.**
- New cases will be processed until 4:00 p.m. Monday – Friday. New cases received after this time will be processed the following morning. Please keep this in mind when a deadline for filing a new case is approaching.
- A case number and judge will be assigned to the case.
- The clerk's office will enter the case information into CM/ECF and add the parties.
- The clerk's office will enter a "Remark – New Case" on the docket and a notice of electronic filing (NEF) will be e-mailed to counsel. The docket text will include the judge assigned to the case and direct counsel what CM/ECF filing event should be used to e-file the complaint or initiating document and to pay the filing fee by the end of the business day.

*Those attorneys who have elected to receive the Daily Summary instead of individual NEFs will need to contact the clerk's office to find out if their case has been entered since they will not receive notification until the following day.*

- The attorney must file the initiating document(s)\* and pay the fee on the same day that he/she receives notification that the case has been opened.
- The court will not have jurisdiction until the opening document is electronically filed and the filing fee paid in the CM/ECF system.
- Once the complaint has been e-filed, any prepared PDF summons may be e-mailed to [utdecf\\_clerk@utd.uscourts.gov](mailto:utdecf_clerk@utd.uscourts.gov) for issuance electronically.

The summons shall include: 1) the case number, 2) the judge's initials, and 3) the appropriate 21 or 60 day response time. A PDF summons will be issued electronically and entered on the docket. Attorneys may then print the summons from the NEF to use for service.

\*Miscellaneous cases: once case information is placed into CM/ECF, counsel will be directed to file "Miscellaneous Case Filing Fee" to pay the filing fee. Once the filing fee has been successfully submitted, counsel will then file the initiating document, i.e. "Motion to Quash."

**Electronic filings that will allow you to pay by credit card or ACH are:**

1. Notice of Appeal.....	\$505
2. Notice of Cross Appeal.....	\$505
3. Notice of Interlocutory Appeal.....	\$505
4. Amended Notice of Appeal.....	\$505
5. Complaint.....	\$400
6. Notice of Removal.....	\$400
7. Motion for Writ of Mandamus.....	\$400
8. Motion to Vacate (Arbitration Award).....	\$400
9. Motion to Compel (Arbitration Award).....	\$400
10. Petition for Writ of Habeas Corpus.....	\$5
11. Registration of Foreign Judgment.....	\$47
12. Notice of Receivership.....	\$47
13. Miscellaneous Case Filing Fee.....	\$47
for: Motion to Quash	
Motion to Compel	
Motion for Letters Rogatory	
Petition for Writ (of Attachment)	
Motion (petition) for Return of Property	

**NOTE: All other types of civil cases must be filed with the clerk's office in paper.**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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,

Plaintiff,

v.

,

Defendant.

**ORDER**

Case No. 4:18-cv-00075-DN

District Judge David Nuffer

Signed April 30, 2018.

BY THE COURT

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District Judge David Nuffer



### Sample Docket Text of Fee Payment Process

04/04/2018	<a href="#">1</a>	<p>Case has been indexed and assigned to Judge David Nuffer. Defendant Tristar Products is directed to E-File the <u>Notice of Removal and cover sheet</u> (found under Complaints and Other Initiating Documents) and pay the filing fee of \$ 400.00 by the end of the business day.</p> <p><b>NOTE: The court will not have jurisdiction until the opening document is electronically filed and the filing fee paid in the CM/ECF system.</b> (tlh) (Entered: 04/04/2018)</p>
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### Sample Docket Text of Summons and Return of Service

04/30/2018	<a href="#"><u>9</u></a>	<b>**RESTRICTED DOCUMENT**</b> RETURN OF SERVICE Executed for Personally served by process server served on Wingate Wilderness Therapy, LLC by Ricki Stevens on April 16, 2018, filed by Plaintiff Jacob M. Scott. (Truman, Ronald) (Entered: 04/30/2018)
04/13/2018	<a href="#"><u>6</u></a>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to Wingate Wilderness Therapy. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (tlh) (Entered: 04/13/2018)